



4800 Ashford Dunwoody Road
Dunwoody, Georgia 30338
dunwoodyga.gov | 678.382.6700

MEMORANDUM

To: Mayor and City Council

From: Brent Walker, Parks and Recreation Director

Date: December 14, 2020

Subject: **Facility Usage Agreement with Rush Union Soccer**

ITEM DESCRIPTION

City Council adopted an Athletic Association Manual at the November 9th Council meeting. The manual provides for a tiered pricing structure for rental of the Dunwoody parks athletic fields. These prices will be applied to our current athletic providers therefore an amended usage agreement is required.

BACKGROUND

The City of Dunwoody values its partnership with Chiefs Futbol Club which has now merged with Georgia Rush Soccer Club and will be known as Rush Union Soccer. This name change and the addition of the pricing system in the Athletic Association manual requires the City to enter into a new facility usage agreement with our soccer provider. The City has confidence that Rush Union Soccer will continue to provide quality soccer leagues and programs to the youth of Dunwoody. The updated usage agreement incorporates language that is reflected in the new Athletic Association Manual and also allows for Rush Union Soccer to continue to host fund raising initiatives. These initiatives will allow for RUS to keep their recreation league fees at an affordable rate for their participants. The document also terminates at the end of 2021 which will allow both parties to assess the terms in the Athletic Association Manual and the Usage Agreement and make modifications for the next year if necessary.

Based on the discussion at the November 30th Council Meeting, additional language has been added to require facility attendants to direct traffic during tournaments. Also, any language referring to a grease trap has been deleted as there isn't one at this facility. A draft of the Usage Agreement is attached for Council consideration.

RECOMMENDATION

Staff respectfully requests that Council approve the facility usage agreement with Rush Union Soccer.

Lynn Deutsch Mayor
Eric Linton, ICMA-CM City Manager
Sharon Lowery, CMC City Clerk

Pam Tallmadge City Council Post 1
Jim Riticher City Council Post 2
Tom Lambert City Council Post 3

Stacey Harris City Council Post 4
Joe Seconder City Council Post 5
John Heneghan City Council Post 6

Packet page:...

STATE OF GEORGIA
CITY OF DUNWOODY

FACILITY USAGE AGREEMENT

THIS AGREEMENT by and between the **City of Dunwoody, Georgia**, a municipal body politic and corporate, hereinafter designated "CITY" and **Rush Union Soccer** 2767 Stonessmith Ct Tucker GA 30084, a private nonprofit organized under the laws of the State of Georgia, hereinafter designated "RUS" or "Club."

WITNESSETH:

WHEREAS, CITY owns and operates BROOK RUN PARK located at 4770 N. Peachtree Rd, and PERNOSHAL PARK located at 1959 Pernoshal Court Dunwoody, Georgia, (hereinafter designated as "Facilities"), for the purpose of serving the residents of the City of Dunwoody by locating and housing therein various public and private companies, corporations, and organizations capable of and willing to provide their services with the residents of the City of Dunwoody; and

WHEREAS, the undersigned RUS desires to operate a soccer program for the benefit of residents of the City of Dunwoody and agrees to utilize space in the Facilities in accordance with the terms and conditions hereinafter set forth.

NOW, THEREFORE, the parties hereto agree as follows:

1. CITY does hereby grant usage to RUS approximately 1 acre of space at Pernoshal Park and of approximately 9 acres of space at Brook Run Park delineated on the Layout attached hereto as Attachment B and by reference made a part hereof (hereinafter referred to as "Space") consisting of the fields, field house/concession, parking lot adjoining the fields, in accordance with RUS's provision of its programs delineated herein.
2. This Agreement, beginning on _____ is for an initial term expiring on December 31, 2021. This Agreement shall terminate absolutely and without further obligation on the part of the City on December 31, 2021, as required by O.C.G.A. § 36-60-13, unless terminated by either Party prior to the conclusion of the initial term. This Agreement may be renewed on an annual basis for an additional twelve-months upon terms and conditions negotiated by both parties.
3. The City's governing authority may unilaterally terminate this Agreement on or before October 1st of each year in which the Agreement is in force.
4. This Agreement may be automatically renewed for an additional twelve-month term, subject to the following conditions:
 - (a) RUS shall provide written notice to CITY at least sixty (60) days prior to the expiration date of this lease exercising the option to extend or renew or to engage in a process of amending and revising the agreement.

- (b) RUS shall continue to perform its services and to coordinate its performance with that of other users and CITY.
- (c) RUS shall comply with the conditions of this Agreement.
5. Either party shall have the right to terminate this Agreement for any reason at any time during the original term of this lease or any extension or renewal thereof by giving written notice to RUS of its intention to terminate at least ninety (90) days prior to the effective date of termination. Should this lease be terminated by the CITY prior to the expiration date set forth hereinabove or prior to the expiration date of any extension or renewal of this lease, CITY reserves the right to terminate and cancel this Agreement or any extension or renewal thereof at any time RUS fails or refuses to fulfill the terms and conditions set forth herein. RUS, upon termination of this Agreement or any renewal thereof, or cancellation thereof by CITY, shall vacate and deliver up the Space peaceably, quietly, and in good order and condition.
6. For the purpose of this Agreement, all notices to be given hereunder shall be in writing and shall be deemed given when deposited in the United States Mail, postage prepaid, certified, and addressed as follows:
- (a) CITY: City of Dunwoody
4800 Ashford Dunwoody Rd
Dunwoody, Georgia 30338
Attention: Parks & Recreation
- (b) RUS: Rush Union Soccer, Inc.
2767 Stonesmith Ct
Tucker GA 30084
7. CITY does hereby designate the Parks & Recreation Department as its representative in all matters pertaining to this lease. All requests and issues arising from use of the Space described herein should be addressed to the Parks & Recreation Department through its Parks Director. The Parks Director or their designee shall be the primary contact to RUS. The Parks Director is authorized to establish such administrative procedures he or she deems appropriate to carry out and enforce the terms of this Agreement.
8. The CITY and RUS shall provide services in accordance with Attachment A and D, which is attached hereto and by reference made a part hereof, during the term of the lease. RUS agrees to provide CITY with appropriate information about its program activities, including program operating hours, in order to facilitate operation of the Facility and coordination by the CITY.
9. RUS shall at all times exonerate, indemnify, and hold harmless the CITY from and against all claims or actions, and all expenses incidental to the defense of any such claims, litigation, and actions, based upon or arising out of damage or injury (including death) to persons or property (i) caused by, or (ii) sustained on the Space in connection with the performance of this

Agreement or any extension or renewal thereof or conditions created thereby and shall assume and pay for, without cost to the CITY, the defense of any and all claims, litigation and actions, suffered through any act or omission of the RUS, or anyone directly or indirectly employed by or under the supervision of any of them, or in any way arising out of the use and occupancy of the space.

