



Multi-Purpose Field Allocation Procedures



Orange County Parks and
Recreation Division
4801 West Colonial Drive
Orlando, FL 32808

**ORANGE COUNTY PARKS AND RECREATION
MULTI-PURPOSE FIELD ALLOCATION**

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ORANGE COUNTY PARKS AND RECREATION MULTI-PURPOSE FIELD ALLOCATION

BACKGROUND:

The Orange County community is fortunate to have a tremendous interest in field sports with high participation levels in County programs, organized youth sports organizations and school programs. This demand has taxed the limited playing field resources to an extreme level. Although the County's maintenance efforts are much higher than most, because of the high level of activity it is difficult to keep field conditions at a premium level throughout the year. The guidelines for allocation of playing fields provide a clear and equitable process that allows for a balance of use and attempts to reduce wear of natural turf fields.

The field allocation procedures consists of an application process which requests information about the sports organization desiring to be an Youth Sports Partner, scores and ranks the organization using criteria that best meets the mission of the County and issues field space reservation permits for use of the fields. This process is designed to give preference to Orange County youth for organized athletic activity while still providing opportunity for broader public access and adequate field maintenance.

PURPOSE:

The Orange County Parks and Recreation Division seeks partnerships with non-profit sports organizations to provide recreational opportunities, for all ages, at our facilities. Orange County seeks to establish one Youth Sports Partner, per park, per sport.

PROCEDURES:

The field allocation process is divided into three distinct processes:

1. Application Process for Youth Sports Partners
2. Completion of a Youth License Agreement
3. Issuance of Field Space Reservation Permits

Entities not awarded field space through the Youth Sport Partner process may utilize fields based on space availability, following the seasonal schedule outlined for Youth Sports Partners. (See page 4, *Application Process for Non-Youth Sports Partner*)

Application Process for Youth Sports Partners

Once every three years, Orange County Parks and Recreation Division will accept Applications from organized youth sport groups wishing to become a Youth Sports Partner. For the first three year period, existing primary users will be grandfathered in. Applications will be accepted only for new park sites excluding Barber Park expansion at this time.

In order to be eligible to be a Youth Sports Partner and submit an application, the organization must meet the following criteria:

- Be an Organized Youth Sport Group that is sanctioned and governed by a recognized regional, state or local body.
- Provide athletic programs to a specific service area in close proximity to requested playing fields.
- The Organized Youth Sport Group must run its programs in such a manner that its activities are open to all persons who wish to participate, regardless of race, gender, national origin or disability.
- Organized Youth Sport Group whose general membership is not based exclusively on ability and performance through a “try out” system and who do not reserve the right to “cut” players from teams.
- Organized Youth Sport Group shall be composed of at least 75% Orange County Residents.
- Organized Youth Sport Group must operate as a non-profit corporation under the laws set forth for incorporation by the State of Florida. A certificate of incorporation and copy of the organization’s by-laws must be supplied to the Parks and Recreation Division.
- The Organized Youth Sports Group must provide a scholarship program for underprivileged youth.

Organized youth sports groups are invited to apply for seasonal use of park playing fields. These organizations may also apply to use the County’s sports storage space, concession stands and hang banners. The established application timelines are:

- Applications Available Second Week in May
- Application Deadline Second Week in June

Organizations which miss the application submittal window will be subject to the Application Process for Non-Youth Sports Partners.

One application per park location is allowed. No applicant will be awarded more than two locations.

Organized youth sports groups and community groups desiring ongoing field space must submit rosters with addresses of participants. The amount of field time allocated to each group is dependent upon the number of Orange County resident participants in relationship to the available permit hours as well as the priority use designated for each season, field and time frame. While fields have been assigned based on historical data, County staff will work with the Parks Advisory Board as needed regarding field assignments.

Applications will be reviewed and scored. Point rankings will determine which Youth Sports Partner will be awarded an agreement. Youth License Agreements are a binding three-year contract, authorized by the Board of County Commissioners.

Completion of a Youth License Agreement

All Youth Sports organizations awarded an agreement will be required to adhere to the Athletic Facility Management Plan, found in Appendix A.

Games & Practices

The Orange County Parks and Recreation Division has the responsibility to manage facility uses to accommodate the greater need of all Orange County residents and users and to ensure facility access to the greatest number of users.

Youth Sports Partner organizations will manage their usage as part of their agreements with the Division. Scheduling should reflect a maximum of 4.5 hours per team per week to include practices and games.

Residency Requirement

If residency is questioned, physical proof will be required through documentation (i.e. water bill or power bill). All user organizations or teams may be composed of youth residing in different locations throughout Orange County, if not prohibited by their sanctioning body.

Fees & Payment

Uniform hourly scheduling and fees apply to ALL users. Youth Sports Partner contracts will include a fixed monthly payment plan based upon the agreed upon allocation. Since fields are allocated before season, eliminating access for other groups, refunds will not be made for unused allocations.

Each organization will be required to have all applicable fees paid before their monthly usage period. If payment does not occur, the organization will incur late fees and be restricted from reserving any future field space or any other Orange County facility until the debt is rectified.

Background Screening

The Division requires all organized youth sport groups to comply with Florida Statutes (refer to the Youth License Agreement, Section 4 Background Screening Requirement, page 17).

Issuance of Field Space Reservation Permits

Youth Sports Agreements will be issued based on the field ranking criteria scoring results. The following steps will take place if an organization is awarded facility usage rights:

<u>STEP</u>	<u>DATE INITIATED</u>
1. Review /Confirmation of Schedule	First week in August
2. Field Space Reservations Issued	Second week in August
3. Adjustments for interleague games	Seasonally, by first week of play

Youth Sports Organizations will submit their field space requests via a Field Use Allocation Space Request form. Field Space Reservation approval requires authorization by the Site Supervisor to ensure there are no programmatic, scheduled events or operational conflicts. A copy of the approved Field Space Reservation permit is to be given to the applicant.

Parks and Recreation will permit space with good faith that groups are not simply monopolizing fields. Groups who have not used fields responsibly or have violated any of the use guidelines may jeopardize renewal of their Contract. Permitted Youth Sports Partners may request a reduction or expansion of their annual allotment during the next open application window.

Permits are issued in one hour increments. Permits must end by 10:00pm at parks with field lights; and at dusk at parks without field lights.

Application Process for Non-Youth Sports Partner

Seasonal field space reservation permits for recreational play will be issued by the Park Site based on space availability following the seasonal schedule outlined for Youth Sports Partners. A Certificate of Insurance naming Orange County as Additional Insured will be required.

All applicable fees are located in the Division’s fee schedule. A field reservation will not be considered scheduled until a Facility Use Contract is signed and appropriate fees have been collected.

Conducting or operating organized leagues and tournaments is prohibited without a seasonal permit.

Sundays from 9am-5pm will be dedicated to adult community groups. Adult community groups desiring field time besides Sundays from 9am-5pm will be permitted after Youth Sports Partners have been allocated.

Formula to Address Contested Field Allocations

There may be a situation where multiple deserving organizations apply at one facility and schedules may conflict. The Division will do everything to avoid this from occurring; however, if it does occur, both users will be asked to work this conflict out in the best possible manner. If this cannot occur, the last resort will be for the Division to allocate field space based upon a demand formula. The demand formula takes into account the field capacity for prime time hours (weekdays from 5pm to 9pm, Saturdays and Sundays from 9am to 5pm) and field requests and

allocates field space based upon the number of participants in the organization (i.e. If Organization A has a 400 participants and Organization B has 600 participants, Organization A would have the right to 40% of the field space and Organization B would have the right to 60% of the field space.) A lottery or draw system will be used by the Division to implement this demand formula in the fairest manner. If after this step, either user is still not satisfied with the outcome, they may appeal to the Parks Advisory Board. The Board's decision will be final and binding to both users and the Division.

