

Memo

Carmichael



RECREATION AND
PARK DISTRICT

To: Advisory Board of Directors

From: Mike Blondino, District Administrator
Alaina Lofthus, Recreation Services Manager

Date: November 16, 2023

Subject: Facility Use Agreement with the American River Futbol Club

Background:

The American River Futbol Club was founded in 2009 as a 501c3 Charitable Organization. The club has approximately 500 players (40 teams) ranging from ages 8 to 19 years old. The club prides itself on providing year-round soccer programs at an affordable price. Additionally, the club offers numerous free clinics throughout the year to promote the sport to the community.

The American River Futbol Club is currently using the soccer field at Del Campo Park under a Facility Use Agreement with the District. This agreement is nearing the end of its three-year term and both the club and the district are interested in continuing forward with a similar new agreement. The following agreement was created to meet the needs of the club and the district.

Discussion:

Staff has drafted an agreement (attached) for use of the soccer field at Del Campo Park. The agreement outlines specific responsibilities to care for and maintain the facilities and describes fees associated with reserving the field including maintenance and player fees. According to the agreement, the American River Futbol Club will reserve the soccer field at Del Campo Park on Tuesdays and Thursdays, 5pm to 8pm, Saturdays and Sundays, 8am – 8pm, from March 1st through October 31st. The maintenance fee associated with this use is \$82 per week (3 days of use) or \$109 per week (4 days of use) for 2024 with a 5% increase for 2025 and 2026. Additionally, the club will pay a per player fee of \$8.00 for 2024, \$9.00 for 2025, and \$9.00 for 2026. The maintenance and player fees will go towards field preparation, irrigation, weed abatement, water costs, repairs, and park impact by additional users.

This agreement was made in collaboration with staff and representatives from the American River Futbol Club and is similar in requirements to current sport user groups' Facility Use Agreements that have gone through the County Counsel and County Risk Management review and approval process.

The term of the agreement shall commence on March 1, 2024 through October 31, 2026.

Recommendation:

Staff recommends that the Carmichael Recreation and Park District Advisory Board of Directors approve the terms and conditions of the Facility Use Agreement with American River Futbol Club for the use of the soccer field at Del Campo Park effective March 1, 2024 to October 31, 2026 as presented and delegate authority to the District Administrator or designee to execute the Agreement (FUA).

**FACILITIES USE AGREEMENT
BETWEEN PERMITEE AND CARMICHAEL RECREATION
AND PARK DISTRICT FOR FIELD USE**

THIS FACILITIES USE AGREEMENT (hereinafter referred to as “FUA”) is effective June 1, 2021 by and between the AMERICAN RIVER FUTBOL CLUB hereinafter referred to as “PERMITTEE”) and the CARMICHAEL RECREATION AND PARK DISTRICT, a Recreation and Park District formed pursuant to the California Public Resources Code (section 5780, et seq.), (hereinafter referred to as “DISTRICT”).

RECITALS

Ownership. DISTRICT is the owner and operator of Del Campo Park at 6276 Heathcliff Drive, Carmichael, CA 95608.

WHEREAS, the DISTRICT desires to provide for the citizens of the DISTRICT youth sports programs, and is willing to allow youth sports organizations to provide youth sports activities, and various special events on DISTRICT facilities; and

WHEREAS, the DISTRICT does not have employees within its work force who can provide all the needed coaching/administration/instruction/leadership; and

WHEREAS, the Advisory Board of Directors has indicated its desire for the DISTRICT to allow youth sports organizations with individuals possessing the appropriate backgrounds and experience to give coaching/administration/instruction/leadership in various youth sports programming areas; and

WHEREAS, the PERMITTEE is a competent and experienced organization in a particular youth sport activity and is willing to provide program coaching/administration/instruction/leadership for citizens of the DISTRICT,

(Remainder of page intentionally left blank)

AGREEMENT

NOW, THEREFORE, in consideration of the facts of the above, the two parties do mutually agree as follows:

I. SERVICES TO BE PERFORMED BY PERMITTEE

- A. PERMITTEE shall perform the following services under the guidelines of the youth soccer program:
 - 1. Teach soccer to youth within the boundaries of their soccer program, which includes a portion of the DISTRICT. DISTRICT facility used by PERMITTEE for games and/or practices is: DEL CAMPO PARK – Soccer Fields at 6276 Heathcliff Drive, Carmichael, CA 95608

II. TERM

The term of this FUA shall commence March 1, 2024 through October 31, 2026.

