STATE OF TEXAS §
§ **FACILITIES UTILIZATION AGREEMENT**
COUNTY OF DALLAS §

This Facilities Utilization Agreement ("Agreement") is made by and between the City of DeSoto, Texas ("City") and _____ (the "Association"), acting by and through their authorized representatives.

RECITALS

WHEREAS, the City of DeSoto Youth Sports is a collaborative effort between the City of DeSoto and nonprofit organizations representing youth sports in DeSoto, Texas. The purpose of which is to advance positive values and participation in youth sports; educate and develop leaders for the benefit of youth sports; and coordinate activities among the participating organizations; and

WHEREAS, the Association desires to provide youth sports as provided herein.

NOW, THEREFORE, in exchange for the mutual covenants set forth herein and other valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties agree as follows:

ARTICLE I
TERM

1.1 This Agreement shall be for a term of one (1) year, beginning on the date of the execution hereof. This Agreement shall be in effect only during the Association's season as defined in Section 5.4 of this Agreement.

ARTICLE II
OPTION TO RENEW

2.1 This Agreement may be renewed at the option but not the obligation of the parties for an additional one (1) year term, conditioned upon the following:

A. If the Association desires to renew this Agreement, it shall do so by giving written notice to City prior to January 1 of the year for which the renewal is requested; and
B. A recommendation to renew from the Community Sports Association pursuant to Section 3.2(D) herein.

ARTICLE III
PRE-SEASON ADMINISTRATIVE DUTIES

3.1 The City of DeSoto shall provide an electronic confirmation for registration start dates. Advertisement for registration is prohibited until electronic authorization is received. The association shall provide the following information on their website prior to registration:

A. Current by-laws for the Association.
B. Financial report of all expenditures and revenues from previous year.
C. Proposed budget for upcoming year.
D. List of current Executive Board members to include name, address, work/home phone numbers and e-mail address along with a state issued identification card and current utility bill.
E. Written verification that all active coaches have cleared criminal background check with the Association before coaching duties begin.
F. Written verification that all coaches have been certified through a regional or national organization.
G. The schedule, date, time, and location of Board of Director meetings.
H. Policies and procedures for dealing with medical emergencies and hazardous weather conditions.
I. Proof of valid State of Texas 501(c)(3) Nonprofit status to use City facilities. The Association 501(c)(3) status shall be in good standing 30 days prior to the start of **each** season.
J. The Association shall provide a complete list of all coaches, team rosters and complete league schedule 10 days prior to the beginning of the season.

3.2 Additional duties of the Association include:

A. Prior to the first day of registration, the Association shall update the Association's websites with registration information.
B. Ensure that 51% of each team's participants are residents of DeSoto or attend public school in DeSoto.
C. The Association shall conduct an informational parents meeting a week after registration ends outlining Association's responsibilities.
D. Within a week of the completion of the season, the Associations actual revenue and expenditures shall be posted on their website. The Parks and Leisure Services Department will schedule a meeting with the Association and the Community Sports Association to review preseason projections and actual revenue/expenses. The Community Sports Association will make a recommendation pertaining to the renewal of this contract with the Association to the Parks and Leisure Services Department based on the financial transparency and accountability of the Association.

ARTICLE IV
BUDGETING AND PURCHASING PROCEDURES

4.1 The City will collect registration fees for the Association that will cover the following mandatory expenditures:

A. Insurance for all league approved games, preseason and post season tournaments.
B. Sports ID card required for all league approved games and pre/post season tournaments at a cost of $5.00 per card.
C. Energy Management Fee in the amount of $10.00.
D. Nonresidential user fee as established by council per ordinance #1681-06.
E. The Association will pay cost to conduct all background checks. The City will conduct the background checks. Coaches shall not be permitted to participate in league practice or play until the City receives written verification that the coaches have cleared the criminal background check.

4.2 The Association shall be responsible for the following mandatory expenditures:

A. Officials for all league approved games, preseason and post season tournaments.
B. Trophies and Awards for all league approved games, pre/post season tournaments.
C. The Association's equipment needs.