- 10 Except as otherwise consented to in writing by CITY, DSB shall maintain in force during the life of this Agreement or any extension or renewal thereof comprehensive general public liability and property damage insurance, in the minimum amount of \$1,000,000.00 with respect to each person, and in the sum of \$300,000.00 with respect to each accident or occurrence, and in the sum of \$1,000,000.00 for injury or damage to property, and CITY shall be named as an additional insured under such policy or policies of insurance.
- 11 Except as otherwise consented to in writing by CITY, RUS shall furnish to the CITY within thirty (30) days after execution of this lease, a certificate or certificates evidencing such insurance coverage in companies doing business in Georgia and acceptable to CITY covering:
 - (a) The location and the operations to which the insurance applies
 - (b) The expiration date of policies
 - (c) An agreement that the policies certified will not be changed or canceled without thirty (30) days prior notices to CITY, as evidenced by return receipts of registered or certified letters. Prior to ten (10) days before the expiration of any such certificate, RUS shall deliver to the CITY a certificate renewing or extending the terms for a period of at least one (1) year, or a certificate acceptable to CITY evidencing the required insurance coverage.
- 12 RUS shall comply with the provisions of the Code of the City of Dunwoody, Georgia and Official Code of Georgia annotated and all appropriate statutes and regulations governing the services it furnishes and, when applicable, with the standards of its profession. RUS acknowledges their responsibility to report child abuse under O.C.G.A 19-7-5 as may be amended in the future and they accept responsibility to adhere to it, including all paid employees and volunteers and that failure to do so shall constitute a material breach of this Agreement.
- 13 The occupancy and use by RUS of the Space and rights herein conferred upon RUS shall be subject to rules and regulations as are now or may hereinafter be prescribed by CITY.
- 14 Both parties agree that the provisions of this Agreement or any extension or renewal thereof, are not intended to be nor should they be construed as in any way creating or establishing a relationship between the parties hereto other than that of Owner and User, and at all times during the term of this Agreement or any extension or renewal thereof, RUS is to be and shall remain as an independent contractor.
- 15 This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Georgia.

- 16 This Agreement shall be deemed to have been made and performed in the City of Dunwoody, Georgia. For the purpose of the venue, all suits or causes of actions arising out of this Agreement shall be brought in the appropriate courts within DeKalb County, Georgia.
- 17 Any amendment or modification of this Agreement shall be set forth in writing as an Amendment to this Agreement, duly executed by the parties, but shall not become effective until thirty (30) days after the execution and delivery of such writing.
- 18 RUS shall at the termination of this Agreement or any extension or renewal thereof surrender up the Space in good order and condition, reasonable use and ordinary wear and thereof excepted. CITY shall be entitled to all rights and remedies provided by law including, without limitation, the dispossessory rights and remedies provided in O.C.G.A. § 44-7-49, *et seq.* as may be amended in the future.
- 19 Should any provision or term of this Agreement be determined by a court of competent jurisdiction to be unenforceable, all other provisions and terms shall remain in full force and effect.
- 20 This Agreement constitutes the sole agreement between the parties. No representations oral or written not incorporated herein shall be binding on the parties. No amendment or modification of this Agreement shall be enforceable unless approved in writing by the City of Dunwoody.
- 21 In the event of a conflict between this agreement and any exhibit contained herein or any previous agreements, the provisions of this agreement shall govern.
- 22 Without regard to any designation made by the person or entity entering this Agreement, the City of Dunwoody considers all information submitted in relation to the Agreement to be a public record that will be disclosed upon request pursuant to the Georgia Open Records Act O.C.G.A. § 50-18-70 *et seq.* as may be amended in the future, unless a court order is obtained to the contrary.
- 23 The headings of sections and paragraphs, if any, to the extent used herein are for convenience and reference only, and in no way define, limit or describe the scope or intent of any provision hereof, and therefore will not be used in construing or interpreting the provisions hereof.
- 24 Contractor (RUS) and Subcontractor Evidence of Compliance

Pursuant to O.C.G.A. § 50-36-1(e), City contracts within the state of Georgia shall include the following provisions on the attached Affidavit Verifying Status:

1. Provide at least one secure and verifiable document, as defined in Code Section 50-36-2;
2. Execute a signed and sworn affidavit verifying the applicant's lawful presence in the United States, which affidavit shall state:

- i. The applicant is a United States citizen or legal permanent resident 18 years of age or older;
or
- ii. The applicant is a qualified alien or nonimmigrant under the federal Immigration and Nationality Act, Title [8 U.S.C., 18](#) years of age or older lawfully present in the United States and provide the applicant's alien number issued by the Department of Homeland Security or other federal immigration agency.

[SIGNATURES CONTINUE ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in three counterparts, each to be considered as an original by their authorized representative, on this _____ day of _____, 20__.

RUS: Rush Union Soccer

CITY: City of Dunwoody, Georgia

By: _____
Signature

City Manager
City of Dunwoody, Georgia

Name (Typed or Printed)

Title

Federal Tax I.D. Number

ATTEST:

Signature

Name (Typed or Printed)

Title

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney Signature

Affidavit Verifying Status for City Public Benefit Application

By executing this affidavit under oath, as an applicant for a City of Dunwoody, Georgia Business License or Occupation Tax Certificate, Alcohol License, Taxi Permit or other public benefit as referenced in O.C.G.A. Section 50-36-1, I am stating the following with respect to my application for a City of Dunwoody license/permit for:

1) _____ I am a United States citizen **(Must include copy of either Georgia Driver's License, Passport, or Military ID)**

OR

2) _____ I am a legal permanent resident 18 years of age or older or I am an otherwise qualified alien or non-immigrant under the Federal Immigration and Nationality Act 18 years of age or older and lawfully present in the United States.* **(Must include either a copy of your Permanent Resident Card or Employment Authorization Card as well as another form of government issued identification such as Georgia Driver's License, Military ID, or Passport)**

In making the above representation under oath, I understand that any person who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in an affidavit shall be guilty of a violation of Code Section 16-10-20 of the Official Code of Georgia.