III. TERMINATION

PERMITTEE may terminate the FUA hereto by thirty-30 days' written notice to the DISTRICT. Notice of termination by DISTRICT shall be given, with or without cause, upon 30 days' written notice. In the event the PERMITTEE terminates without the advance notice to the District Administrator and Recreation Services Manager required by this paragraph, the PERMITTEE is responsible for any financial loss incurred by the DISTRICT pursuant to this contract

IV. COMPLIANCE WITH LAWS

- 1. PERMITTEE shall observe and comply with all applicable federal, state, and local laws, regulations, and ordinances.
- 2. PERMITTEE shall be solely responsible for implementing the applicable COVID-19 guidelines from the California Department of Public Health and the applicable COVID-19 guidance from the Centers for Disease Control and Prevention for the protection of staff and participants, including regulations concerning education, training, routine cleaning, and on-site washing.
- 3. In the event and to the extent that PERMITTEE and/or his/her employees, volunteers, contractors, or any other relevant person shall have supervisory or disciplinary authority over any minor as part of the services to be performed, the PERMITTEE is required to ensure that he/she and all of his/her employees, volunteers, contractors, or any other relevant person providing services under this FUA comply with Public Resources Code, Section 5164, namely, they must undergo a DOJ background check before retained or hired to perform services under this FUA.

4. Evidence of compliance shall be presented to the DISTRICT, on the form provided, Exhibit B, Certification of Background Checks before this FUA is signed by the DISTRICT, for the PERMITTEE and all then current employees, volunteers, contractors, or subcontractors. Additionally, evidence of compliance under this subparagraph shall be presented to the DISTRICT during the term of this FUA, for each new employee, volunteer, contractor, or subcontractor of PERMITTEE, before the new employee, volunteer, contractor, or subcontractor commences performing under this FUA.
5. "Evidence of Compliance" under the terms of this subparagraph means that the result of either criminal background search reveals no convictions for the offenses listed in the Public Resources Code, Section 5164. PERMITTEE shall supply to the DISTRICT, for each person to be checked, fingerprints pursuant to Section 11105.3 of the Penal Code. Failure to comply with this provision shall be grounds for immediate cancellation or termination of this FUA by the DISTRICT.
6. DISTRICT reserves the right to immediately terminate this FUA should PERMITTEE fail to comply with any provision of this Article.

V. CAREGIVER OF FACILITIES

- A. PERMITTEE shall, throughout the period of this contract, act as caregiver to the DISTRICT facilities in use by keeping facilities safe, welcoming, field's game ready, and free of debris.
- B. PERMITTEE is responsible for the facility being free of trash or debris caused by PERMITTEE usage.
- C. PERMITTEE is required to report any and all damage or acts of vandalism to the DISTRICT immediately.

VI. MODIFICATIONS TO FACILITY

- A. All requests for permission to modify the Facility or any park grounds must be brought to the attention of the DISTRICT. Requests must include a "Letter of Intent", accompanied by construction drawings and specifications. If approved, the DISTRICT will provide written permission to PERMITTEE.
- B. PERMITTEE is not to make any changes to the permanent structures, or add any permanent structures to the facilities without DISTRICT approval.
- C. Any facility malfunctions or damage is to be reported to DISTRICT. The party responsible for labor and payment for repair will be determined.
- D. No signage is to be added to facility by PERMITTEE without prior written approval from DISTRICT.

- E. PERMITTEE is not allowed to designate the name of a field, or any portion of the facility, without prior approval from the DISTRICT.
- F. No storage units may be placed on facility without written permission by DISTRICT only, and units are the responsibility of the PERMITTEE. The DISTRICT assumes no liability or responsibility for any equipment or property kept in the storage areas. Storage units must be in good condition at all times and any vandalism or breakage must be repaired immediately. PERMITTEE must maintain the storage facility in a clean manner at all times PERMITTEE must provide keys or lock combinations to DISTRICT for all storage units, locked closets and fenced areas. *Any/all flammable and/or toxic substances are strictly prohibited in storage containers.*

VII. GENERAL INFORMATION AND MAINTENANCE

A. FIELD USE

- 1. PERMITTEE reserves use of the soccer field at the Del Campo Park on Tuesdays and Thursdays, 5pm – 8pm, from March 1st to October 31st and Saturdays and Sundays, 8am to 8pm, from March to October.
- 2. PERMITTEE has the first right of refusal for leagues and tournaments then other groups may reserve the fields through the DISTRICT. Anytime the fields are not scheduled for use by PERMITTEE, the DISTRICT reserves the right to schedule other activities on them.
- 3. PERMITTEE will provide DISTRICT with field schedule prior to the start of the season.
- 4. PERMITTEE is to notify the DISTRICT of any upcoming tournaments or special events that would attract more people to the facility than during a typical day of activities.
- 5. PERMITTEE is to follow any rules and restrictions on field use according to DISTRICT and/or Sacramento County requirements.
- 6. PERMITTEE is prohibited from subleasing the field to other organizations (youth or adult) including PERMITTEE organization coaches performing clinics, camps, and lessons in which individual coaches are monetarily compensated.