REQUIRED ITEMS AND/OR RELATED INFORMATION:

- APPENDIX A: ATHLETIC FACILITY MANAGEMENT PLAN**
- APPENDIX B: FIELD USE ALLOCATION SPACE REQUEST**
- APPENDIX C: YOUTH LICENSE AGREEMENT, BLANK**
- APPENDIX D: YOUTH SPORTS PARTNER APPLICATION**

APPENDIX A:
ATHLETIC FACILITY MANAGEMENT PLAN

ORANGE COUNTY PARKS AND RECREATION DIVISION ATHLETIC FACILITY MANAGEMENT PLAN

The guidelines and procedures specified through this document will govern all recreational and competitive organized sports activity use. These guidelines will be administered and enforced by the Orange County Parks and Recreation Division at athletic sites maintained and operated by the Orange County Parks and Recreation Division.

A sound maintenance program is important to ensure athletic facility turf quality. Consideration will be given to the endurance limits of the turf in scheduling the use of the facility. Orange County Parks and Recreation Division programs have first scheduling priority. Distribution of fields for Primary and Facility Use Agreement Users is detailed in the Division's Recreational Sports Field User Criteria. All fees will be assessed according to the Division approved fee schedule.

Failure to adhere to any of these conditions may result in immediate cancellation of the existing contract/agreement and future use of all Orange County Parks and Recreation Division facilities.

Any inquiries pertaining to these guidelines or requests for interpretation of application should be sent to the Manager of Parks and Recreation for a decision or clarification.

General Rules

- The hours of operations for athletic facilities will be posted on the premises. Fields are open for public use during normal park operation hours. To guarantee field availability, fields may be rented between the hours of 8:00 a.m. and 10:00 p.m. All field lights will be turned off at 10:00 p.m. No lighting will be provided at the athletic facility past 10:00 p.m. in accordance with the Orange County Noise and Light Ordinance.
- Users are to remain in assigned area(s) and are responsible for supervising all participants in their program as to not interfere with other on-going activities/programs.
- No one is allowed on locked fields. Please see facility staff for access.
- Smoking is prohibited on all athletic fields, dugouts, and spectator bleacher areas. Smoking is permitted at designated site locations.
- Alcoholic beverages are prohibited at athletic facilities.
- Loitering at the facility is prohibited.
- Pre and Post activity storage is not provided.
- Orange County is not responsible for items stolen or left on the premises.

Communication with Recreational Sports Field Users

For the purpose of eliminating confusion and establishing one-on-one direct communication flow between the Parks and Recreation Division and the sport groups, the President or designee of the group shall be the official spokesperson. All communication with the Division must be made through the President or designee to the Parks and Recreation Site Supervisor.

Insurance

Tenant, at its own cost and expense, shall keep in force during the term of this Agreement the following minimum insurance coverage:

1. Commercial General Liability - The Tenant shall maintain coverage issued on **the most recent version of the ISO form as filed for use in Florida or its equivalent**, with a limit of liability of not less than \$1,000,000 per occurrence. Tenant further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Contractual Liability, or Separation of Insured's. Sexual abuse and molestation coverage with limits of not less than \$100,000 per occurrence shall also be included. The General Aggregate limit shall either apply separately to this contract or shall be at least twice the required occurrence limit.
2. Tenant shall maintain "all-risk" property insurance, including personal property and equipment, for the full replacement value of such property.
3. Tenant shall provide accident insurance for all its participants.
4. Tenant agrees to endorse the COUNTY as an Additional Insured with a CG 20 26 Additional Insured – Designated Person or Organization endorsement, or its equivalent to all commercial general liability policies. The additional insured shall be listed in the name of Orange County Board of County Commissioners.

All such insurance shall be evidenced by a Certificate of Insurance which must be submitted to, and approved by, the County prior to any use by Tenant of the Site under this Agreement. The County shall be named as an additional insured on the General Liability, which shall be noted on the Certificate of Insurance and the County shall be provided with a thirty (30) day, prior written notice in the event of cancellation, non-renewal or adverse change to such policies. Failure to comply with any insurance requirement shall cause immediate cancellation of this Agreement.

Law Enforcement in Orange County Parks

All persons entering the facility are subject to the policies set forth by the Orange County Parks and Recreation Division. The facility staff is responsible for the enforcement of those policies. Uniformed law officers of the Orange County Sheriff's Department will be called upon to assist in the enforcement of applicable County ordinances.

The Site Supervisor or designee may ban any athletic participant or event attendee from admission to the facility for such length of time as the Site Supervisor may deem necessary in order to punish or prevent indecorous or improper behavior by such participant or attendee.

Safety

The Orange County Parks and Recreation Division, at any time, may cancel, postpone, or delay any game or practice due to inclement weather or any other factors, which might impair the safety of participants or cause damage to the playing areas. The Division will contact the renters, if possible, in the event of cancellation. It shall be the responsibility of the user to advise its members of any facility cancellation.

In case of lightning, no one will be permitted on the fields and they will be closed until signaled by the Thor Guard Lightning Detection System. If the park is not equipped with the system, fields will be closed for thirty (30) minutes after the last visible lightning strike. Immediately after the first incident of severe weather, all outside areas (i.e. fields, dugouts, bleachers, etc.) should be cleared of patrons. All outside areas should be checked, all equipment secured.

Users will be responsible for completing pre-game/practice field safety checks. Any unsafe condition/deficiency should be reported immediately to staff prior to the start of play. Commencement of play by users constitutes agreement as to the safety of playing conditions.

Users will take all reasonable precautions for safety. Sports groups will provide reasonable protection to prevent damage, injury, or loss to all persons and property at the facility.

Users will comply with all applicable safety laws, ordinances, rules, regulations, standards and lawful orders of any public authority bearing on the safety of persons or property, and protection of such from damage, injury or loss.

Scheduling

Usage of facility is only for time and dates indicated in the application. Games are to begin early enough to ensure completion by the end of the rental time. If use runs past allotted time, additional time will be charged the hourly rate for each hour or half-hour overtime.

Failure of any sports organization to utilize any scheduled field without twenty-four (24) hours' notice to the Site Supervisor may result in restriction and/or termination of use after the third occurrence. Refunds for field rentals not utilized will only be granted if the field user gives a prior 24-hour cancellation notice to the Site Supervisor. Credits towards future usage because of cancellations will not be allowed.

Extensions for games, practices, playoffs, etc. must be requested immediately.

Maintenance

The Parks and Recreation Division will maintain fields for games and practices. At the end of each use, the user will be responsible for removal of all debris in utilized areas.

At no time will a user perform any maintenance to a field without verbal agreement with the Site Supervisor prior to beginning the task. The user may assist Orange County Parks and Recreation employees if requested.

All fields will be closed for a minimum of four (4) weeks during the winter and summer of each year. The Division will reserve the right to close any fields for emergency repairs. The Division will make every effort to notify all user organizations of the closures.

Parks and Recreation Division staff may provide field markings for a fee as established in Division's fee schedule. Users have the option to provide their own field lining and/or chalking with site approval.

Concessions

Concession facilities are targeted for use by only one vendor (excluding Parks and Recreation personnel) unless deemed necessary by the Parks and Recreation Division. In special situations, vendors may request to utilize a portable concession with site approval. All portable concessions will need to be removed from the site daily. All vendors must obtain any necessary operating permits through the Health Department. Vendor fees will be assessed as outlined in the Division's fee schedule. Vendors must provide all necessary food supplies and equipment needed for concessions. All concession sales are to end no later than 9:30 p.m. daily. Beverage products sold must be consistent with any current facility vendor contracts. Any concession operation must meet appropriate health codes.

Banners

Sponsorship banners may be hung on athletic ball field fencing seasonally by Agreement users. Facility Use users may hang banners only during their event. Banners must be all the same size at each complex and be made of vinyl. Metal grommets must be in all four (4) corners and two (2) in center. No plywood, metal or hard-backed banners are permitted to be hung on fencing. The preferable color is a white background with one color lettering. Banners will be attached to fencing with proper fixtures (i.e. wind screen ties).