Signature of Applicant: _____ **Date:** _____

Printed Name: _____

***Alien Registration number for non-citizens:** _____

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE _____ DAY OF _____, 20____

Notary Public: _____ My Commission Expires: _____

*Note: O.C.G.A. § 50-36-1(e)(2) requires that aliens under the federal Immigration and Nationality Act, Title 8 U.S.C., as amended, provide their alien registration number. Because legal permanent residents are included in the federal definition of "alien", legal permanent residents must also provide their alien registration number. Qualified aliens that do not have an alien registration number may supply another identifying number below:

Attachment A

I. OBLIGATIONS OF THE CITY

The City agrees to:

- a. Allow the non-exclusive use of the Facilities to the Club under expressed terms and conditions set forth by the City for the purpose of conducting Soccer Programs; the use of the Facilities shall be limited to practices, games, meetings, clinics and demonstrations for the promotion of the sport, community interest and welfare, which may include opening day activities, tournaments, camps and special events.
- b. The Club and City agree to terms for the use of the Facilities for such other activities, such use or uses shall be governed by separate agreement or agreements. The City will maintain the facility scheduling for these activities and collect all fees for the activities except as defined for fund raising initiatives.
- c. The Club shall be able to schedule hours during Sundays-Saturdays from 7am-10pm with the City to utilize the fields in the Facilities.
- d. Provide fields at the beginning of the Club's operating season, field lights, field electrical outlets, watering systems, utilities, park buildings and structures as needed.
- e. Clean restrooms not less than one (1) time daily.
- f. Provide general, standard and customary maintenance of the Facilities, as defined in Attachment C, Maintenance Policy.
- g. Provide for the Club's use of the building (hereinafter "Field House") on the Facilities property for use in conjunction with provision of its programs under this Agreement, including use of said building for purposes of concessions during the times the Club uses the Facilities for games and practices in accordance with the provisions of this Agreement.

II. OBLIGATIONS OF THE CLUB

The Club agrees to:

- a. Adhere to all rules and regulations as defined in the City of Dunwoody Athletic Club Manual and Appendix (Attachment D)
- b. Provide a soccer program in accordance with all guidelines set forth by the City. The Club agrees that all of its members, whether paid or volunteer, must undergo a criminal background check prior to being allowed to participate in any activities on City Property.

- c. Comply with all statutes, ordinances, rules, orders, regulations and requirements of federal, state, county and city governments where applicable.
- d. Provide goals, nets and all soccer related items and maintain the upkeep of those items including securing them when not in use.
- e. Paint all soccer field markings and provide appropriate field paint. Field paint must be approved by the City prior to use.
- f. Comply with all statutes, ordinances, rules, orders, regulations and requirements of federal, state, county and city governments where applicable.
- g. Maintain the playing fields to include placing goals appropriately, raking crumb rubber in high traffic areas between games, repairing artificial turf as needed and any other playing field maintenance to ensure a proper safe playing surface as defined in Attachment C, "Maintenance Policy".
- h. It is the responsibility of the Club to ensure that all facility rules are followed, failure to do so shall constitute a material breach of this Agreement.
- i. Protect, defend, indemnify and hold harmless the City, its Mayor, Council members, officers, employees, successors, assigns, and agents from and against any and all claims, suits, losses, liabilities, damages, deficiencies, expenses, or costs (including, without limitation, reasonable attorney's fees, investigative and/or legal expenses, and costs of judgment, settlements, and court costs) (hereinafter "Claims") suffered or incurred by such parties whether arising in tort, contract, strict liability, or otherwise and including, without limitation, personal injury, negligence, wrongful death, or property damage, regardless of the outcome of any such action, proceeding, or investigation caused by, related to, based upon, or arising out of the Club's use of the Facilities, provision of Athletic Programs or activities, or otherwise, excluding Claims caused by the sole negligence of the City. The language of this indemnification clause shall survive the termination of this Agreement, even if the City terminates this Agreement for convenience.
- j. The Club shall further either (a) require each of its Subcontractors to procure and to maintain during the term of his subcontract Subcontractor's public liability and property damage and vehicle liability insurance of the type and in the same amounts as specified in the preceding paragraphs, or (b) insure the activities of the Club's Subcontractors in the Club's own insurance policy.
- k. If the Club chooses to use the portion of the Field House designated for concessions, the Club shall provide its own food and clean-up the area after each use to replicate its appearance prior to each use. The Club must obtain all required health certificates to serve said food and shall be responsible in accordance with subsection (d) above for any liability as a result of providing these concessions. No alcohol may be sold and/or served at any game, function or event on the Property and no alcohol may be possessed by anyone during the times the Club uses said Facilities.
- l. The Club shall maintain a schedule of all functions at the facility and shall submit a report of all recorded functions of the previous year to the City each January to include date, use and number of participants.