B. PARKING

- 1. PERMITTEE is responsible for coordinating parking and traffic during the season.
- 2. PERMITTEE is responsible to provide a sufficient number of staff/volunteers to assist with parking and traffic control if needed. Parking is allowed in designated areas only.
- 3. PERMITTEE must observe and comply with any and all local parking rules and regulations applicable with the park.

4. Nothing herein is intended to authorize PERMITTEE to override the normally applicable parking regulations, nor to override the authority of official designated parking enforcement personnel of the County.

C. INFLATABLES

1. No inflatables are to be used by PERMITTEE.

D. RESTROOMS/TOILETS

1. PERMITTEE is responsible to provide and pay for additional portable restrooms/toilets during the season. Depending upon the expected attendance, duration of the event, PERMITTEE may need to rent portable toilets to accommodate participants. DISTRICT requires one toilet for every 250 people, or portion thereof. For every four portable toilets rented for your event, one must be ADA approved to meet specific guidelines set forth by the American with Disabilities Act of 1990. The number of toilets required is based upon the maximum number at your event during peak time.
2. PERMITTEE will work with DISTRICT on the proper placement for the portable restrooms/toilets.
3. PERMITTEE is responsible for securing and locking any rented portable restrooms/toilets after each field use.

E. NO ALCOHOLIC BEVERAGES POLICY

1. No alcoholic beverages allowed in or around the facility or any other park sites located within the Carmichael Recreation and Park District without an authorized permit, insurance, and security.

F. BOOTHS/TENTS

1. Food Booths
 - a) A Business Operation Tax Certificate and County Health Permits are required to sell, expose or for sale, or offer for sale any goods, wares, or merchandise within the facility. PERMITTEE must abide by all Sacramento County Metropolitan Fire Department regulations that apply to booths and tents.
2. Vendor Booths
 - a) Vendor booths are usually similar in construction to food booths, but are meant for retail sale of non-food items. A Business Operation Tax Certificate is required to sell, expose or for sale, or offer for sale any goods, wares, or merchandise within the parks. PERMITTEE must abide by all fire department regulations that apply to booths and tents.

G. BANNERS

1. All signs must be approved by the DISTRICT and must state the special event name, and applicable dates and times. Temporary signs for an event should be posted no more than two weeks before such event and are removed no more than five days after such event. This excludes sponsorship banners.

2. The DISTRICT maintains the right to place banners around the fields and other DISTRICT owned property used by the PERMITTEE.

H. GENERATORS

1. Portable generators, if needed, should be placed in an area where attendees are unlikely to come into contact with them, and be placed at least 10 feet from any combustible materials. Generators shall be located a minimum of 20 feet from tents or canopies.
2. Refueling: When refueling a portable generator, you must wait until the generator cools, and then refill it from a self-closing safety can.
3. A portable fire extinguisher, minimum 2A 10B: C size, with a current Fire Marshall tag attached must be always on-hand and easily accessible.

I. MAINTENANCE

1. PERMITTEE is responsible for the following:
 - a) Inform all team users of the “No Dogs off Leash,” “No Alcohol,” “No Smoking,” and “No Parking on Turf” rules for the soccer fields and make sure spectators follow those rules.
 - b) Do not apply any pesticides or any other chemicals not approved by the DISTRICT on the site.
 - c) Inspecting fields (before and after games and practices) for hazardous conditions or clean-up required. Any hazardous conditions that need DISTRICT attention will be communicated to the DISTRICT’S Recreation Services Manager.
 - d) PERMITTEE shall pay a fee of **\$82 per week (3 days of use) or \$109 per week (4 days of use) for 2024** to the DISTRICT for maintenance costs with **a 5% increase for 2025 and 5% increase for 2026**. PERMITTEE must submit a field use schedule prior to field use each year to the Recreation Services Manager. Notification of changes to this schedule must be made to the Recreation Services Manager.
2. DISTRICT is responsible for the following:
 - a) Maintain and control irrigation system of soccer fields
 - b) Mow fields once a week
 - c) Maintain draining system, trees, and weed abatement around fences.