All banners should be purchased through the same vendor. We suggest that the organization purchase each banner as opposed to the advertising vendor. Advertisements must display a vendor that is reputable and pleasing to family values. The Site Supervisor has the right to refuse or remove any advertisements that do not meet these guidelines. All advertisement must face towards the field of play. Further, the Site Supervisor has the right to remove advertisements as necessary.

Coaches Certifications

The Orange County Parks and Recreation Division encourages all sports user organizations to have their managers, coaches and league officials certified in CPR and First Aid. The Division may offer these certification classes upon request.

Volunteer Background Screenings

All coaches, assistant coaches and referees (League Officials) who have direct contact with one or more minors participating in the youth sports program shall comply with federal, state and local background screening requirements including but not limited to Section 943.0438, and Section 435.03, Florida Statutes and Section 65C-14.025. The Tenant or their independent sanctioning authority shall:

- Conduct a Level 1 background screening as defined in s. 435.03 of each current and prospective League Official. The background screening shall include a search of the league official's name or other identifying information against state and federal registries of sexual predators and sexual offenders maintained and provided by:
 - The Florida Department of Law Enforcement under s. 943.043; and
 - The Attorney General of the United States under 42 U.S.C. s. 16920.
- Level 1 background screenings shall be conducted annually for each League Official.
- The Tenant or its independent sanctioning authority shall disqualify any person from acting as a League Official if he or she is identified on a registry described above.
- Conduct a Level 1 background screening of each current or prospective staff member and volunteer by name or other identifying information through a criminal history registry utilizing the following list of disqualifying offenses:
 - Sex Offenses- all sex offenses regardless of the amount of time since the offense or level of offense.
 - Felonies- all violent felony offenses regardless of the amount of time since the offense
 - Felonies- all felony offenses (other than sex or violence within the past 10 years including drug offenses and child endangerment.
 - Misdemeanors- all misdemeanors involving violence within the past 7 years and drug offenses within the past 3 years

Concussion and Head Injury Prevention and First Aid

The Tenant must comply with the state Concussion and Head Injury requirements as stated in Section 943.0438, Florida Statutes. The Tenant or its independent sanctioning authority must:

- Adopt guidelines to education League Officials, youth athletes, and their parents or guardians of the nature and risk of concussion and head injury.
- Adopt bylaws or policies that require the parent or guardian of youth athletes to sign and return an informed consent that explains the nature and risk of concussion and head injury.
- Adopt bylaws or policies that require each athlete who is suspected of sustaining a concussion or head injury in a practice or game to be immediately removed from the activity. A youth athlete who has been removed from an activity may not return to practice or competitions until the youth athlete submits to the coach a written medical clearance.

I have read the above and understand the conditions. I accept responsibility and ensure that all members and guests will honor and abide by the above conditions.

Name of Organization: _____

Representative's Name (printed): _____

Representative's Signature: _____ Date: _____

OCPR Site Supervisor Signature: _____ Date: _____

APPENDIX B: FIELD USE ALLOCATION SPACE REQUEST

Field Use Allocation Space Request

ORGANIZATION:



NO. OF TEAMS:

Adult Players:

Youth Players:

Please include warm up time before games as part of your request

**If possible schedule games AFTER 9 am on weekends and end use by 10pm nightly

Park Requested:

Field Number:	End Date:
Start Date:	
Days	
Monday Time:	
Tuesday Time:	
Wednesday Time:	
Thursday Time:	
Friday Time:	
Saturday Time:	
Sunday Time:	

Field Number:	End Date:
Start Date:	
Days	
Monday Time:	
Tuesday Time:	
Wednesday Time:	
Thursday Time:	
Friday Time:	
Saturday Time:	
Sunday Time:	

Field Number:	End Date:
Start Date:	
Days	
Monday Time:	
Tuesday Time:	
Wednesday Time:	
Thursday Time:	
Friday Time:	
Saturday Time:	
Sunday Time:	

Field Number:	End Date:
Start Date:	
Days	
Monday Time:	
Tuesday Time:	
Wednesday Time:	
Thursday Time:	
Friday Time:	
Saturday Time:	
Sunday Time:	

Field Number:	End Date:
Start Date:	
Days	
Monday Time:	
Tuesday Time:	
Wednesday Time:	
Thursday Time:	
Friday Time:	
Saturday Time:	
Sunday Time:	

Field Number:	End Date:
Start Date:	
Days	
Monday Time:	
Tuesday Time:	
Wednesday Time:	
Thursday Time:	
Friday Time:	
Saturday Time:	
Sunday Time:	

Field Number:	End Date:
Start Date:	
Days	
Monday Time:	
Tuesday Time:	
Wednesday Time:	
Thursday Time:	
Friday Time:	
Saturday Time:	
Sunday Time:	

Field Number:	End Date:
Start Date:	
Days	
Monday Time:	
Tuesday Time:	
Wednesday Time:	
Thursday Time:	
Friday Time:	
Saturday Time:	
Sunday Time:	

APPENDIX C:
YOUTH LICENSE AGREEMENT, BLANK

MULTI-PURPOSE FIELD YOUTH LICENSE AGREEMENT

Y ____ - _____

This Agreement made and entered into this ____ day of _____, 20____ by and between Orange County, Florida, a charter county and political subdivision of the State of Florida, hereinafter referred to as “County” and _____, a Florida non-profit corporation, hereinafter referred to as “Tenant,” whose address and phone number are _____.

WITNESSETH:

WHEREAS, the County is the owner of certain real property located in Orange County, Florida, commonly known as _____ referred to as “Site”; and WHEREAS, Tenant desires to utilize certain facilities located at the Site for the purposes hereinafter set forth; and

WHEREAS, the County, pursuant to authority set forth in Section 125.01(1)(f), Florida Statutes (1993), may provide the general public with parks, preserves, playgrounds, recreation areas, libraries, museums, historical commissions, and other recreation and cultural facilities and programs.

NOW, THEREFORE, in consideration of the covenants herein contained, it is mutually agreed between the parties as follows:

1. **Term** The term of this Agreement shall commence on execution of this Agreement and terminate on _____. The Agreement shall mutually be renewed for up to three (3) consecutive one-year terms, allowing for considerations based upon previous program statistics and research.
2. **Use of Property** The County agrees to permit Tenant to utilize the Site for the purpose of providing youth sports programs in the _____ Orange County area subject to the terms and conditions set forth herein.
3. **Guidelines and Non-Exclusive Rights** This Agreement is specifically conditioned upon Tenant continuing to run its program in such a manner that Tenants activities are open to all eligible youth who wish to participate, regardless of ability, sex, religion or race.

The Tenant must operate as a non-profit corporation under the laws set forth for incorporation by the State of Florida. A certificate of incorporation and copy of the Tenant’s by-laws must be supplied to the Division. In the event that Tenant changes this policy or loses its 501(c)(3) status this Agreement shall be terminated immediately.

This Agreement may not be assigned or transferred in any manner by Tenant. Any such assignment or transfer is expressly prohibited. Any previously existing oral or written agreements between the parties shall be and terminated as of the date of this Agreement and shall be deemed hereafter null and void and of no further force and effect whatsoever.