- m. The Club may conduct fund raising tournaments to not exceed 8 tournaments annually. As part of these fund raising tournaments, the Club may collect rental fees directly from an outside organization and may collect gate fees during the event. Residents of the City of Dunwoody shall never be charged a gate fee to attend any event, including fundraising tournaments, held at the Facilities.
- n. The Club may not charge individual gate fees to Dunwoody residents for practices, games, meetings, clinics and demonstrations, except as part of an approved fund raising initiative.
- o. The Club must provide a succession plan for its organization and annually report to the City its current board members and term limits.
- p. The Club must provide the City with documentation and the schedule of all tournament rentals and must provide a facility attendant(s) to be present through the entirety of the tournament to ensure that all facility rules and regulations are followed by the participants and spectators, this includes adequately monitoring and directing vehicular traffic to the appropriate parking area for the event. The tournament fee, except as part of an approved fund raising initiative, should be paid directly to the City as defined in the Athletic Club Manual Appendix.
- q. The financial relationship shall be as follows:
 - i. Beginning January 1, 2021, the Club must pay the City an hourly rate of usage as defined in the City of Dunwoody Athletic Club Manual and Appendix. Prior to the season beginning any unused scheduled time may be credited to the Club for future use. Once the season begins, program credits will only be considered for dates that the facility is closed by the City or inclement weather cancellations that can't be rescheduled during the make-up block time frame. Credit requests must be made in writing to the City.
 - ii. The Club is also entitled to make further contributions directly to the City towards capital improvements to the Facility at any time. The Club must indicate in writing for what those funds are to be used and the City shall restrict the usage of those funds to that purpose unless changed by both parties in writing. The Parks Director may approve all suggested projects as needed and will request approval from the City Manager or City Council as required by the City's procurement policies and procedures. The City will manage the procurement of all goods and services towards these improvements.
 - iii. The Club must provide financial statements to the CITY quarterly no later than March 31, June 30, September 31 and December 31. Financial statements must include reconciled bank statements, the profit and loss statements as well as the balance sheet.
- r. The Club may be subject to an independent annual audit at their expense as requested by the City and is subject to all requirements under Open Records Act O.C.G.A. §50-18-70 et seq.
- s. Adhere to all other provisions contained in this agreement.

III. THE CLUB'S MAINTENANCE RESPONSIBILITIES

- a. The Club is responsible for daily clean-up, placing litter in proper containers prior to leaving the Facilities after each function (games and practices).
- b. The concession facility must be maintained in a clean and orderly fashion. The facility and all equipment and materials used by the Club shall at all times be clean and sanitary and free from rubbish, refuse, food scraps, garbage, dust, dirt and other offensive or unclean materials. All trays, dishes, glassware, utensils and other equipment shall be cleaned immediately after each use and shall be kept clean until reused. All floors within the concession area must be swept and mopped after each daily use. Kitchen exhaust fans, hoods and ducts shall be cleaned at least every ninety (90) days.
- c. The Club shall obtain the prior written approval and consent from the City before making any repairs, improvements, additions or alterations to said premises, and all improvements, additions or alterations which may be approved shall become the property of the City and remain upon said premises and be surrendered with the premises at the termination of this agreement. Failure to obtain prior written authorization from the City can constitute cause for the immediate termination of this agreement.
- d. The Club will maintain any and all improvements that, in the opinion of the City, are for the primary benefit of the user.
- e. The Club is responsible for reporting all acts of vandalism to the facility or Club property to the City and the local Police Department. A copy of the police report must be filed with the City Department of Parks and Recreation.
- f. The Club shall not use the said premises for any purpose other than that of soccer practices, games, meetings, clinics, tournaments, camps and demonstrations for the promotion of the sport, community interest and welfare.
- g. The Club agrees to take any action necessary to prevent or correct any nuisance or other grievances upon, or in connection with, said premises during the terms of this Agreement.
- h. The City or any of its agents or employees shall have the right to enter upon the said premise at any time during the term of this Agreement to examine, inspect or supervise as deemed necessary.

IV. THE CLUB'S SAFETY PRECAUTIONS

- a. The Club agrees to administer activities at the said facility in a safe and professional manner, having a sufficient number of adults present to supervise all scheduled activities, from the time the first person arrives until the last person departs.
- b. The City has the right to cancel any scheduled activity on an athletic field during inclement weather when it is determined that such activity would damage the field. Persistent damage to the City facilities by the Club will result in the Club being prohibited from using the City facilities.

- c. In the event of lightning, for the safety of the participants, all play shall be suspended until the danger has passed. When the field is cleared of participants, all children should be directed either inside a building or inside an automobile.

Attachment BPernoshal Park Facility

Attachment B (continued)

Brook Run Park Facility



Attachment CBrook Run Park Multi-Use Field Maintenance

<u>Task</u>	<u>Frequency</u>	<u>Responsible party</u>
Indoor concessions - Deep cleaning	Twice Yearly	RUS
Raking crumb rubber in high traffic field positions	Between games	RUS
Field sweeping debris removal/ high traffic areas	Daily/ during usage days	RUS
Trash Removal –Plaza and Common Areas	Daily/ as needed	RUS
Bathroom cleaning	Daily / as needed	RUS
Maintaining and cleaning of RUS storage	Monthly	RUS
Litter pick up from parking area and all associated walkways and grounds throughout Facilities	Daily/ during usage days	RUS
Task	Frequency	Responsible party
Field Sweeping/full field	Twice a Month / Dependent on usage	City
Field grooming /full field	Twice a Month/ Dependent on usage	City
Concrete, debris blow off	Once Daily	City
Indoor concessions - Cleaning inspection	Quarterly	City
Public Outdoor Trash Removal	Once Daily / As Needed	City
Pressure wash concrete, facility	Yearly/ as needed	City
Public Restroom cleaning	Once Daily / As Needed	City
Trash Removal –Plaza and Common Areas	Once Daily / As Needed	City

Attachment D

Athletic Club Manual and Appendix



Athletic Association Manual

Policies and Procedures

Updated: September 2020

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Contact Information

City of Dunwoody Parks and Recreation Department

4800 Ashford Dunwoody Road
Dunwoody, Ga 30338
678-382-6700

Staff Contacts

Brent Walker, Director
Phone: 678-382-6857
Email: Brent.Walker@dunwoodyga.gov

Kate Borden, Recreation Program Leader
Phone: 678-382-6861
Email: Kate.Borden@dunwoodyga.gov

I. Athletic Association Requirements

This document serves as the Athletic Association Policy and Procedures Manual for The City of Dunwoody Parks and Recreation. This manual shall apply to all athletic associations (AA) and contains requirements that all AAs must fulfill in order to conduct its program in a City owned park or facility.

This Manual will outline the basic structure of the City of Dunwoody's requirements for the AA to operate within the City to ensure all programs are operated in accordance with the City standards. In order to qualify to operate on City property, each AA must adhere to minimum requirements. These requirements are necessary to insure the protection of all AA members. Violation of any requirements shall constitute cause for revocation of the facility. In addition, situations may arise requiring the City to be involved in issues related to AA operations. In these instances, the AA is required to cooperate with the City to resolve issues not specially covered by this Manual.