J. NOTIFICATION OF CHANGES

1. PERMITTEE is responsible for providing the DISTRICT an updated list of Board Members including their names, phone numbers, and email addresses prior to the start of the season each year.

2. PERMITTEE is responsible for contacting the DISTRICT'S Recreation Services Manager regarding any changes in Board Members throughout the course of the season.
3. PERMITTEE is responsible for contacting the DISTRICT'S Recreation Services Manager regarding any program changes.

VIII. ADVERTISEMENT

- A. DISTRICT will allow PERMITTEE to solicit memberships and conduct fundraisers for the sole purpose of enhancing or providing funding for the program, equipment and/or fields.
- B. DISTRICT will promote PERMITTEE in the printed activity guide which is mailed to approximately 25,000 residents (District Boundaries) one time per year. The location of the advertisement will be based on space availability. PERMITTEE will provide DISTRICT a written write up which must be received prior to deadline.
- C. DISTRICT and PERMITTEE will set up a web link to promote each other's programs to the general public
- D. DISTRICT will provide an opportunity for PERMITTEE to promote programs through signage on district property. All promotional materials and placement to be approved by the DISTRICT in advance.

IX. YOUTH PLAYER FEES

- A. In consideration of DISTRICT'S promise to allow PERMITTEE use of the athletic fields, PERMITTEE agrees to pay the Youth Player Fees set forth herein. The Youth Player Fees will go towards water costs, repairs and other expenses the district incurs from owning the facility.
 1. A fee per player per season involved in organized sports programs that utilize DISTRICT athletic fields as their home field will be assessed the following amount:
 - 2024 Season = \$8.00 per player
 - 2025 Season = \$9.00 per player
 - 2026 Season = \$9.00 per player
 2. The PERMITTEE currently has one season per year:
 - March – October
- B. When the PERMITTEE submits its team rosters, the DISTRICT will then submit an invoice for the player fee.
- C. Full payment is due to Carmichael Recreation and Park District, 5750 Grant Avenue, Carmichael, CA 95608, within 30 days of receiving an invoice from the DISTRICT.

X. LEAGUE ROSTER

- A. Within 30 days of the conclusion of PERMITTEE registration periods, or within 30 days of the signing of this contract, the PERMITTEE is to provide the DISTRICT with a list of participants, including age, gender, and address. The roster data will be used by the DISTRICT for statistical purposes and to verify the total Youth Player Fee for each Permittee. The roster data will not be disclosed, given or sold to any person or business for any reason, to the extent that non-disclosure is allowed under the California Public Records Act.
- B. Player fees are required for access to all District Facilities.
- C. Submit rosters to the Recreation Services Manager either by email or 5750 Grant Avenue, Carmichael, CA 95608.
- D. Current and future field permits are contingent upon accurate rosters and payments.

XI. SUBMITTAL OF PAYMENT

Payments and rosters are to be submitted to the DISTRICT'S Recreation Services Manager responsible for the oversight of said services at 5750 Grant Avenue, Carmichael, CA 95608.

XII. ASSIGNMENT

This FUA is for PERMITTEE activities only and cannot be assigned to another individual or entity.

VIII. INDEPENDENT AGENCIES

- A. Both parties hereto in the performance of this FUA will be acting in an independent capacity and not as agents, employees, partners, or joint ventures of one another. PERMITTEE is not an employee of the DISTRICT and is not entitled to any of the rights, benefits, or privileges of DISTRICT employees.
- B. PERMITTEE acknowledges that all personnel furnished by PERMITTEE to perform services pursuant to this FUA shall be agents of the PERMITTEE and shall at all times be subject to the direct supervision and control of the PERMITTEE. PERMITTEE shall be solely liable for any and all injuries resulting to its agents, which may arise out of or in the course of the administration/performance of this FUA. The DISTRICT and the County of Sacramento shall not be liable for any workers' compensation or other benefits accruing under federal or state law to any agents/employees of the PERMITTEE to administer/perform services pursuant to this FUA. If Permittee has any employees, then Permittee agrees that it will, at all times during the term of this FUA, at its own expense, obtain and keep in full force and in effect, workers' compensation insurance as required by law with coverage extending to all of PERMITTEE employees, whether permanent, temporary or seasonal.
- C. The services PERMITTEE administers and performs pursuant to this FUA are intended to have the result of improving soccer skills and abilities to area youth in a fun, safe, healthful, and encouraging manner through soccer team practices, games, and/or special

events. Any vending by PERMITTEE is done independently from the DISTRICT, and the PERMITTEE assumes responsibility for all related permits, health regulations, taxation, and auditing related to vending.