ARTICLE V
USE OF FACILITIES

5.1 The Association acknowledges that the City Park Facilities are owned by the City and are provided for the benefit of all citizens of DeSoto. During the effective date of this Agreement, the City may assign city facilities to other associations or parties. The City shall maintain approval over the use of the Park/facilities at all times. Under the terms of this Agreement, the City permits Association the use of Park/Facilities solely for the purpose of the Association's sports activities based on the approved schedule submitted by the Association.

5.2 The Association shall not assign this Agreement nor shall the Association lease any part of Park/Facilities without prior written consent of the City. Any request for assignment or rental made by a third party to the Association shall be referred to the Athletic Division of the Parks and Leisure Services Department. The Association's use of the facilities is nonexclusive.

5.3 The Association is not authorized to collect gate fees or give written consent for the authorization of gate fees.

5.4 The Association's Season shall be _____, 20____ -- _____, 20____. The Association's Season shall consist of:

A. One pre-season tournament;
B. Spring & Fall league games; and
C. One post season tournament or league playoffs.

5.5 Use of Facilities – Tournaments.

A. Any other tournament requests, with the exception of tournaments permitted under Section 5.4 above, will be negotiated, based on availability of facility. All tournament requests shall include any district, metro, state, national invitational or other specialty tournaments that the Association is bidding on with the projected dates of the tournament. The City will receive 10% of the entry fees for the tournaments. The concession agreement must be adhered to.

ARTICLE VI
PRACTICE AND GAME DAY

6.1 The Association shall be responsible for daily game day policing, cleaning, and disposal of all litter on their field(s) to include playing areas, dugouts, fences, backstops, bleachers, concession stands and adjacent grounds.

6.2 The Association will monitor park restrooms, keep them stocked and cleaned.

6.3 The Association shall be prohibited from performing any maintenance to any turf or field areas without written permission from the City of DeSoto.

6.4 The Association agrees to use parks/facilities according to the policies, procedures and rules for park usage established by the Parks and Leisure Services Department. Policy, procedures and rules include the following:

A. No alcoholic beverages allowed in the park.
B. No glass containers allowed around the athletic facilities.
C. Users will pick up the litter following their usage.
D. Users will not use parks/facilities when there is inclement weather or when the fields are unplayable.
E. Users will park in designated parking areas.
F. The Association will not discriminate against any person or persons because of race, color, religion, sex disability or national origin.
G. The Association agrees to provide sufficient notice of all scheduled make-up games times (preferably a one-week notice). Notice shall be given to the Athletic Office.
H. The Association shall not engage in any business on the premises, or do anything in connection therewith which shall be in violation of any existing municipal, state or federal law or use the same in such manner as to constitute a nuisance. The City of DeSoto reserves the right to exclude any individual or group from its facilities based on conduct, which it determines in its discretion to be objectionable to and contrary to the City interests. The Association hereby consents to the exercise of such authority by City over its members, officials, and agents.

I. City Park curfew begins at midnight. This can be waived for tournaments with written permission from the City. (No league games may start after 10:30 p.m.).

ARTICLE VII
CONCESSIONS

7.1 The Association may provide concessions for the Association league games or association tournaments provided the Association has entered into a concessions agreement with the City. The Association shall enter into a concessions agreement with the City prior to the beginning of the Association's Season.

ARTICLE VIII
OBLIGATION OF THE CITY OF DESOTO

8.1 City agrees to provide the following maintenance and repairs in a manner generally equal to normal City maintenance and repair of similar City recreational facilities:

A. Provide an annual maintenance plan to each outdoor association and schedule a meeting with the leadership of all associations in January to create a yearly calendar for dates of fields that will not be available due to mandatory field maintenance throughout the year. Associations will have until the 15th of February to address pertinent issues with the maintenance plan such as designated times that fields will be closed for maintenance and how those times affects league play, chemical application schedule, water schedules, and field layouts where applicable.
B. Maintain all fences and gates.
C. Maintain all turf areas on the fields to include mowing, weed control, fertilizing and herbicide spraying.
D. Perform all pre-season clay and turf maintenance to include adding clay, clay renovation and cutting infield arcs and base paths.
E. Provide sand, soil, etc. to be used in leveling or backfilling low areas when deemed necessary.
F. Mark all foul lines from clay to outfield fence on turf areas as needed.
G. Maintain all area and field lighting systems.
H. Repair or replace lights, poles, wiring fuses, transformers and other equipment related to the lighting of each field to be used by the Association.
I. Maintain all scoreboards. The Association shall maintain the control systems.