1. Nonprofit Organization Status

The AA will incorporate and register with the Georgia Secretary of State's Office as a not-for-profit corporation. Proof of not-for-profit status must be submitted annually to the City by April 1st of each year.

2. Liability Insurance Coverage

- a. AA shall at all times exonerate, indemnify, and hold harmless the CITY from and against all claims or actions, and all expenses incidental to the defense of any such claims, litigation, and actions, based upon or arising out of damage or injury (including death) to persons or property (i) caused by, or (ii) sustained on the Space in connection with the performance of this Agreement or any extension or renewal thereof or conditions created thereby and shall assume and pay for, without cost to the CITY, the defense of any and all claims, litigation and actions, suffered through any act or omission of the AA, or anyone directly or indirectly employed by or under the supervision of any of them, or in any way arising out of the use and occupancy of the space.
- b. Except as otherwise consented to in writing by CITY, AA shall maintain in force during the life of this Agreement or any extension or renewal thereof comprehensive general public liability and property damage insurance, in the minimum amount of \$1,000,000.00 with respect to each person, and in the sum of \$300,000.00 with respect to each accident or occurrence, and in the sum of \$1,000,000.00 for injury or damage to property, and CITY shall be named as an additional insured under such policy or policies of insurance.
- c. Except as otherwise consented to in writing by CITY, AA shall furnish to the CITY within thirty (30) days after execution of this agreement, a certificate or certificates evidencing such insurance coverage in companies doing business in Georgia and acceptable to CITY covering:

- i. The location and the operations to which the insurance applies
 - ii. The expiration date of policies
 - iii. An agreement that the policies certified will not be changed or canceled without thirty (30) days prior notices to CITY, as evidenced by return receipts of registered or certified letters. Prior to ten (10) days before the expiration of any such certificate, AA shall deliver to the CITY a certificate renewing or extending the terms for a period of at least one (1) year, or a certificate acceptable to CITY evidencing the required insurance coverage.
- d. Except as otherwise consented to in writing by CITY, AA shall insure that any organizations participating in any sporting event with AA at the Facility shall maintain in force comprehensive general public liability and property damage insurance, in the minimum amount of \$1,000,000.00 with respect to each person, and in the sum of \$300,000.00 with respect to each accident or occurrence, and in the sum of \$1,000,000.00 for injury or damage to property, and CITY shall be named as an additional insured under such policy or policies of insurance.

3. Bylaws

A copy of the AA bylaws must be submitted to the City each year and within five days after any amendments or changes prior to use of any City facilities. The AA should review and approve their bylaws a minimum of every two years.

4. Financial Reports

The Official Code of Georgia Annotated requires that all corporate minutes and books of account be held open for inspection by any member of the AA at any reasonable time. The AA shall assume the financial responsibility for the recreation program it operates. The City of Dunwoody recommends that each AA be bonded and that annual internal audits are performed on all accounts. The AA must provide financial statements to the CITY quarterly no later than March 31, June 30, September 31 and December 31. Financial statements must include reconciled bank statements, the profit and loss statements as well as the balance sheet.

Without regard to any designation made by the person or entity entering this Agreement, the City of Dunwoody considers all information submitted in relation to the Agreement to be a public record that will be disclosed upon request pursuant to the Georgia Open Records Act O.C.G.A. § 50-18-70 *et seq.* as may be amended in the future, unless a court order is obtained to the contrary.

5. City of Dunwoody Meeting Requirements

Each year, the City will host a meeting that the AA is required to attend. The purpose of the meeting is to increase communication between both parties and improve operations.

- a. The meeting will be held yearly (usually in December)

- b. AA President attendance is required or at least one representative
- c. This requirement must be met in order for the AA to have use of City facilities for the next year.
- d. All AA season forms are due at this meeting (Insurance, non-profit paperwork/renewal, field requests for the year, AA information form) (Appendix page 6).

6. Non-Discrimination Requirement

The AA must ensure that no persons be denied participation in any program based on race, color, creed, religion, sex, national origin, age, disability, genetic information, pregnancy, childbirth, or other legally protected category or classification with the exception that children may be grouped by age on teams to ensure safety of the participants. The AA must be in compliance with the Americans with Disabilities Act.

7. Facility Use Agreement

The AA must obtain a Facility Use Agreement from the City a minimum thirty (30) days prior to the first scheduled practice of each year. This permit is to be obtained from the City on behalf of the AA by the President. This permit, issued annually per sport, specifically identifies facilities to be used by the AA and the terms and conditions of said use. Adherence to all requirements outlined in this Manual for an AA operating in a Park is a condition of the Facility Use Agreement. Failure to adhere to the Policies and Procedures may result in suspension or revocation of the Facility Use Agreement.

The sole purpose of Facility Use Agreement is for the use of sports fields and adjacent spectator areas. This does not include public park areas such as, but not limited to walking trails, paths, sidewalks, parking lots, playgrounds, and pavilions which must remain open for active/ passive park users. Passive and open may not be reserved for organized practice or play. Use of the walking trails for purposes other than running or walking is strictly prohibited. The AA is responsible for ensuring that walking tracks and trails adjacent to sports fields are clear of spectators during AA activities. The AA may be liable for any incidents related to unauthorized use.

The AA may not sublet Park facilities to another organization or permit any separate organization to use a Park under the AA name, except as defined in their Facility Usage Agreement for fundraising initiatives.

The AA may collect a fee for managing tournaments with organizations associated with the AA in addition to the terms defined in their Facility Usage Agreement for fund raising initiatives. The associated organization will have to pay the rental fee for those tournaments to the City at the Category 2 outside tournament/organization rate noted and may not host any tournaments for any other sport other than what the AA offers. Violation of these rules will require the forfeiture of any money made as a result of the use of the Park and may result in the revocation of the Facility Use Agreement.

8. Cancellations

The City of Dunwoody reserves the right to cancel any scheduled activity on City property when it determines that such use could potentially cause unsafe conditions for the AA, spectators, general public and/or damage to the facility or grounds. Furthermore, the City maintains the authority to close a facility at any time it deems it to be in the best interest of the public.

