

FIELD USE AND INDEMNIFICATION, DEFEND AND HOLD HARMLESS AGREEMENT

This AGREEMENT is made on this 7th day of March, 2024 by and between MADISON HEIGHTS LITTLE BASEBALL, INCORPORATED, a non-profit (I.R.S. Section 501(c)(3)) organization whose address is PO Box 71166, Madison Heights, Michigan, 48071 (hereinafter "LITTLE BASEBALL") and the CITY OF MADISON HEIGHTS, a Michigan Municipal Corporation, whose address is 300 West Thirteen Mile Road, Madison Heights, Michigan 48071 (hereinafter "CITY"). In this Agreement, either LITTLE BASEBALL and/or the CITY may also be referred to individually as a "Party" or jointly as "Parties."

WHEREAS, LITTLE BASEBALL desires to use City Park Land for the purpose of conducting a baseball program; and;

WHEREAS, the CITY deems it to be in the public interest to promote recreation, including baseball in its park system under the conditions as hereinafter set forth; and,

WHEREAS, the parties do hereby covenant and agree as follows:

NOW THEREFORE, the CITY, for and in consideration of the covenants to be performed by LITTLE BASEBALL, does hereby permit LITTLE BASEBALL to use certain fields located in certain parks as hereinafter described for the sole purpose of baseball. The parks to be used by LITTLE BASEBALL for baseball games and practices are: Silverleaf and Rosie's. Further, CITY will prepare and maintain the fields at the John Page Middle School Complex given the reservation of the fields through Lamphere School District.

TERM

The term of this Agreement shall begin January 1, 2024 through December 31, 2028. Specific dates for the use of said fields within the parks by LITTLE BASEBALL are hereinafter set forth and the same may be modified from time to time upon mutual consent of the parties hereto: April 1, 2024 – August 15, 2028.

COVENANTS OF ASSOCIATION

LITTLE BASEBALL does hereby covenant and agree with the CITY that LITTLE BASEBALL will:

1. Submit a completed game schedule of all park and field usage to the Recreation Supervisor or designee prior to March 31; and,
2. Use and occupy said parks in a careful and proper manner and in particular shall not permit any vehicles to be driven on turf unless supervised by a designated employee from the Department of Public Services; not permit the use of loud speaker system, unless approved by the Director of Public Services or designee; and shall not erect or place any buildings, tents, mobile carts, or similar facilities without written permission from the Director of Public Services or their designee; and,
3. Not use or occupy said parks for any unlawful purpose; and will conform and obey all present and future laws, ordinances, and all rules and regulations of all governmental authorities or agencies, respecting the use and occupation of the parks; and
4. Indemnify and hold harmless the CITY, its Council, officers, administrators, employees, attorneys, affiliates, successors and assigns from any and all liability arising, directly or indirectly, from the use of fields and equipment owned by the CITY for baseball practice, games and events during the term

