

**RESOLUTION NO. 17-2023**

Introduced by Sam Artino

**A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO AN AGREEMENT ON BEHALF OF THE CITY OF HURON, OHIO GRANTING A LICENSE FOR THE HURON BASEBALL AND SOFTBALL PROGRAM, INC. TO UTILIZE ANDREW L. FABENS MEMORIAL PARK BASEBALL FIELDS AND CONCESSION STAND.**

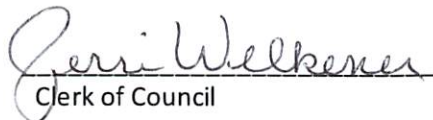
**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HURON, OHIO:**

**SECTION 1.** That the City Manager is authorized and directed to execute an agreement for and on behalf of the City of Huron, Ohio to grant a license with the Huron Baseball and Softball Program, Inc. For the use of Fabens Park baseball fields and concession stand from March 27, 2023 through July 28, 2023, said agreement to be substantially in the form of Exhibit "A" attached hereto and made a part hereof.

**SECTION 2.** That this Council hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of the Council and that all deliberations of this Council and of its committees, if any, which resulted in formal action, were taken in meetings open to the public in full compliance with applicable legal requirements, including O.R.C. §121.22 of the Revised Code.

**SECTION 3:** This Resolution shall be in full force and effect from and immediately following its adoption.

ATTEST:

  
Clerk of Council

  
Monty Tapp, Mayor

ADOPTED:

28 FEB 2023



## AGREEMENT

This Agreement is made between the City of Huron, Ohio, hereinafter called "City" and the Huron Baseball and Softball Program, hereinafter called "Licensee" for the purpose of holding a Baseball and Softball Program at Fabens Park from March 27, 2023 through July 28, 2023.

WHEREAS, the Huron Baseball and Softball Program is held on property owned by the City; and therefore, it is necessary for the City to grant the Huron Baseball and Softball Program a license to use said property, and;

WHEREAS, it is necessary for the City of Huron to furnish additional City services in order that said event may be held on City property in Huron, Ohio.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. The City hereby grants a license to Licensee to use the City owned property known as "Fabens Park", including its baseball fields, for the events set forth in the schedule attached hereto and made a part hereof as Exhibit A, for the site of the Huron Baseball and Softball Program from March 27, 2023 through July 28, 2023. The granted license shall be in accordance with Codified Ordinance §165.03.

2. Cost:

- a. The Licensee shall pay the Exclusive Field Rights Reservation Fee for seven (7) fields (#'s 1-7), in the amount of Eight Hundred and Seventy-Five Dollars (\$875.00) shall be paid prior to commencing practice and playing on City's fields.
- b. In addition to the Field Rights Reservation Fee as set forth in Section 2a, Licensee shall pay to the City a Facility Usage by Volume of Participation Fee of \$5.00 per participant in accordance with Ordinance §165.03.
- c. Licensee shall pay to the City a negotiated Concession Stand fee in Section 8g below.
- d. Licensee shall pay to the City a rental storage fee in Section 8h below.
- e. Licensee shall pay to the City a Toro utility vehicle rental fee in Section 8i below.
- f. Unless otherwise outlined in this Agreement, all fees shall be paid to the City no later than September 1, 2023.

3. The City shall have the option to terminate or modify this Agreement and license in the event the property being leased to the Licensee becomes unavailable by reason of the construction of public improvements on said property by the City. The decision as to whether or not the property is unavailable shall be decided by the Huron City Administration, notice of the

meeting at which such termination is to be discussed shall be given to the Licensee at least seven (7) days prior to the date of the meeting.

4. The City shall also notify the Licensee as soon as it can reasonably be done, of any impending public works construction that might adversely affect the use of the property by the Licensee.

5. The City shall further have the right to terminate this Agreement, for any reason, upon ten (10) days written notice to Licensee.

6. The City shall also notify, at any time, the Licensee upon the scheduling of any special event(s), tournament(s) or program(s) that may conflict with any Licensee event, field, or concession stand usage. Any tournaments hosted at Fabens Park will be scheduled on Fridays, Saturdays and Sundays for the specified week. No Games or practices may be scheduled by the Licensee during these tournaments. Scheduled city tournaments are listed on Exhibit D.