8.2 City will produce a calendar of available dates for all City owned facilities before the Association's practices and games schedules are developed. City will make a reasonable attempt to provide a meeting place for board meetings, coaches meetings, parent meetings and banquets Monday through Thursday from 6pm to 10pm. The Association shall provide City with

a one time deposit of $100 at the time the dates are reserved. The Association shall adhere to all civic center rental procedures.

8.3 City shall make determinations on field closures due to weather. Determination will be made by 4:00 pm on weekdays. Weather will be monitored beyond the determination times if necessary.

8.4 The City will collect a $20/nonresidential participant fee.

ARTICLE IX
INSURANCE AND INDEMNIFICATION

THE ASSOCIATION SHALL AT ALL TIMES DURING THE TERM OF THIS AGREEMENT MAINTAIN IN EFFECT GENERAL PUBLIC LIABILITY INSURANCE COVERING THE ASSOCIATION PROGRAM AT THE FACILITIES AGAINST CLAIMS FOR PERSONAL INJURY, DEATH OR DAMAGE TO PROPERTY TO THE LIMIT OF NOT LESS THAN ONE-MILLION DOLLARS ($1,000,000.00). THE CITY SHALL BE NAMED AS CO-INSURED ON SUCH POLICY AND SHALL BE ENTITLED TO THIRTY (30) DAYS NOTICE OF CANCELLATION OR CHANGES OF ANY KIND REGARDING SUCH INSURANCE, AND CERTIFICATES OF INSURANCE SHALL BE PROVIDED BY THE ASSOCIATION TO THE CITY.

THE ASSOCIATION SHALL INDEMNIFY AND SAVE HARMLESS THE CITY AND ITS OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, OR CLAIMS OF ANY CHARACTER, TYPE, OR DESCRIPTION, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS AND ATTORNEY'S FEES, BROUGHT OR MADE FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ARISING OUT OF, OR OCCASIONED BY, THE ACT OR FAILURE TO ACT OF THE ASSOCIATION OR ITS AGENTS, VOLUNTEERS, OR EMPLOYEES IN THE USE OF THE FACILITIES ARISING OUT OF OBLIGATIONS OF THE ASSOCIATION AS SET FORTH IN THIS AGREEMENT.

ARTICLE X
MISCELLANEOUS

10.1 Entire Agreement. This Agreement constitutes the sole and only agreement between the parties and supersedes any prior understandings written or oral agreements between the parties with respect to this subject matter.

10.2 Assignment. The Association may not assign this Agreement without the prior written consent of City. In the event of an assignment by the Association to which the City has consented, the assignee shall agree in writing with the City to personally assume, perform, and be bound by all the covenants, and obligations contained in this Agreement.

10.3 Successors and Assigns. Subject to the provisions regarding assignment, this Agreement shall be binding on and inure to the benefit of the parties to it and their respective heirs, executors, administrators, legal representatives, successors and assigns.

10.4 Governing Law. The laws of the State of Texas shall govern this Agreement; and venue for any action concerning this Agreement shall be in Dallas County, Texas.

10.5 Amendments. This Agreement may be amended by the mutual written agreement of the parties.

10.6 Severability. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not effect any other provisions, and the agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

10.7 Notice. Any notice required or permitted to be delivered hereunder may be sent by first class mail, overnight courier or by confirmed telefax or facsimile to the address specified below, or to such other party or address as either party may designate in writing, and shall be deemed received three (3) days after delivery set forth herein:

If intended for City:

Attn: _____
City of DeSoto, Texas
211 E. Pleasant Run Rd.
DeSoto, Texas 75115

If intended for the Association:

_____
_____
_____
_____

10.8 Counterparts. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of any number of copies hereof each signed by less than all, but together signed by all of the parties hereto.

(signature page to follow)

EXECUTED this _____ day of _____, 2011.

CITY OF DESOTO

By: _____
Title: _____

EXECUTED this _____ day of _____, 2011.

THE ASSOCIATION

By: _____
Name: _____
Title: _____