- of this Agreement. In the event any suit, proceeding, claim, loss, damage, cost, charge or expense shall be brought against the CITY, its Council, officers, administrators, employees, attorneys, affiliates, successors and assigns by virtue of the above-referenced activity, during the term of this Agreement, LITTLE BASEBALL hereby covenants and agrees to assume the defense thereof and defend the same at its own expense and pay all costs, charges, attorney fees and any other expenses related thereto. Notwithstanding the foregoing, this Field Use and Indemnification, Defend and Hold Harmless Agreement excludes the sole acts and/or the sole omissions to act on the part of the CITY; and,
5. Agree that LITTLE BASEBALL sponsored baseball events run by a third party will require City Council approval (to be requested by LITTLE BASEBALL) and will require an executed and notarized Indemnification, Defend, and Hold Harmless Agreement from the third party vendor; and,
 6. Agree to maintain with the CITY a valid Certificate of Insurance (Acord) including coverages and limits as required by the City's Risk Manager and naming the CITY as an additional insured for the purpose of the activities contained in this Agreement; and,
 7. Leave the park, at the expiration or prior termination of this Agreement and any renewal or extension thereof, in as good condition as received, reasonable wear and tear excepted; and,
 8. Be responsible for all damage to property, public or private, that may be caused by this operation in the performance of this Agreement; and,
 9. Provide supervision, officiating/umpiring, concessions, and equipment (e.g. uniforms, bats, balls, bases, helmets) to perform the activities contained in this Agreement and to insure the safety of participants and the public. LITTLE BASEBALL agrees to move any equipment as requested by the Director of Public Services or Recreation Supervisor or Streets and Facilities Coordinator, or designee; and,
 10. Obtain and maintain any and all required health permits pertaining to the operation of the park shelter building concessions at Rosie's and and,
 11. Set out and collect bases at Silverleaf Park and Rosie's Parks; and,
 12. Assist the CITY in their effort to adequately maintain the fields they are assigned. This assistance may include but not be limited to volunteer labor, donation of materials, and financial assistance for such maintenance as re-sodding, top dressing, aeration, fertilization and overseeding; and,
 13. Restrict use of certain parks or portions thereof if requested by the CITY to facilitate field maintenance; and,
 14. Agree that all volunteers, including coaches, officials and referees, have received sufficient training by LITTLE BASEBALL and have passed background checks performed by LITTLE BASEBALL to ensure the safety and welfare of all participants, spectators, and others involved in LITTLE BASEBALL's program; and
 15. If an event is held at the CITY'S fields and is run by a third party that provides revenue back to LITTLE BASEBALL, LITTLE BASEBALL shall reimburse the CITY for all costs incurred by the CITY to support such event. LITTLE BASEBALL agrees to disclose the revenue percentage split with the third party

by providing the CITY with a copy of LITTLE BASEBALL'S operating and/or financial agreement with the third party; and

16. Provide payment for field use as set forth by the CITY at the end of each season in a timely manner as requested by the city.

COVENANTS OF CITY

The CITY does hereby covenant and agree with LITTLE BASEBALL that the CITY will:

1. Maintain the fields used by LITTLE BASEBALL, including mowing, fertilization, weed control, lining/stripping, and seeding or re-sodding, if needed; and,
2. Provide lighting for night games and,
3. Open and close the Park Shelter building restrooms at Rosie's Park; and,
4. Schedule other park users so as to minimize the potential for conflict with LITTLE BASEBALL activities during the periods specified above under TERM. In the event of a conflict, the CITY will make a good faith effort to find an alternative location for LITTLE BASEBALL; and,
5. The CITY reserves the right to determine who may use the parks outside normal use by LITTLE BASEBALL.

MUTUAL COVENANTS

It is mutually agreed by and between the CITY and LITTLE BASEBALL that:

1. This Agreement and all covenants and provisions herein contained shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto; provided, however, that no assignment by, from, through or under LITTLE BASEBALL in violation of any of the provisions hereof shall vest in the assigns any right, title or interest whatsoever;
2. These agreed upon parks are owned and held by the City of Madison Heights for the use and benefit of the general public, and should the CITY determine that said parks are needed for any purpose whatsoever, the CITY shall have the right and privilege of canceling and terminating this Agreement upon giving to LITTLE BASEBALL ninety (90) days notice in writing of its intentions to cancel and terminate this Agreement. LITTLE BASEBALL also shall have the right and privilege of canceling and terminating this Agreement upon giving the CITY ninety (90) days notice in writing if its intentions to cancel or terminate this Agreement; and,
3. If LITTLE BASEBALL shall at any time be in default in the performance of any of the covenants or provisions of this Agreement, and LITTLE BASEBALL shall fail to remedy such default within fifteen (15) days after written notice thereof from the CITY, it shall be lawful for the CITY to cancel this Agreement, and thereupon this Agreement and everything herein contained in the part of the CITY to be done and performed shall cease and terminate, without prejudice, however, to the right of the CITY to recover from LITTLE BASEBALL all damages due up to the time of such entry; in case of any such default and entry by the CITY, the CITY may reschedule usage of said parks for the remainder of said term.