XIV. INDEMNIFICATION

To the fullest extent allowed by law, PERMITTEE shall indemnify, To the fullest extent allowed by law, PERMITTEE shall indemnify, defend, and hold harmless DISTRICT and the County of Sacramento, its governing Board, officers, directors, officials, employees, and authorized volunteers and agents, (collectively “Indemnified Parties”) from and against any and all claims, demands, actions, losses, liabilities, damages, and all expenses and costs incidental thereto (collectively “Claims”), including cost of defense, settlement, arbitration, and reasonable attorneys' fees, resulting from injuries to or death of persons, including but not limited to employees of either Party hereto, and damage to or destruction of property or loss of use thereof, including but not limited to the property of either Party hereto, arising out of, pertaining to, or resulting from the acts or omissions of the Permittee, its officers, agents, employees, or contractors, or the acts or omissions of anyone else directly or indirectly acting on behalf of the Permittee, or for which the Permittee is legally liable under law regardless of whether caused in part by an Indemnified Party. Permittee shall not be liable for any Claims arising from the sole gross negligence or willful misconduct of an Indemnified Party where such indemnification would be invalid under Section 2782 of the Civil Code.

XV. INSURANCE

Without limiting PERMITTEE’S indemnification, PERMITTEE shall maintain in force at all times during the term of this FUA and any extensions or modifications thereto, insurance as specified in Exhibit A. It is the responsibility of PERMITTEE to notify its insurance advisor or insurance carrier(s) regarding coverage, limits, forms and other insurance requirements specified in Exhibit A. It is understood and agreed that PERMITTEE shall not have access to the fields until DISTRICT is satisfied that all insurance required by this FUA is in force. Failure to maintain insurance as required by the FUA may be grounds for termination of the FUA.

XVI. NONDISCRIMINATION

PERMITTEE shall not discriminate with respect to race, color, religion, religious creed, national origin, ancestry, citizenship, physical or mental disability, medical condition, genetic information, marital status, sex, pregnancy, gender, gender identity, gender expression, sexual orientation, veteran and/or military status, protected medical leaves, domestic violence victim status, political affiliation, and any other status protected by state or federal law pursuant to this FUA. In addition, prohibits retaliation against a person who engages in activities protected by this section. Reporting, or assisting in reporting, suspected violations of this section.

XVII. AMENDMENTS

This FUA sets forth all of the promises, conditions and understandings between DISTRICT and PERMITTEE relating to the Facility. There are no promises, conditions, and understandings, either oral or written, between DISTRICT and PERMITTEE other than those set forth in this FUA. No subsequent modification or FUA with respect to the terms of this FUA shall be effective, unless such subsequent modification or FUA is in writing executed by both DISTRICT and PERMITTEE. No oral representation, whenever made, by any official or employee of DISTRICT shall be effective to modify the provisions of this FUA. This FUA shall be binding upon the parties hereto, their successors and assigns.

XVIII. WRITTEN COMMUNICATION AND NOTICE

All notices from either party to the other under this FUA shall be in writing and sent by nationally recognized overnight delivery service or by United States certified or registered mail, postage prepaid with receipt obtained, addressed to the other party at the address provided below, or such other address as the party to receive the notification may subsequently designate by written notice to the other:

To DISTRICT at:

Carmichael Recreation and Park District
5750 Grant Avenue
Carmichael, CA 95608
Phone: (916) 485-5322

To PERMITTEE at:

American River Futbol Club
1151 Trade Center Drive, Suites 103 and 203
Rancho Cordova, CA 95670
(916) 206-0255

XIX. SIGNATURE AUTHORITY

Each of the persons signing below represents and warrants that he/she has the authority to legally bind the party on whose behalf he/she signs.

XX. PARAGRAPH HEADINGS

The paragraph headings contained herein are for convenience and reference only and are not intended to define or to define or limit the scope of this FUA.

XXI. DUPLICATE COUNTERPARTS

This FUA may be executed in duplicate counterparts. The FUA shall be deemed executed when it has been signed by both parties. Signatures scanned and transmitted electronically shall be deemed original signatures for purposes of this FUA, with such scanned signatures having the same legal effect as original signatures. This FUA may be executed through the use of electronic signature and will be binding on each party as if it were physically executed.