9. SAVE Affidavit

Pursuant to O.C.G.A. § 50-36-1(e), City contracts within the state of Georgia shall include the following provisions on the attached Affidavit Verifying Status:

3. Provide at least one secure and verifiable document, as defined in Code Section 50-36-2;
4. Execute a signed and sworn affidavit verifying the applicant's lawful presence in the United States, which affidavit shall state:
 - a. The applicant is a United States citizen or legal permanent resident 18 years of age or older; or
 - b. The applicant is a qualified alien or nonimmigrant under the federal Immigration and Nationality Act, Title [8 U.S.C., 18](#) years of age or older lawfully present in the United States and provide the applicant's alien number issued by the Department of Homeland Security or other federal immigration agency.
 - c. See Appendix Page 8

II. Facility Use/Operations

1. Role of the City

The role of the City is to facilitate agreements and permits with organizations desiring to use City athletic fields and facilities to implement various youth athletic programs, activities and events; and to ensure that recreational assets of the City of Dunwoody are utilized effectively to allow maximum participation and citizen access. In addition the City will:

- a. Allow the non-exclusive use of the Facilities to the Association under expressed terms and conditions set forth by the City for the purpose of conducting sports Programs; the use of the Facilities shall be limited to practices, games, meetings, clinics and demonstrations for the promotion of the sport, community interest and welfare, which may include opening day activities, tournaments and special events.
- b. The Association and City agree to terms for the use of the Facilities for such other

activities, such use or uses shall be governed by separate agreement or agreements. The City will maintain the facility scheduling for these activities and collect all fees for the activities.

- c. For parking information, please reference your Field Usage Agreement.
- d. Provide fields at the beginning of the Association's operating season, field lights, field electrical outlets, watering systems, park buildings and structures as needed.
- e. Clean restrooms not less than one (1) time daily.
- f. Provide general, standard and customary maintenance of the Facilities, as defined in your Field Usage Agreement
- g. Provide for the Association's use of the building (hereinafter "Field House") on the Facilities property for use in conjunction with provision of its programs under this Agreement, including use of said building for purposes of concessions during the times the Association uses the Facilities for games and practices in accordance with the provisions of this Agreement.

2. AA Responsibilities

- a. Provide a sports program in accordance with all guidelines set forth by the City. The Association agrees that all of its members, whether paid or volunteer, must undergo a criminal background check prior to being allowed to participate in any activities on City Property. (Reference Appendix Page 7)
- b. Comply with all statutes, ordinances, rules, orders, regulations and requirements of federal, state, county and city governments where applicable.
- c. Maintain the playing fields based on the Field Usage Agreement
- d. It is the responsibility of the Association to ensure that all facility rules are followed, failure to do so shall constitute a material breach of this Agreement.
- e. Protect, defend, indemnify and hold harmless the City, its Mayor, Council members, officers, employees, successors, assigns, and agents from and against any and all claims, suits, losses, liabilities, damages, deficiencies, expenses, or costs (including, without limitation, reasonable attorney's fees, investigative and/or legal expenses, and costs of judgment, settlements, and court costs) (hereinafter "Claims") suffered or incurred by such parties whether arising in tort, contract, strict liability, or otherwise and including, without limitation, personal injury, negligence, wrongful death, or property damage, regardless of the outcome of any such action, proceeding, or investigation caused by, related to, based upon, or arising out of the Association's use of the Facilities, provision of Athletic Programs or activities, or otherwise, excluding Claims caused by the sole negligence of the City. The language of this indemnification clause shall survive the termination of this Agreement, even if the City terminates this Agreement for

convenience.

- f. The Association shall further either (a) require each of its Subcontractors to procure and to maintain during the term of his subcontract Subcontractor's public liability and property damage and vehicle liability insurance of the type and in the same amounts as specified in the preceding paragraphs, or (b) insure the activities of the Association's Subcontractors in the Association's own insurance policy.
- g. If the Association chooses to use the portion of the Field House designated for concessions, the Association shall provide its own food and clean-up the area after each use to replicate its appearance prior to each use. The Association must obtain all required health certificates to serve said food and shall be responsible in accordance with subsection (d) above for any liability as a result of providing these concessions. No alcohol may be sold and/or served at any game, function or event on the Property and no alcohol may be possessed by anyone during the times the Association uses said Facilities.
- h. The Association shall maintain a schedule of all functions at the facility and shall submit a report of all recorded functions of the previous year to the City each January to include date, use and number of participants.
- i. The Association may not charge individual gate fees to Dunwoody residents for practices, games, meetings, clinics and demonstrations. You must charge the gate fee as part of your tournament fees. No money should be collected at the gate for tournaments, except as defined in their Facility Usage Agreement for fundraising initiatives.
- j. The Association must provide a succession plan for its organization and annually report to the City its current board members and term limits.
- k. The Association must provide the City with documentation and the schedule of all tournaments and must provide a facility attendant to be present through the entirety of the tournament to ensure that all facility rules and regulations are followed by the participants and spectators.

3. Field Scheduling

Proposed dates for use of City facilities must be submitted in writing a minimum of forty five days in advance to the City. Once submitted, the City will allocate field space as deemed in the best interest of the City residents. Final decisions regarding field schedules will be the decision of the City. The AA will be required to submit a letter providing accurate participation numbers for current or past seasons to assist in determining field space needs. Priority for field use will be given based on need and in accordance with the Field Use Agreement.

4. Games and Practice Schedules

The AA must make the scheduling of recreation teams their first priority when scheduling teams. Recreational Leagues should take precedence over Select/Travel Leagues. Unused

field time will be scheduled by the City as deemed necessary.

All AA game schedules shall be submitted one week prior to the first scheduled games. Any changes to facility scheduled time shall be submitted 48 hours in advance of rescheduled time.

5. Tournaments/Events

All tournaments should be approved by the City and rental fee paid directly to the city (See Appendix for rental rates)

The City reserves the right to impose an additional fee for use of the facility if it is determined the event is not directly linked to the normal operations of the AA of the park/facility whether during the allotted time or not. (The City reserves the right to prioritize tournament/event rentals based on their impact to the facility, fields, quality and size of the tournament, local economy, past history, etc.

All outside organizations not associated with an AA wishing to conduct a tournament/event in a park/facility MUST make their request directly to the City. Outside organizations are subject to a fee for the use of the facility and an attendant. The City reserves the right to change, alter or cancel the event based on weather conditions or unapproved changes to the structure of the event.