7. The Licensee agrees to defend, indemnify and hold the City harmless from any and all actual or threatened acts, actions, causes of action, claims, costs, demands, expenses, fees, fines, judgments, losses or suits arising or claimed to arise from its use or the use by participants, workers and spectators of the Licensee of Fabens Park ball fields, parking areas and concession stand as authorized by this Agreement and shall secure liability insurance, at least in the amount of One Million Dollars (\$1,000,000) bodily injury and death; Fifty Thousand Dollars (\$50,000) property damage, which policies shall name City as an additional named insured. Licensee shall furnish City with evidence that the required insurance has been obtained, with proof of payment of the premium for the duration of this Agreement, prior to the opening event and a copy of such shall herein be attached and incorporated as Exhibit B. Such policy shall include a 30-day cancellation clause. This indemnification shall include all costs of defense, including reasonable attorneys' and expert witness fees, and shall also extend to use of the any City equipment by the Licensee.

8. Licensee further agrees as follows:

- a. Licensee agrees the use of fields shall be from 3:00 p.m. until dark Mondays through Fridays and 8:00 am until 1:00 pm on Saturdays. Licensee agrees that this use includes only fields #1 through #7.
- b. Licensee agrees other leagues/teams may utilize the Fabens Park fields for the duration of the Agreement during the hours not reserved to the Licensee or as individually scheduled and listed on Exhibit B.
- c. Huron Parks and Recreation shall have the Fabens Park fields prepared with bases and mounds on or before April 17, 2023, weather permitting.
- d. Huron Parks and Recreation shall be responsible for the maintenance of all fields and infrastructure at Fabens Park; provided, however, Licensee shall be responsible for setting up the fields for play by performing all actions needed to make the fields ready for play on game days, including but not limited to dragging the infield, marking the base lines and foul lines, setting the bases and the like.

- e. City agrees to appoint a liaison between the City of Huron and the Huron Baseball and Softball Program, Inc.
- f. Licensee agrees to leave the park in the condition it was found prior to each use (i.e. clean fields and dugouts after use). The Licensee understands that if the park is not left in the manner it was presented, the Licensee will be charged for any damages or clean up. Any equipment damaged and in need of repair during the use by the Licensee will be repaired by the Licensee to the condition in which it was presented.
- g. As negotiated, the parties agree that Licensee will not be charged a rental charge for the use of the concession stand. In consideration, Licensee agrees to be financially responsible for any incurred utility bills for the duration of the contract and will remit Two Hundred Dollars (\$200.00) to the City for a portion of the cost of the health department permit. The Licensee will clean the concession stand throughout and at the conclusion of the summer season. The Licensee agrees to accept all responsibility of the building and any concession items served to any individual. The Licensee accepts full responsibility for any action taken because of any product sold. The City of Huron is not liable for any action taken on the Licensee. Notwithstanding the term of this agreement terminating on July 28, 2023 as to use of fields, Licensee may continue to use the concession stand up to and including October 1, 2023.
- h. Lease Agreement: The City will provide storage space on site for storage of equipment consistent with activities related to Licensee. Storage for this purpose is secondary to the needs of the City and the City will make reasonable accommodations to assist Licensee in utilizing the storage. Said storage is anticipated by the City to be needed by Licensee during all months of this Agreement. This Agreement shall convey from the City to Company a Lease for the storage of said property. Company understands and affirms that the storage facility is not monitored by the City and Company assumes the risk of loss when utilizing the storage facility. At any time during this Agreement, the City reserves the right to rescind any access privilege afforded to Company by way of keycode, or key access to said storage facility. Should Licensee desire to utilize the lease option the cost of such option shall be Four Hundred Dollars (\$400.00), payable in a one-time payment payable upon Licensee's notice of its intent to execute the lease option. Licensee shall notify the City of its intent to exercise the lease option no later than April 5, 2023. The cost of the lease is non-refundable and shall not be prorated in the event of Company's early termination of the lease option.
- i. Rental Agreement: The City will rent a 2015 Toro Workman Utility Vehicle (the "Vehicle") to Licensee for the 2022 season. The rental fee for the Vehicle is One Thousand Dollars (\$1,000.00) for the 2023 rental period from April 17, 2023 through August 7, 2023. In addition to the rental fee, Licensee agrees to pay Fifty Percent (50%) of any Vehicle service or repairs (other than routine maintenance) in excess of Five Hundred Dollars

(\$500.00). The City will provide all routine maintenance for the Vehicle. All additional services or repairs required to the Vehicle will be scheduled by the City of Huron and billed to Licensee. Licensee agrees that the City may use the Vehicle at any time during the Rental Term. Notwithstanding the foregoing, the City will make every effort to avoid using the Vehicle during times when Lessee expects to have access to the Vehicle during the Rental Term.

- j. At Licensee's request, the City grants Licensee the limited authority to utilize said property as the host site for the North Coast Girls Softball League Tournament during the regular scheduled season as cited in subsection (1) herein. During the period of any subcontract pursuant to this section, whether written or unwritten, Licensee shall remain bound by the terms of this Agreement. The City shall accept no liability pursuant to any subcontract by Licensee for the use of the property for this limited purpose. In addition to the fees otherwise set forth in this Agreement, Licensee shall be liable for a tournament fee of Five Hundred Dollars (\$500.00) per week for this limited subcontract.
- k. Licensee agrees to abide by all terms of this Agreement as regards the City of Huron's Contract with the City's contracted beverage supplier, a copy of which is herein attached and incorporated by reference as Exhibit C.
- l. COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAW, ORDERS, GUIDANCE, RULES AND REGULATIONS. Licensee and all employees, agents, contractors, and any other persons subject to their direction and control shall **strictly** comply with all federal, state, and local laws, orders, instructions, requirements, guidance, and any other safeguards, including those related to any and all communicable diseases, including COVID-19. Licensee agrees to be solely responsible for ensuring that the activities covered by this Agreement will be operated, run, managed, and conducted in a manner consistent with all applicable all federal, state, and local laws, orders, instructions, requirements, guidance, and any other safeguards, including those related to COVID-19, and will coordinate with the Erie County Department of Health to ensure the same. Licensee understands that its use of the property will expose the it and its employees, agents, contractors and other persons subject to its control to a risk of injury and illness (ex: communicable diseases such as MRSA, influenza, and COVID-19), including the potential for permanent paralysis and death, and while particular rules, equipment, and personal discipline may reduce these risks, the risks of serious injury and illness do exist, and **KNOWINGLY AND FREELY ASSUME ALL SUCH RISKS**, both known and unknown, **EVEN IF ARISING FROM THE NEGLIGENCE OF THE CITY**, and assumes full responsibility for any such risk which may occur at the property. Licensee further **AGREES TO INDEMNIFY, RELEASE, AND HOLD HARMLESS** the City, and its officials, agents, and/or employees ("RELEASEES"), **WITH RESPECT TO ANY AND ALL CLAIMS, DEMANDS, LAWSUITS, ACTIONS, ETC. OF ANY TYPE**

FOR ANY ALLEGED INJURY, ILLNESS, DISABILITY, DEATH, or loss or damage to person or property, WHETHER ARISING FROM THE NEGLIGENCE OF THE CITY OR OTHERWISE, to the fullest extent permitted by law.

9. The rights and authority conveyed through this License shall not be assignable or transferrable by either party. This License shall not be recognized as valid, unless otherwise specified herein, for any sublease, subcontract or conveyance to another party regardless of whether said sublease, subcontract or conveyance is in exchange for compensation.

10. This License constitutes the entire Agreement between the parties and supersedes all prior or written agreements or understandings. This agreement shall only be amended in writing signed by both parties.

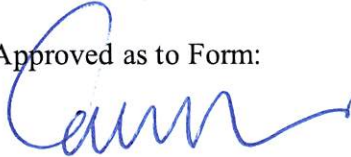
IN WITNESS WHEREOF, all parties have set their hands to duplicate copies of this Agreement on this 8<sup>th</sup> day of March, 2023.

LICENSEE



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President, Huron Baseball and Softball Program

Approved as to Form:



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Todd A. Schrader, Law Director

CITY OF HURON, OHIO



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Matthew Lasko, City Manager

**EXHIBIT A: SCHEDULE OF EVENTS**

**EXHIBIT B: INSURANCE RIDER**



**EXHIBIT C: PEPSI AMERICAS INC. CONTRACT WITH CITY OF HURON**

EXHIBIT D: CITY SCHEDULED TOURNAMENTS

**2023 – Tournaments @ FABENS**

**JUNE**

Fri-Sun	June 2-4	Baseball/Midwest
Fri-Sun.	June 9-11	Baseball/Midwest
Fri-Sun	June 16-18	Baseball/Midwest

**JULY**

Sat-Sun.	July 8-9	Baseball/Duckpond
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**AUG.**

Fri-Sun	Aug 4-6	Softball/Dawg Daze
Sat-Sun	Aug 19-20	Fall Ball/HPRD
Sat-Sun	Aug 26-27	Fall Ball/HPRD

**SEPT.**

Sat-Sun	Sept 9-10	Fall Ball/HPRD
Sat-Sun	Sept 16-17	Fall Ball/HPRD

Sat-Sun	Sept 23-24	Fall Ball/Rain Date
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