4. Background Screening Requirements All coaches, assistant coaches and referees (League Officials) who have direct contact with one or more minors participating in the youth sports program shall comply with federal, state and local background screening requirements including but not limited to Section 943.0438, and Section 435.03, Florida Statutes and Section 65C-14.025. The Tenant or their independent sanctioning authority shall:

- a. Conduct a Level 1 background screening as defined in s. 435.03 of each current and prospective League Official. The background screening shall include a search of the league official's name or other identifying information against state and federal registries of sexual predators and sexual offenders maintained and provided by:
 - i. The Florida Department of Law Enforcement under s. 943.043; and
 - ii. The Attorney General of the United States under 42 U.S.C. s. 16920.
- b. Level 1 background screenings shall be conducted annually for each League Official.
- c. The Tenant or its independent sanctioning authority shall disqualify any person from acting as a League Official if he or she is identified on a registry described above.
- d. Conduct a Level 1 background screening of each current or prospective staff member and volunteer by name or other identifying information through a criminal history registry utilizing the following list of disqualifying offenses:
 - i. Sex Offenses- all sex offenses regardless of the amount of time since the offense or level of offense.
 - ii. Felonies- all violent felony offenses regardless of the amount of time since the offense
 - iii. Felonies- all felony offenses (other than sex or violence within the past 10 years including drug offenses and child endangerment.
 - iv. Misdemeanors- all misdemeanors involving violence within the past 7 years and drug offenses within the past 3 years

5. Concussion and Head Injury Prevention and First Aid

The Tenant must comply with the state Concussion and Head Injury requirements as stated in Section 943.0438, Florida Statutes. The Tenant or its independent sanctioning authority must:

- a. Adopt guidelines to education League Officials, youth athletes, and their parents or guardians of the nature and risk of concussion and head injury.
- b. Adopt bylaws or policies that require the parent or guardian of youth athletes to sign and return an informed consent that explains the nature and risk of concussion and head injury.
- c. Adopt bylaws or policies that require each athlete who is suspected of sustaining a concussion or head injury in a practice or game to be immediately removed from the activity. A youth athlete who has been removed from an activity may not return to practice or competitions until the youth athlete submits to the coach a written medical clearance.

6. Indemnification Tenant shall defend, indemnify and hold harmless the County and its agents from and against all claims, damages, lawsuits, liabilities, losses and expenses, including reasonable attorney's fees and costs, arising out of or resulting from the Tenant's use of the property. Such indemnification shall include all claims of Tenant's guests and participants.

7. **Insurance** Tenant, at its own cost and expense, shall keep in force during the term of this Agreement the following minimum insurance coverage:

- a. Commercial General Liability - The Tenant shall maintain coverage issued on **the most recent version of the ISO form as filed for use in Florida or its equivalent**, with a limit of liability of not less than \$1,000,000 per occurrence. Tenant further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Contractual Liability, or Separation of Insured's. Sexual abuse and molestation coverage with limits of not less than \$100,000 per occurrence shall also be included. The General Aggregate limit shall either apply separately to this contract or shall be at least twice the required occurrence limit.
- b. Tenant shall maintain "all-risk" property insurance, including personal property and equipment, for the full replacement value of such property.
- c. Tenant shall provide accident insurance for all its participants.
- d. Tenant agrees to endorse the COUNTY as an Additional Insured with a CG 20 26 Additional Insured – Designated Person or Organization endorsement, or its equivalent to all commercial general liability policies. The additional insured shall be listed in the name of Orange County Board of County Commissioners.
- e. All such insurance shall be evidenced by a Certificate of Insurance which must be submitted to, and approved by, the County prior to any use by Tenant of the Site under this Agreement. The County shall be named as an additional insured on the General Liability, which shall be noted on the Certificate of Insurance and the County shall be provided with a thirty (30) day, prior written notice in the event of cancellation, non-renewal or adverse change to such policies. Failure to comply with any insurance requirement shall cause immediate cancellation of this Agreement.
- f. All Tenant personal property housed or placed at the Site shall be at the sole risk of Tenant. The County shall not be liable for any loss or damage to any of the Tenant's or participant's personal property whatsoever.

8. **Communication** The President of the League or his/her designee in their absence shall be the official spokesperson for communication purposes between the County and the Tenant. All communication by the Tenant with the County must be made through the Tenant's President. Tenant will provide the County with a mandatory League Leadership Schedule listing all contacts for communication.

Communication, information or requests for service by Tenant must be made in writing to the Parks and Recreation Division Site Supervisor or his/her designee.

9. **Maintenance of Records; Audit** For a period ending five (5) years after the expiration or termination of this agreement, Tenant shall make all records and documents relating to this Agreement, such as proof of residency for all youth sport participants (i.e. Utility Bill of Parent/Legal Guardian), available for inspection and copying by the County or any agent designated by the County.

10. **Business Associate Agreement (HIPAA)** The Business Associate Agreement at **Attachment "B"** shall govern all matters necessary to enforce the provisions of the HIPAA Privacy and Security Rules 45 CFR Parts 160, 162, and 164 as applicable to this contract.

11. Right of Entry by County The County or its agents may, at any time, enter into and upon the referenced Site.

12. Maintenance The County will maintain fields for games and practices. At no time will a person associated with Tenant perform any maintenance, to include water removal to a field without verbal agreement with the Site Supervisor or designee prior to beginning the task. For diamond sports fields, Tenant will complete daily chalk lining, game day raking and base preparation upon approval of Site Supervisor or designee. The County will paint sport field lines every two (2) weeks. Additional painting requests can be made to the Site Supervisor and standard fees based upon the Parks & Recreation Fee Schedule will apply. At the end of each game/practice, Tenant will be responsible for removal of all debris in dugouts, player benches, bleacher areas, restrooms, parking lots, etc.

The County will reserve the right to close any fields for routine maintenance and emergency repairs. The County will make every effort to notify all user organizations of the closures.

13. Field Usage The County has the right to schedule Site uses to accommodate the greater need of all Orange County residents and users. All field use operations will fall under the guidelines of the Orange County Parks and Recreation Division's Athletic Facility Management Plan as set forth in **Attachment "A"**, which is attached hereto and incorporated herein by reference.

All scheduling of fields will be through the County and will be determined by the number of registered participants. 4.5 hours per week will be permitted for each team, which includes games and practices. Practices are not to exceed one and one-half hours (1 1/2 hours). Tenants may redistribute individual team practice opportunities as they deem appropriate as long as it does not exceed the total amount allotted.

Failure to utilize any scheduled field without twenty-four (24) hours' notice to the County will result in restriction and/or termination of future requests after the third occurrence.

All field lights will be turned off at 10:00 p.m. No field lighting will be provided past 10:00 p.m. in accordance with the Orange County Noise and Light Ordinance. The Tenant will be given a half hour (½ hour) to completely clear the site once the lights have been turned off.

Fee schedule hourly field rental rates, as adopted by the Board of County Commissioners, will apply. Each organization will be required to have all applicable fees paid before their monthly usage period. If payment does not occur, the organization will incur late fees and be restricted from reserving any future field space or any other Orange County facility until the debt is rectified.

In addition, a **Twenty Dollar (\$20.00)** per person surcharge will be required for any out of county youth sport participant per season due no later than **14 days prior** to the first day of game play.

The Tenant may be required to oversee **After Hours Site Management Responsibilities** for the park to include turning lights on and off, closing site gates and cleaning/securing concession buildings. Tenant will have sole responsibility for the site once County staff has left and relinquished control of the premises to the Tenant. Tenant will be issued two (2) sets of appropriate keys to secure site. Tenant will provide the County with a mandatory League Leadership Schedule listing all contacts for communication.

The County will provide the Tenant with the Site Supervisor's cell phone number in the event of emergencies. If the Tenant chooses not to accept the After Hours Site Management Responsibilities, the appropriate after hour's staff costs will apply according to the county parks fee schedule. County has at its sole discretion the right to revoke any after hour site management privileges. Notification shall be provided to the Spokes Person and will be effective immediately.

14. Non Smoking Area/Alcohol Policy In the interest of enhancing our Patrons' experiences areas of Orange County Parks and Recreation facilities and program sites will be designated as "no-smoking areas." This policy supplements the existing Orange County Administrative Regulation #91.002 stipulating that no smoking will be allowed within Orange County buildings and vehicles.