6. Camps/Clinics

The AA must submit a request in writing to the City for the use of a Park for any camps and clinics sponsored by the AA. The written request should be received by the City at least forty-five (45) days prior to requested dates of use. Failure to provide adequate request and notice of scheduled activities to the City could result in conflicts with City sponsored camps & clinics or scheduled park maintenance and rejection of a Facility Use Agreement.

7. Criminal Background Check Requirements

- a. AA shall comply with the provisions of the Code of the City of Dunwoody, Georgia and Official Code of Georgia annotated and all appropriate statutes and regulations governing the services it furnishes and, when applicable, with the standards of its profession. AA acknowledges their responsibility to report child abuse under O.C.G.A 19-7-5 as may be amended in the future and they accept responsibility to adhere to it, including all paid employees and volunteers and that failure to do so shall constitute a material breach of their Agreement with the city.
- b. Provide program in accordance with all guidelines set forth by the City. The AA agrees that all of its members, whether paid or volunteer, must undergo a criminal background check prior to being allowed to participate in any activities on City Property.

Comply with all statutes, ordinances, rules, orders, regulations and requirements of federal,

state, county and city governments where applicable. See Appendix Page 7

8. Securing Equipment

The AA must secure all sport specific equipment safely for play during the season and must secure and lock all equipment between seasons. The City will not be responsible for the safety of the equipment, or any theft or damage to the equipment while being stored or left on the fields. No equipment should be secured/locked to a fence/facility.

The AA must clean and organize the store of their materials at the conclusion of each season. Storage of materials in or around the HVAC, electrical rooms and plumbing chases is prohibited.

9. Security

A designated AA member must make sure the permitted area is secure before leaving the park. All buildings must be closed and locked. All gates must be closed.

III. Fees and Charges

1. Facility Use Fees

The fee for use of athletic fields is determined by the Athletic Field Use Agreement. All AAs should pay 100% of expected field user fees prior to registration and the fees must be paid two weeks before the first practice/tryout of that season. The City will block out make up dates for inclement weather cancellations that can be used by the AA to reschedule games/practices as needed at no additional charge. Program credits will only be considered for dates that the facility is closed by the City or inclement weather cancellations that can't be rescheduled during the make-up block time frame. (See Manual Appendix page 5 for fee schedule.)

2. Tournament Fees

Groups that request field space for tournaments outside of your organization will be required to rent the facility from the City and pay the fee to reserve the dates. The outside organization group is responsible for paying the rental fee to the City for the outside tournaments that they host. This will go through the City parks fee software. A field rental contract must be signed and rental fees collected before the permit is issued.

For tournaments that occur as part of the Association's recreation programs, the fee will be assessed at the Category 2 recreation program rate for the tournament hours. Any outside organization renting the fields for tournaments will be responsible for paying the Category 2 outside tournament/organization rate. (See Manual Appendix Page 5).

3. Fundraising

The AA must inform the City, in writing, of all fund raising activities that take place in the park. This information is used to verify the validity of fund-raising activity to the public.

4. Park Admission Fees

The AA is NOT permitted to charge admission fees or collect donations for admittance to the park during regular season games and/or practices. The AA may charge gate fees to tournament groups as part of their registration fee for the tournament. No fees will be collected during the rental times

5. Commercial Activity-Vendors

Commercial activity in a recreation facility is prohibited, unless prior approval is given by the City for the benefit of the AA. If the AA is approved for commercial activity, any contract with a commercial vendor shall be between the vendor and the AA. AA must require vendors to provide a comprehensive general liability insurance policy for a minimum limit of \$1,000,000 per occurrence for bodily and personal injury, sickness, disease or death, injury to or destruction of property, including loss of use resulting therefrom. The Certificate of Insurance must list The City of Dunwoody as additional insured. The Certificate of Insurance must be forwarded to the City two (2) weeks prior to the vendor operating in the park for authorization and verification. Vendors must provide a proper business license.

6. Clean up Fees

If the City is required to do the cleanup after an event, then the AA will be charged a clean-up fee of at least \$250. If excessive cleanup or maintenance is required an additional fee will also be charged.

VI. Safety and Security

1. Vandalism and Accident/Injury

Vandalism must be reported to DPD immediately by calling 911. The AA is responsible for notifying the City of any vandalism, minor injury within 24 hours after the incident. The AA must report damage to the City facility or building and serious injury/incidents immediately. If damage is a result of the AAs negligence or failure to comply with accepted operational or security measures, the AA may be held responsible for reimbursing the City for all or part of the repair costs.

2. Park Rules and City Ordinances

The AA must abide by current City park rules and ordinances.

3. Procedures for Closing Fields or Parks

In the event of inclement weather, it may be necessary to require a specific field or park to

be closed. The City has the right to close a field as it sees fit. These rules are designated to provide residents with safe playable surfaces. Failure to comply or abuse these procedures by the AA may result in the City revoking the use of the Facility Use Permit.



Athletic Association Policy and Procedures Manual Appendix

Updated: September 2020

Athletic Field Usage Policy

Section 1 – Field Use Policy

Reserved use of athletic fields is permitted by this policy and encouraged by The City of Dunwoody. **Unreserved athletic fields will be available to the general public for open, unstructured or public recreation on a first come/first served basis during the normal operating hours of the park/ facility.**

The City of Dunwoody reserves the right to modify these policies and procedures and to develop and enforce such additional rules and regulations as may be required for the protection of the parks, athletic fields at the parks, the users and the patrons of the parks. Athletic fields may be defined as natural or synthetic surfaces including, but not limited to grass, dirt, turf, concrete, asphalt etc. Athletic fields may be closed by the City due to weather conditions, maintenance, to protect the public from unsafe conditions or to protect the fields from damage due to overuse. When reserved for use by a priority user, fields are not available to the general public.

Section 2 - Priority Users

Four priority categories of facility users are hereby created (Category 1 being the highest priority) and shall be considered in the allocation of athletic fields and scheduled time at all parks. The City of Dunwoody reserves the right to set priorities based upon, but not limited to, the following: the number of participants, the residency of participants and the overall impact of the group or organization upon the established recreational needs of City residents.

Category 1 – The City of Dunwoody Parks and Recreation Programs

“The City of Dunwoody” shall include all of the following: activities and programs of the Parks and Recreation Department and events sponsored, co-sponsored or partnered with the Department.