- a. Areas may be designated by signage stating the following: "Designated Non-Smoking Area" accompanied by the international symbol for no smoking or by other appropriate no smoking language that is park specific.
- b. Non-smoking area include all Orange County buildings and vehicles.
- c. All park sites with athletic facilities or program venues will have all fields, dugouts and bleacher areas designated as non-smoking areas with appropriate signage.
- d. All other non-smoking areas will be determined by Orange County Parks and Recreation Administration and Site Supervisors.
- e. Patrons failing to comply with the non-smoking area policy are subject to corrective action including removal from the park and a trespass warrant being issued out by the Orange County Sheriff's Department.
- f. In accordance with Sections 29-56 and 29-57, Orange County Code, it is the policy of Orange County Parks and Recreation Division that no person, public or private, shall possess, consume, use, sell, or transport any alcoholic beverages within or across any County Park or park property. Special exceptions and provisions may apply, which are identified within Section 2.16.14 of the Orange County Administrative Regulations for limited service of alcohol at certain prescribed parks by special permit only. Compliance with this policy is a condition of entry and occupancy of a park and may be determined by inspection anywhere on park property.

15. Scheduling of Fields All tryouts, game schedules, rain dates, playoffs, practices, tournaments, etc. must be approved by the County prior to field booking. All requests are to be specific to the total number of days and times requested per team, field specifications, the name of the team, name of coach and his/her phone number. Coaches will be the on-site contacts for County should problems needing immediate attention arise.

Tryout schedule requests per season are due in writing to the County for approval no less than **14 days prior** to any field usage.

Season practice schedule requests per season are due in writing to the County for approval no less than **14 days prior** to the first practice date.

Game date requests per season are due in writing to the County for approval no later than **14 days prior** to the first day of game play. Season extensions for games and practices due to rainouts, playoffs, etc.

must be requested immediately and Tenant is expected to reschedule for the following week or the next available opening pending County approval.

District tournament schedule requests will be considered pending field availability. Requests are to be made via the Orange County Parks and Recreation Division Facility Use Contract. The County will assess a fee of **Fifteen Dollars (\$15.00) per hour per field** to Tenant for any use of fields outside of the scope of the regular season.

16. Law Enforcement in County Parks All persons entering Site are subject to the policies set forth by the County. The County is charged with the enforcement of these policies. Uniformed law officers of the Orange County Sheriff's Office will be called upon to enforce applicable County ordinances.

The County may ban any sports participant or event attendee from admission to the Site for such length of time as the County may deem necessary in order to punish or prevent indecorous or impropriety behavior by such participant or attendee.

17. Safety Requirements Tenant will take all reasonable precautions for the safety of, and will provide reasonable protection to prevent damage, injury or loss to all persons and property in the park. Tenant will be responsible for completing pre-game/practice field safety check. Any unsafe condition/deficiency should be reported immediately to County prior to the start of play. Commencement of play by Tenant constitutes agreement as to the safety of playing condition Tenant should report all safety concerns to the County immediately. Documentation of pre-game inspections must be made available for review upon request by the County.

Tenant will comply with all applicable safety laws, ordinances, rules, regulations, standards and lawful orders of any public authority bearing on the safety of persons or property, and protection of such from damage, injury or loss. This includes but is not limited to:

Occupational Safety and Health Act (OSHA)

National Institute for Occupational Safety & Health (NIOSH)

National Fire Protection Association (NFPA)

American Society of Heating, Refrigeration & Air-Conditioning Engineers
(ASHRAE)

The VENDOR/TENANT must also comply with the guidelines set forth in the Orange County Safety & Health Manual. The manual can be accessed online at the address listed below:

<http://www.orangecountyfl.net/VendorServices/OrangeCountySafetyandHealthManual.aspx>

Tenant will act with diligence to prevent threatened damage, injury or loss in an emergency affecting the safety of persons or property.

The County, at any time, may cancel, postpone or delay any game or practice due to inclement weather or any other factors which might impair the safety of the participants or cause damage to the playing areas. The County will contact the Tenant, if possible, in the event of cancellation. It shall be the responsibility of Tenant to advise its members of any facility cancellation. During After Hours, the Tenant and their on-site leadership shall be responsible for understanding and complying with the County's Lightning Policy and follows all rules and regulations detailed in the operation of the Thor guard Lightning Detection Systems.

18. Utilities The Tenant shall assume payments for all diamond sports field (baseball) lighting specific to their use, per hour or any portion thereof. Field light charges will begin at 6:00 p.m. Eastern Standard Time and at 8:00 p.m. during Daylight Savings Time. County will invoice for usage on a monthly basis. Automated lighting systems may allow for detailed light usage logging in which case these logs will be used to create invoices. The County shall assume payments for all water, phone and other utilities furnished to the facilities.

19. Renewal Rights It is hereby mutually agreed that the Tenant may apply to renew this Agreement for up to three consecutive one-year terms upon written notice to the County at least ninety (90) days prior to the date of termination of the Agreement. It is further agreed that the County shall reserve the right to terminate, with or without cause at any time, this Agreement, and that no renewal shall be unreasonably denied by the County.

20. License Only This Facility Agreement is a license for temporary use only and creates no possession or ownership interest in the Tenant or exclusive use of the Site. The term "Tenant" is used in this document merely for descriptive convenience and in no way creates or implies any possessory interest whatsoever.

21. Advertisement/Banners Sponsorship banners may be hung on athletic ball field fencing seasonally by Agreement users. Facility Use users may hang banners only during their event. Banners must be all the same size at each complex and be made of vinyl. Metal grommets must be in all four (4) corners and two (2) in center. No plywood, metal or hard-backed banners are permitted to be hung on fencing facing the field of play, not facing the public right of way. The preferable color is a white background with one (1) color lettering. Banners will be attached to fencing only with proper fixtures (i.e. wind screen ties). They will be allowed on no other structures.

We suggest that the Tenant purchase each banner through the same vendor as opposed to the advertising vendor. Advertisements must display a vendor that is reputable and pleasing to family values. The Site Supervisor has the right to refuse or remove any advertisements that do not meet these guidelines. Further, the Site Supervisor has the right to remove advertisements as necessary.

A sign displaying "**Home of _____**" may be installed with prior approval by the County and must be maintained by Tenant. Any signage found to be unsightly may be removed by the County.

22. Concessions Tenant may operate a concession facility only for events sponsored by or affiliated with Tenant or as approved by the County. Tenant must provide all necessary food, supplies and equipment needed for concessions. Tenant must supply and sell beverage products consistent with any current facility scoreboard vendor contracts. All concession sales will end no later than 9:30 p.m. daily. All monies collected shall be removed daily. County is not liable for any food, equipment, supplies, or money left in the Concession Facility.

Tenant must secure at their expense any and all necessary health permits. These permits must be kept current and posted at all times. Concession areas shall be kept clean at all times and failure to do so may result in usage being revoked. All flammable cylinders used by the Tenant must either be removed from County property after each use or secured in a proper storage cabinet for such items. Cylinders must be kept upright and chained with valve caps secured. They must also be inspected for rust and leaks and cannot be stored next to gas cans.

A concession usage fee will be assessed to vend at the facility for each day of sales. Payment will be made monthly by the Tenant. A schedule of concession usage days is required prior to use each month.

23. Improvements Prior to any desired improvements, the Tenant shall submit any plans, specifications and location for all construction to the facility to the County for review and approval. County must provide written approval prior to any installation, expansion or material renovation. It is mutually agreed that any structure, facility or improvement constructed, installed and permanently attached to the property shall become the property of the County.

24. Amendments This Agreement may be amended only through a written document executed by both parties.

25. Assignment This Agreement may not be assigned by either party without the prior written consent of the other party. Failure to comply with this provision may result in immediate termination of this Agreement.

26. Notice All notices required to be given under this agreement shall be deemed sufficient to each party when delivered by United States Mail to the following:

As to the County:

**4801 W. Colonial Drive
Orlando, FL 32808-7756**

As to the Tenant:

27. Governing Law This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

28. Litigation and Venue In the event a party deems it necessary to take legal action to enforce any provision of this Agreement, venue shall be in the Circuit Court of the Ninth Judicial Circuit in Orange County, Florida.

29. Signatory Each signatory below represents and warrants that he or she has full power and is duly authorized by their respective party to enter into and perform this Agreement. Such signatory also represents that he or she has fully reviewed and understands the above conditions and intends to fully abide by the conditions and terms of this Agreement as stated.

30. Entire Agreement This Agreement contains the entire agreement between the parties. No promises, representations, warranties or covenants not included herein has been or shall be relied upon by either party. Any modifications, additions or amendments hereto must be in writing and signed by all parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this ____ day of _____, 20_____.

“COUNTY”

ORANGE COUNTY, FLORIDA

BY: _____

Zulay V. Millan, CPPO, CPPB, FCCM

Administrator, Procurement Division

DATE: _____

ATTEST:

“TENANT”

TITLE: _____

NAME (printed): _____

SIGNATURE: _____

SIGNATURE: _____

DATE: _____

DATE: _____

Attachments:

Athletic Facility Management Plan Form (see page 7)
Business Associate Agreement (HIPPA)

**ATTACHMENT
BUSINESS ASSOCIATE AGREEMENT**

RECITALS

WHEREAS, Orange County meets the definitions of a hybrid entity 45 CFR § 164.10.

WHEREAS, Orange County has been designated as a hybrid entity under the HIPAA Privacy and Security Rules 45 CFR § 164.105.

WHEREAS, Orange County, as a hybrid entity, pursuant to 45 CFR § 164.105(a)(2)(iii)(D) has documented that Health Services Department is a health care component of the County and as such will be treated as a Covered Entity.

WHEREAS, in connection with providing services to the Covered Entity (“Services”) by the Business Associate, the Covered Entity discloses to the Business Associate certain Protected Health Information (“PHI”) that is subject to protection under the HIPAA Privacy and Security Rules 45 CFR Parts 160,162, and 164.

WHEREAS, the HIPAA Privacy and Security Rules requires that Covered Entity receive adequate assurances that the Business Associate will comply with certain obligations with respect to the PHI received in the course of providing Services to or on behalf of Covered Entity; and

WHEREAS, the purpose of this Agreement is to comply with the requirements of the HIPAA Privacy and Security Rules 45 CFR Parts 160, 162, and 164.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, agreements and obligations herein stated, the Parties agree as follows:

DEFINITIONS

- 1.1 **Terms.** Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in 45 CFR §§ 160.103, 162,103, 164.103, 164.402, and 164.501.
- 1.2 **Designated Record Set.** A group of records maintained by or for a covered entity that is: A group of records maintained by or for a covered entity that is: (A) The medical records and billing records about individuals maintained by or for a covered health care provider; (B) The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or (C) Used, in whole or in part, by or for the covered entity to make decisions about individuals.

For purposes of this paragraph, the term record means any item, collection, or grouping of information that includes PHI and is maintained, collected, used, or disseminated by or for a covered entity.

- 1.3 **Disclosure.** The release, transfer, provision of access to, or divulging in any manner of information outside the entity holding the information.
- 1.4 **HIPAA Privacy and Security Rules.** Standards for Privacy, Security, Breach, Notification, and Enforcement at 45 CFR Parts 160, 162 and 164.
- 1.5 **Individual.** The person who is the subject of PHI, and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).
- 1.6 **Individually Identifiable Health Information.** Information that is a subset of health information, including demographic information collected from an individual, and: (A) is created or received by a health care provider, health plan, employer, or health care clearinghouse; and (B) relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (i) that identifies the individual; or (ii) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.
- 1.7 **Privacy Officer.** The individual designated by the County or Covered Entity, pursuant to 45 CFR § 164.530, who is responsible for the development and implementation of the Covered Entity’s policies and procedures as they related to the HIPAA Privacy and Security Rules.
- 1.8 **Protected Health Information.** Protected Health Information (“PHI”) is individual identifiable health information that is or has been created, received, transmitted or maintained in any form or medium, on or behalf of the Covered Entity, with the exception of education records covered by the Family Educational Rights and Privacy Act, as amend, 20 U.S.C. 1232g, and the health care records of students at post-secondary educational institutions or of students eighteen (18) years of age or older, used exclusively for their health care treatment which have not been disclosed to anyone other than a health care provider at the student’s request.

- 1.9 **Required by law.** Required by law shall have the same meaning as the term “required by law” in 45 CFR § 164.103.
- 1.10 **Secretary of HHS.** Secretary of Health and Human Services or any other officer or employee of Health and Human Services (“HHS”) to whom the authority involved has been delegated.
- 1.11 **Security Incident or Incident.** Security Incident or Incident means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of PHI contained in any form or interference with system operations in an information system that contains PHI.
- 1.12 **Use.** With respect to individually identifiable health information, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.

SCOPE OF AGREEMENT

- 2.1 **INDEPENDENT STATUS OF PARTIES.** The Parties agree that they are and shall be independently responsible for complying, and shall independently comply, with the HIPAA Privacy and Security Rules as it may be amended from time to time. The Parties further agree that they are and shall be responsible for their own actions and conduct and shall not assume responsibility for the actions and conduct of one another. The Parties agree that they are and shall independently maintain all corporate formalities establishing separate and individual control by each organization's board of directors, as applicable.
- 2.2 Business Associate acknowledges that the confidentiality requirements herein apply to all its employees, agents and representatives. Business Associate assumes responsibility and liability for any damages or claims, including state and federal administrative proceedings and sanctions, the County, including costs and attorneys' fees, resulting from the breach by Business Associate of the confidentiality requirements of this Agreement.

PRIVACY OF PROTECTED HEALTH INFORMATION.

- 3.1 **Permitted Uses and Disclosures of PHI by Business Associate.** Business Associate may use or disclosure PHI received from Covered Entity to its officers and employee. Business associate may disclose PHI to a business associate that is a subcontractor and may allow the subcontractor to create, receive, maintain, or transmit PHI on its behalf if the business associate obtains satisfactory assurances in accordance with 45 CFR §164.504(e)(1)(i) that the subcontractor will appropriately safeguard the information. All other uses or disclosures not authorized by this Agreement or otherwise governed by law are prohibited.
- 3.2 **Responsibilities of Business Associate.** Regarding the use or disclosure of PHI, Business Associate agrees to:
- 3.2.1. Only use or further disclose the PHI as allowable under this Agreement or applicable law.
 - 3.2.2. Only use or further disclosure PHI in a manner that would not violate the HIPAA Privacy and Security Rules if done so by the Covered Entity.
 - 3.2.3. Establish and implement appropriate procedure, physical, and technical safeguards to prevent improper access, uses, transmissions, or disclosures of PHI and procedures for mitigating to the greatest extents possible under the circumstances any deleterious effects from any improper access, use, or disclosure of PHI that Business Associate reports to Covered Entity. Safeguards shall include, but are not limited to, the implementation and use of electronic security measures to safeguard electronic data, requiring employees to agree to access, use, or disclose PHI only as permitted or required by this Agreement and taking related disciplinary action for inappropriate access, use or disclosure as necessary.
 - 3.2.4. Report to Covered Entity's Privacy Officer, in writing, any access, use or disclosure of the PHI not permitted or required by this Agreement of which Business Associate becomes aware within two (2) days of Business Associate's discovery of such unauthorized use or disclosure.

- 3.2.5. Ensure that Business Associate's subcontractors or agents to whom Business Associate provides PHI, received from, created, or received by the Business Associate on behalf of the Covered Entity, agree to the same restrictions and conditions that apply to the Business Associate with respect to PHI, and ensure that its subcontractors or agents agree to establish and implement reasonable and appropriate safeguards to protect the confidentiality, integrity, and availability of the PHI that it creates receives, maintains, or transmits on behalf of Covered Entity.
- 3.2.6. Make Business Associate's records, books, accounts, agreements, and policies, and procedures relating to the use and disclosure of PHI received from, created, received by Business Associate on behalf of Covered Entity, available to the Secretary of HHS for purposes of determining Covered Entity's compliance with the regulation.
- 3.2.7. Use or disclosure to its subcontractors, agents, other third parties, and Covered Entity, only the minimum PHI necessary to perform or fulfill a specific function required or permitted hereunder.
- 3.2.8. Provide information to Covered Entity to permit Covered Entity to respond to a request by an individual for an accounting of disclosures within five (5) days of receiving a written request from Covered Entity, if Business Associate maintains a Designated Records Set on behalf of Covered Entity.
- 3.2.9. At the request, of, and in the time and manner designated by Covered Entity, provide access to the PHI maintained by Business Associate to Covered Entity or individual, if Business Associate maintains a Designated Records Set on behalf of Covered Entity.
- 3.2.10. At the request, of and in the time and manner designated by Covered Entity, make any amendment(s) to the PHI when directed by Covered Entity, if business Associate maintains a Designated Record Set on behalf of Covered Entity.
- 3.2.11. Establish and implement administrative, physical, and technical safeguards that reasonably and appropriately protect the

confidentiality, integrity, and availability of any PHI Business Associate creates, receives, maintains or transmits on behalf of Covered Entity.

3.2.12. Report to Covered Entity any Security Incident involving PHI that Business Associate discovers.

3.3 **Compliance with Covered Entity's Policies.** Business Associate hereby agrees to abide by Covered Entity's policies and practices relating to the confidentiality, privacy, and security of PHI.

3.4 **Use of PHI for Management and Administration or Legal Responsibilities of Business Associate.** The Business Associate may use PHI received by the Covered Entity pursuant to this Agreement for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.

However, Business Associate will only be allowed to use PHI for the aforementioned uses if (A) the disclosure is required by law; or (b) the Business Associate obtains reasonable assurances from the person to whom the PHI is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, AND the person notified the Business Associate of any instances in which the person is aware of a confidentiality breach of PHI.

Data Aggregation Services. With respect to PHI created or received by the Business Associate in its capacity as the Business Associate of the Covered Entity, Business Associate may combine such PHI it has received from the Covered Entity with the PHI received by the Business Associate in its capacity as a Business Associate of another Covered Entity to permit data analysis that relate to the health care operation of the respective Covered Entity, if data analyses is part of the Services that Business Associate is to provide to Covered Entity.

3.5 **Compliance.** Business Associate agrees to keep all PHI confidential and secure in compliance with the provisions of this Agreement and according to current state and federal laws.

CONFIDENTIALITY

- 4.1 In the course of performing under this Agreement, each Party may receive, be exposed to, or acquire the confidential information including, but not limited to, all information, data, reports, records, summaries, tables and studies, whether written or oral, fixed in hard copy or contained in any computer database or computer readable form, as well as any information identifiable as confidential (“Confidential Information”) of the other Party.
- 4.2 For purposes of this Agreement, Confidential Information shall **not** include PHI, the security and privacy of which is the subject of this Agreement. The Parties including their employees, agents, or representatives shall (A) not disclose to any third party the Confidential Information of the other Party except as otherwise permitted by this Agreement, (B) only permit use of such Confidential Information by employees, agents, and representatives having a need to know in connection with performance under this Agreement, and (c) advise each of their employees, agents, and representatives of their obligations to keep such Confidential Information confidential.
- 4.3 This provision shall not apply to Confidential Information: (A) after it becomes publically available through **no fault** of either Party; (B) which is later publically released by either Party in writing; (C) which is lawfully obtained from third parties without restrictions; or (D) which can be shown to be previously known or developed by either Party independently of the other Party.

SECURITY

- 5.1 **Security of Electronic Protected Health Information.** Business Associate will develop, implement, maintain, and use administrative, technical, and physical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic PHI (as defined in 45 C.F.R. §160.103) that Business Associate creates, receives, maintains, or transmits on behalf of Covered Entity consistent with the HIPAA Privacy and Security Rules.
- 5.2 **Reporting Security Incidents.** Business Associate will report to the Covered Entity and County’s Privacy Officer any Incident of which Business Associate becomes aware that is (1) a successful unauthorized access, use or disclosure of Electronic PHI; or (2) (a) modification or destruction of Electronic PHI or (b)

interference with system operations in an information system containing Electronic PHI.

REPORTING REQUIREMENTS

- 6.1 **Reporting.** The Business Associate shall make a good faith effort to identify any use or disclosure of protected information not provided for in this Agreement.
- 6.2 **To Covered Entity.** The Business Associate will report to the Covered Entity and the County's Privacy Officer, within (2) business days of discovery, any use or disclosure of PHI not provided for in this Agreement of which the Business Associate is aware. The Business Associate will report to the Covered Entity and the County's Privacy Officer within twenty-four (24) hours of discovery, any Security Incident of which the Business Associate is aware. A violation of this paragraph shall be a material violation of this Agreement. Such notice shall include the identification of each individual whose unsecured PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during such breach.

Title: Orange County's Privacy Officer,
Health Services Department
Telephone: (407)836-7611
Fax: (407)246-5343
Address: 2002 A. E. Michigan Street, Orlando, FL 32806
E-Mail: randy.lewis@ocfl.net

- 6.2.1. Reports of Security Incidents shall include a detailed description of each Incident(at a minimum to include the date of the Incident, the nature of the Incident, the information involved, whether the information was accessed, disclosed, used, modified, destroyed, etc., and the identities of the individual(s) and their relationship to the Business Associate, a description of the Business's response to each Incident, and the name and title of the individual the Covered Entity should contact for additional information.
- 6.2.2 Business Associate will conduct such further investigation as is reasonably required by the Covered Entity and promptly advise the Covered Entity of additional information pertinent to the Incident.

- 6.2.3 Business Associate will cooperate with Covered Entity in conducting any required risk analysis related to such Security Incident(s).
- 6.2.4 Business Associate will cooperate with Covered Entity in complying with any applicable notification requirements pursuant to the Breach Notification Rule and/or pursuant to Florida law (including but not limited to Florida Statutes Section 817.5681), and in taking steps determined by Covered Entity to be necessary to mitigate any potential harm caused by a Security Incident. Business Associate will pay and/or reimburse Covered Entity for any reasonable expenses Covered Entity incurs in notifying individuals of, and /or mitigating potential harm caused by a Security Incident caused by Business Associate and/or its subcontractors or agents.
- 6.3 **To Individuals.** In the case of a breach of PHI discovered by the Business Associate, the Business Associate shall first notify the Covered Entity and the County's Privacy Officer of the pertinent details of the breach and upon prior approval of the County's Privacy Officer shall notify each individual whose unsecured PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired or disclosed as a result of such breach. Such notification shall be in writing by first-class mail to the individual (or the next of kin if the individual is deceased) at the last known address of the individual or next of kin, respectively, or, if specified as a preference by the individual, by electronic mail. Where there is insufficient, or out-of-date contact information (including a phone number, email address, or any other form of appropriate communication) that precludes written (or, if specifically requested, electronic) notification to the individual, a substitute form of notice shall be provided, including, in the case that there are ten (10) or more individuals for which there is insufficient or out-of-date contact information, a conspicuous posting on the web site of the Business Associate involved or notice in major print or broadcast media, including major media in the geographic areas where the individuals affected by the breach likely reside. In any case deemed by the Business Associate to require urgency because of possible imminent misuse of unsecured PHI, the Business Associate may also provide information to individuals by telephone or other means, as appropriate.
- 6.4 **To Media.** In the case of a breach of PHI discovered by the Business Associate where the unsecured PHI of more than five hundred (500) persons is reasonably

believed to have been, accessed, acquired, or disclosed, after prior approval by the Covered Entity, the Business Associate shall provide notice to prominent media outlets serving the State or relevant portion of the State involved.

- 6.5 **To HHS.** The Business Associate shall cooperate with the Covered Entity to provide notice to the Secretary of HHS of unsecured PHI that has been acquired or disclosed in a breach. If the breach was with respect to five hundred (500) or more individuals, such notice must be provided immediately. If the breach was with respect to less than five hundred (500) individuals, the Business Associate may maintain a log of such breach occurring and annually submit such log to the Covered Entity so that it may satisfy its obligation to notify the Secretary of HHS documenting such breaches occurring in the year involved.
- 6.6 **Content of Notices.** All notices required under this Attachment shall include the content set forth 45 C.F.R § 164.404. Notification to individuals except that references therein to a "covered entity" shall be read as references to the Business Associate.

Regardless of the method by which notice is provided to individuals under this section, notice of a breach shall include, to the extent possible, the following:(1) a brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known; (2) a description of the types of unsecured PHI that were involved in the breach (such as full name, social security number, date of birth, home address, account number, or disability code); (3) the steps individuals should take to protect themselves from potential harm resulting from the breach; (4) a brief description of what the covered entity involved is doing to investigate the breach, to mitigate losses, and to protect against any further breaches; (5) contact procedures for individuals to ask questions or learn additional information, which shall include a toll free telephone number, an e-mail address, web site, or postal address.

- 6.7 **Financial Responsibility.** The Business Associate shall be responsible for all costs related to the notice required by this Section.

- 6.8. **Mitigation.** Business Associate shall mitigate, to the extent practicable, any harmful effects that is known to the Business Associate of use or disclosure of PHI in violation of this Agreement and the HIPAA Privacy and Rules

TERMINATION

- 7.1 **Automatic Termination.** Covered Entity is authorized to automatically terminate this Agreement, if it determines that the Business Associate has violated a material term of the Agreement.
- 7.2 **Opportunity to Cure or Terminate.** At the Covered Entity's sole discretion, Covered Entity may either (a) provide notice of breach and an opportunity for Business Associate to reasonably and promptly cure the breach or end the violation, and terminate this Agreement if Business Associate does not cure the breach, or end the violation within the reasonable time specified by Covered Entity, or (b) immediately terminate this Agreement if business Associate has breached a material term of this Agreement and cure is not possible.
- 7.3 **Effects of Termination.** Termination of this Agreement shall not affect any claim or rights that arise based on the acts or omissions of the parties prior to the effective date of termination.
- 7.4 **Duties of Business Associate Upon Termination.**
- 7.4.1 When this Agreement is terminated, the PHI that Business Associate received from, created, or received on behalf of Covered Entity must be destroyed or returned to Covered Entity, at the Business Associate's expense, including all PHI in the possession of Business Associate's subcontractors or agents. However, if Business Associate determines that returning or destroying PHI is not feasible, Business Associate must maintain the privacy protections under this Agreement and according to applicable law for as long as Business Associate retains the PHI, and Business Associate may only use or disclose the PHI for specific uses or disclosures that make it necessary for Business Associate to retain the PHI.

7.4.2 If Business Associate determines that it is not feasible for Business Associate to return PHI in the subcontractor's or agent's possession, Business Associate must provide a written explanation to covered Entity of such reasons and require the subcontractors and agents to agree to extend any and all protections, limitations, and restrictions contained in this Agreement to the subcontractor's or agent's use or disclosure of any PHI retained after the termination of this Agreement, and to limit any further uses or disclosures for the purposes that make the return or destruction of the PHI not feasible.

MISCELLANEOUS

- 8.1 **Agreement Subject to All Applicable Laws.** The Parties recognize and agree that this Agreement and their activities are governed by federal, state, and local laws, including the regulations, rules, and policies of the U.S. Department of Health and Human Services including, but not limited to, HIPAA Privacy and Security Rules and its accompanying regulations. The parties further recognize and agree that this Agreement is subject to new legislation as well as amendments to government regulations, rules, and police, and agree to amend this Agreement accordingly.
- 8.2 **No Third party Beneficiaries.** Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties any rights, remedies, obligations, or liabilities whatsoever.
- 8.3 **Survival.** The rights and obligations of the Parties in Articles III, IV, V, VI and Sections 7.4, 8.6, 8.8, 8.9 shall survive termination of this Agreement indefinitely.
- 8.4 **Amendment.** This Agreement may be revoked, amended, changed, or modified only by a written amended executed by both Parties.
- 8.5 **Assignment.** This Agreement, including each and every right and obligation referenced herein, shall not be assigned by the Business Associate without the express prior written consent of the County.

- 8.6 **Enforcement Costs.** If any legal action or other proceedings, including arbitration, is brought for the enforcement of this Agreement or because of an alleged dispute, breach, default, or misrepresentation in connection with any provision of this Agreement, the successful or prevailing Party or Parties shall be entitled to recover reasonable court costs and all expenses, if not taxable as court costs, incurred in that action or proceeding, including all appeals, in addition to any other relief to which such Party or Parties may be entitled. Such enforcement costs shall not be dischargeable in bankruptcy.
- 8.7 **Interpretation.** Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the Privacy and Security Rules.
- 8.8 **Indemnification.** Business Associate agrees to defend, indemnify and hold harmless Covered Entity, its officials and employees from all claims, actions, losses, suits, judgments, fines, liabilities, costs and expenses (including attorney's fees) attributable to its negligent acts or omissions, or those of its officials and employees acting within the scope of their employment, or arising out of or resulting from the indemnifying party's negligent performance under this Agreement. Nothing contained herein shall constitute a waiver of sovereign immunity or the provisions of Section 768.28, Florida Statutes. The foregoing shall not constitute an agreement by either party to assume any liability for the acts, omissions and/or negligence of the other party.
- 8.9 **Execution/Authority.** Each signatory to this Agreement represents and warrants that he or she possesses all necessary capacity and authority to act for, sign, and bind the respective entity or person on whose behalf he or she is signing.
- 8.10 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the state of Florida to the extent not preempted by the Privacy Rules or other applicable federal law.
- 8.11 **Inconsistencies.** In the event of any inconsistency or the more stringent provision shall apply to Business Associate.

Notice. All notices and other communications under this Agreement shall be in writing and shall be deemed received when delivered personally or when deposited

in the U.S. mail, postage prepaid, sent registered, or certified mail, return receipt requested, or sent via nationally recognized and receipted overnight courier service, to the Parties at their respective principal office or record as set forth below or as designed in writing from time-to-time. No notice of a change of address shall be effective until received by the other Party(ies)

Health Services Department

Director, Health Services/EMS
2002 A E Michigan St
Orlando, FL 32806
(407) 836-7611

Copy to:

Orange County Administrator
Administration Building, 5th Floor
201 S Rosalind Avenue
Orlando, FL 32801

- 8.12 **Severability.** If any provision of this Agreement or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such affected provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law. It is further the intention of the Parties that if any provision of this Agreement were capable of two constructions, one that rendered the provision void and one that renders the provision valid, then the provision shall have the meaning that renders it valid.
- 8.13 **Successors and Assigns.** Business Associate shall not assign either its obligations or benefits under this Agreement without the expressed written consent of the Covered Entity, which shall be at the sole discretion of the Covered Entity. Given the nature of this Agreement, neither subcontracting nor assignment by the Business

Associate is anticipated and the use of those terms herein does not indicate that permission to assign or subcontract has been granted.

- 8.14 **Venue.** Any action or proceeding seeking to enforce any provision, or based on any right arising out of this Agreement shall be brought against any of the Parties in the courts of the State of Florida, County of Orange and each of the Parties consents to the jurisdiction of such courts (and of the appropriate appellate courts) in any such action or proceeding and waives any objection to venue therein. Process in any action or proceeding referred to in the proceeding sentence may be served on any Party anywhere.
- 8.15 **Waiver and Breach.** No failure by a Party to insist upon the strict performance of any covenant, agreement, term, or condition of this Agreement shall constitute a waiver of any such breach or such covenant, agreement, term, or condition. Any party may waive compliance by the other Party with any of the provisions of this Agreement if done so in writing. No waiver of any provision shall be construed as a waiver of any other provision or any subsequent waiver of the same provision.

APPENDIX D: YOUTH SPORTS PARTNER APPLICATION

Applications will be made available on the Orange County Parks and Recreation website (www.orangecountyparks.net) the second week of May every three years beginning May, 2015. For information, please contact 407-836-6200.



Orange County Parks and
Recreation Division
4801 West Colonial Drive
Orlando, FL 32808