Category 2 – Athletic Associations

An “AA Group” is defined as an athletic organization that has a Facility Usage Agreement with the city. DeKalb County School District - Dunwoody Cluster athletic programs

Category 3 – Local Civic, Faith Based and/or Private Educational Groups

“Local Civic, Faith Based and/or Private Educational Groups” shall include, but are not limited, to organizations such as the Rotary Club, private schools or home school groups located within the City boundaries.

Category 4 – Businesses, Other Contracted Organizations, Individuals or Groups

Any business, organization, club, individual or group that does not fall within the definitions of Category 1, 2 or 3, as defined above, shall be considered a Category 4 user under this Policy.

Section 3 - Athletic Field Reservations

An athletic field shall be considered reserved upon the payment to the city of the prescribed fee and the issuance of a Rental Agreement provided by the City. The Rental Agreement shall include ALL of the following:

- The name of the organization reserving the athletic field.
- The name, address and phone number of the individual making the application and contact person for the permit.
- The specific athletic field(s) being reserved.
- The date of issuance.
- The date, time and duration of the permit.
- The specific fee or fees charged and schedule of payment.
- All conditions assigned to the permit over and above the requirements of this Policy.

Section 4 - Sales on Park Property

The City of Dunwoody reserves to itself complete and exclusive rights to regulate the sale of all goods and services sold or conducted on park property. All commerce is expressly prohibited without the approval of the City of Dunwoody. Vendors are subject to all business license and insurance requirements. In addition all vendors must successfully complete any applications and pay fees set forth by the City. Food concessions must be approved by the City and follow all City Codes and Ordinances.

Section 5 – Fees and Charges

The most recent Schedule of Fees and Charges for the Use of Athletic Fields, as approved by the City Council, is attached hereto and incorporated herein as Exhibit “A”. The Schedule of Fees and Charges for the Use of Athletic Fields may be amended from time to time by the City Council.

Section 6 – Athletic Field Use Rules

Reservation is for the designated athletic field and immediate surrounding area only. All other park attractions and facilities are open to the public.

In the event the organization is an athletic association, the association shall comply with the most current version of the Athletic Associations Policy and Procedures Manual.

In the event the organization is conducting business in the park such as a tournament rental, the organization will be subject to all business license and insurance requirements.

In the event a City of Dunwoody program or function conflicts with an organization's use of the athletic field identified in the agreement, the Recreation and Parks program or function shall have priority and the conflict will be resolved by the organization's rescheduling its use of the athletic field.

All organizations and spectators shall follow all City Park Rules. Please leave the park clean. Dispose of all waste in designated receptacles.

Exhibit A

<u>User Group</u>	<u>Athletic Fields</u>
Category 1 City Programs	
Category 2 AA Groups, Dunwoody Cluster Schools	\$15/hour Min of 2 hours/up to 6 hours \$200/day \$75/hour (Outside tournaments/organizations) Lights Included
Category 3 Local Civic, Faith Based, Private Schools	\$100 per hour (Min of 2 hours/up to 6 hours) \$1,000/day Lights Included
Category 4 Businesses, Other Contracted Organizations, Individuals or Groups	\$1,500 per Day \$850 per ½ Day (≤ 4 hours) No hourly rate for this category

Athletic Field Preparation

If a multipurpose field rental requires initial set-up painting/stripping, the AA is required to do this themselves with permission from the City Recreation Department. All paint products must be approved by the City prior to application

City of Dunwoody
Parks and Recreation
AA Season Information

Please answer the following questions as completely as possible.

This information will be provided to the general public. This information is due to the City at the Individual AA meeting held each year in December.

AA Name: _____

Contact Person: _____

Address: _____

City / State / Zip: _____

Phone: _____

Email: _____

Website: _____

Sport: _____

Season / Year: _____

Start & End Dates: _____

Age Groups: _____

Cost: _____

Registration Info: _____

(dates, times, location) _____

Additional Information: (attach additional sheets as necessary)

Please provide accurate participations numbers from the previous season/ year, the number of games played and the number of teams for each league. Please specify Boys, Girls, recreational teams, feeder, travel, academy, select teams, etc.

Background Check City of Dunwoody Parks & Recreation

My signature authorizes the above company to receive my criminal history and record information pertaining to me that may be on file at any state or local criminal jurisdiction in the State of Georgia.

Name: _____

DOB: _____

Race: _____

Sex: _____

Address: _____

Social: _____

Program Name: _____

Child program: Yes _____ No _____

Signature: _____ Date: _____

FOR INTERNAL USE ONLY

Requester: Kate Borden

Brent Walker

Signature _____ Date: _____

No Record _____

Record _____

If yes, state charge and convictions:

**Affidavit Verifying Status
for City Public Benefit Application**

By executing this affidavit under oath, as an applicant for a City of Dunwoody, Georgia Business License or Occupation Tax Certificate, Alcohol License, Taxi Permit or other public benefit as referenced in O.C.G.A. Section 50-36-1, I am stating the following with respect to my application for a City of Dunwoody license/permit for:

1) _____ I am a United States citizen **(Must include copy of either Georgia Driver's License, Passport, or Military ID)**

OR

2) _____ I am a legal permanent resident 18 years of age or older or I am an otherwise qualified alien or non-immigrant under the Federal Immigration and Nationality Act 18 years of age or older and lawfully present in the United States.* **(Must include either a copy of your Permanent Resident Card or Employment Authorization Card as well as another form of government issued identification such as Georgia Driver's License, Military ID, or Passport)**

In making the above representation under oath, I understand that any person who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in an affidavit shall be guilty of a violation of Code Section 16-10-20 of the Official Code of Georgia.

Signature of Applicant: _____ **Date:** _____

Printed Name: _____

***Alien Registration number for non-citizens:** _____

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE _____ DAY OF _____,
20____

Notary Public: _____ My Commission Expires: _____

*Note: O.C.G.A. § 50-36-1(e)(2) requires that aliens under the federal Immigration and Nationality Act, Title 8 U.S.C., as amended, provide their alien registration number. Because legal permanent residents are included in the federal definition of "alien", legal permanent residents must also provide their alien registration number. Qualified aliens that do not have an alien registration number may supply another identifying number below:
