

**Cherokee County, Georgia  
Park Use Agreement with Cherokee Soccer Association**

This agreement entered into on this 2<sup>nd</sup> day of November 2010, by and between The Cherokee County Board of Commissioners, hereinafter referred to as the “County” and The Cherokee County Soccer Association (normally known as Cherokee Soccer Association and sometimes referred to herein as “CSA”).

**WHEREAS**, the Board of Commissioners mission is to provide a “Superior Quality of Life” for its residents by preserving the beauty, unique character and desirability of the community where we live, work, and play;

**WHEREAS**, to achieve its mission, the Board of Commissioners is committed to service excellence and continuous improvement; accelerated infrastructure improvements; providing state-of-the-art public safety facilities, training and personnel; and maintaining the lowest tax rates in ARC-Metro Atlanta through fiscal responsibility and conservative planning.

**WHEREAS**, one of the Commission’s major priorities is to reduce the cost of government while enhancing the level of service through practices that involve community-based organizations and agencies as true partners in our recreation and parks system; and,

**WHEREAS**, CSA is a non-profit community-based association of volunteers, members, and staff open to serving the recreational and competitive soccer interests and needs for children and young adults from ages four through 18. Programs provided by CSA include TOP Soccer for special needs children. All of the programs are designed to provide programs and services, which develop spirit, mind and body.

**NOW THEREFORE** in consideration of the covenants and conditions set forth herein the parties agree as follows:

**ARTICLE I  
BACKGROUND**

1. Cherokee County owns a 155 acre park site on Blalock Road. In addition to providing for general community park uses and areas for adult sports activities, the park will provide as soon as it may be opened a home soccer fields complex for Cherokee Soccer Association (CSA).
2. CSA has a long tradition of positively serving children in Cherokee County by providing recreational opportunities through soccer activities. These activities are provided entirely by volunteers to include: coaches, managers, umpires, league officers, and concession operators.

**ARTICLE II  
PURPOSE OF AGREEMENT**

The purpose of this Agreement is to:

1. Provide the terms and conditions under which CSA shall occupy and use the Soccer Fields complex portion of the Cherokee County park site on Blalock Road (as shown on the attached site plan) for practice, league activities, and tournament play (hereinafter sometimes referred to as "Soccer Fields").
2. Define operational and maintenance responsibilities of each party hereto.
3. Identify responsibility for costs.
4. Identify a process to provide improvements and upgrades.

**ARTICLE III  
DURATION OF AGREEMENT**

This Agreement shall extend for a term of ten (10) years from the date the Agreement is executed by the Parties and shall allow for two (2), five (5) year extensions with the approval of both Parties. So long as each party is in compliance with this Agreement, approval for such extensions shall be approved by resolution of the Board of Commissioners of Cherokee County and the Board of Directors of CSA.

**ARTICLE IV  
EFFECTIVE DATE OF AGREEMENT**

This Agreement shall become effective upon adoption by the Cherokee County Board of Commissioners and the CSA Board of Directors.

**ARTICLE V  
PERMITTED USES**

CSA's shall occupy and use of the Soccer Fields as allowed under the following conditions:

1. The Soccer Fields shall be used and occupied by CSA only for the purpose of sanctioned soccer and soccer-related activities and for children between the ages of four (4) and eighteen (18) years of age. CSA shall not use or permit the Soccer Fields to be used for any other purpose without the prior written approval of the Cherokee County Board of Commissioners.
2. Use of the Soccer Fields as home fields is limited to players within the CSA service area of Cherokee County. The parties shall not allow the Soccer Fields to be used as home fields by any teams that are not a part of CSA or that are outside CSA's service area of Cherokee County

without the written approval of the County Recreation & Parks Agency Director (Director) and County Manager.

3. In January of each year, CSA will provide both the number of teams and participants in its league to the Cherokee Recreation & Parks Agency Director. The Director retains the right to make adjustments in field use based upon those numbers. Any such adjustment shall be made with no less than 90 days advance notice. In the event that an adjustment is made in field use by the Director, pro rata adjustments shall also be made in the maintenance obligations of CSA.

#### **ARTICLE VI PERIOD OF USE**

Use of the Soccer Fields is limited to the scheduled Spring, Summer and Fall practice and league season and reasonable additional times for tournament play.

#### **ARTICLE VII USE BY OTHERS**

1. The County shall retain the right to allow and approve Soccer Fields use by others during those times when CSA is not scheduled to use the Soccer Fields as noted above, provided the Soccer Fields are returned to CSA in good, playable condition. Scheduling of such usage shall be coordinated through CSA and pro rata adjustments shall be made to the maintenance obligations of CSA.
2. CSA shall allow other youth sports serving groups from Cherokee County to use the soccer fields when not in use by CSA. CSA shall be allowed to charge a reasonable fee to recover any costs CSA may incur, and shall pay the County 50% of said fees charged.

#### **ARTICLE VIII PROPERTY**

1. County shall retain ownership of the property and facilities. The County shall complete the Soccer Fields to be occupied and maintained by CSA under this agreement in general accordance with the site plan therefore which is attached to this Agreement.
2. All equipment, property, or improvements used to effectuate this Agreement shall become the sole property of the County. Such equipment shall not include field equipment that may be transported amongst soccer fields such as goals, flags, lining apparatus, etc.

#### **ARTICLE IX IMPROVEMENTS**

Soccer Fields improvements, proposed by CSA, must be requested and approved by the Recreation and Parks Agency Director and County Manager. No improvements will be installed or provided by CSA without the written permission of the Recreation and Parks Agency

Director. This permission will be granted providing it can be shown the improvement will provide a benefit to league participants or spectators and will not distract from the appearance and function of the park. CSA shall assume the costs of maintaining such new improvements unless otherwise agreed, in writing, by the Recreation and Parks Agency Director. Should an improvement be made without the permission of the County, the County has the right to direct to CSA to remove the improvement within 30 days at CSA cost. If the improvement is not removed within 30 days, the County may remove the improvement and bill CSA for all related costs and will be entitled to full payment for those costs.

## ARTICLE X MAINTENANCE

### 1. Maintenance by CSA:

a) CSA shall provide on-going maintenance to the property identified in Article VIII Property and shall maintain these facilities in good condition, at its own cost and expense, recognizing they are part of a park serving the general public. The Recreation and Parks Agency Director shall meet with the CSA President during the month of March each year and will provide a list of projects, which in the County's opinion, need or are anticipated to need maintenance, and CSA shall provide the needed maintenance within 90 days.

b) CSA shall provide the services and/or costs for services for on-going, scheduled maintenance to the following improvements at the Soccer Fields: soccer fields; bleachers/stands; grassed areas; and, public restrooms. Scheduled maintenance is as follows:

1) Mowing: soccer fields will be mowed once per week between the months of March and November. Other grassed areas will be mowed once per 10 to 14 days between the months of March and November.

2) Irrigation: soccer fields will be irrigated at a rate sufficient to maintain healthy grass. Unless previously agreed to by Parks, access to the irrigation controller shall be controlled by Parks.

3) Fertilizing: All soccer fields will be fertilized at least once in the Spring and at least once in the Fall.

4) Aerating: All soccer fields will be aerated at least once per year.

5) Toilets: The permanent toilets will be serviced once daily during the CSA season.

c) Garbage/Litter removal: Each day CSA uses the Soccer Fields for practice, league, or tournament play, CSA shall collect all litter from the Soccer Fields and place it in the on-

site dumpster for removal. The dumpster shall be emptied one to two (2) times per week by CSA at CSA's costs.

CSA shall provide litter control to their leased area daily during the practice, league play and tournament season and shall keep the area free of litter. If the County determines litter control is not being done effectively, the County will provide 24 hours notice to CSA to clean up the litter. If it is not done satisfactorily, the County will provide the service and bill CSA for the cost of service and CSA will pay all costs related to this service.

d) If the County determines there are maintenance needs in addition to those identified in March of each year, the Recreation and Parks Agency Director will inform the CSA president, by electronic mail, or mail, of the needs. Response times to correct these needs shall be as follows:

- Needs that do not present a safety concern must be corrected with 30 days
- Needs that present a minimal liability/safety concern must be signed and the public prevented from access to the area of concern within 24 hours and the problem shall be corrected within 7 days
- Needs that present a significant liability/safety concern must be signed and the public prevented access to the liability immediately and the problem shall be corrected with 24 hours
- Graffiti shall be painted out or otherwise mitigated within 48 hours (weather permitting) of notification.

e) If CSA does not correct any maintenance/vandalism needs within the time allowed, the County will have them corrected and will bill CSA for the cost of the repairs and the County will be entitled to full payment for those repairs.

f) Locking the entrance gate: The entrance gate serving the soccer complex will be locked or otherwise secured each night and unlocked each morning by CSA.

g) Landscape area weeding: Weeding of landscape areas shall be done by CSA on an as-needed basis.

2. Maintenance and services by the County: The County shall provide the services and/or costs for services for on-going, scheduled maintenance to the following improvements at the Soccer Fields: entrance gate; park access road; graveled parking lot; permanent public restroom; paved walkways; irrigation controller; irrigation system; and, trees and shrubs. Scheduled maintenance is as follows:

a) Pruning: Pruning of trees and shrubs shall be done as needed by the County.

b) Spraying of pesticides and herbicides: Spraying shall be done on an as-needed basis.

c) Leaf removal: Leaves shall be removed each Fall by the County.

3. Maintenance by CSA to a higher standard than identified in Article X (2): CSA may provide maintenance or services to a higher or more frequent standard than identified in Article X (2) providing CSA assumes all related costs resulting from the higher standard and complies with any present or future federal, state, or Cherokee County laws and policies with regard to pesticide/herbicide use, chemical applications, and energy and water consumption.

#### **ARTICLE XI RESPONSIBILITY FOR COSTS**

1. CSA will assume the costs for the maintenance and operational services as noted in Article X above including; the costs of electricity related to CSA uses; any water consumption above the standard noted in county regulations/policies; the use and servicing of portable and permanent restrooms, the costs of approved improvements determined to solely serve CSA needs; and the capital repairs to those facilities noted Article VIII Property. Except for water consumption above the standard, CSA shall assume responsibility for arranging and paying for these services directly. Excess water consumption shall be billed by the County, to CSA, at the end of each CSA season.
2. CSA will assume the costs for the initial and annual sprigging/grassing of all soccer fields.
3. The County will assume the costs for services noted in Article X Maintenance, Paragraph 2; the costs of repairing or replacing facilities owned by the County, unless damaged by CSA; and the costs of improvements determined to solely meet the general community's interests.
4. The County and CSA will share in the costs of improvements that are determined to have a shared benefit between CSA participants and the general community. The amount of the shared cost will be negotiated, based on the benefit.

#### **ARTICLE XII PARKING AND TRAFFIC CONTROL**

Traffic and parking management and control: During league and tournament season, CSA will assign as many members of their organization as necessary to manage and control parking. CSA shall prevent cars from parking on Blalock Road and in "No Parking" areas, to keep fire lanes and access for emergency vehicles clear, to ensure congestion in the parking lot(s) is minimized, and to protect the handicapped parking spaces for appropriate use.

**ARTICLE XIII  
RULES, LAWS, AND ORDINANCES**

1. CSA agrees to abide by and uphold the ordinances of the Cherokee County, laws of the State of Georgia, and policies of Cherokee County Recreation & Parks Agency and Recreation service area.
2. CSA agrees to ensure games are over and field lighting is turned off by the park curfew. Park curfew is set at 10:00 P.M. However, the Director of Parks and Recreation retains right to permit special recreational use closing hours and the special closing hour at the Park has been set at 11:00 P.M.
3. CSA agrees to not use a public address system.
4. CSA agrees to abide by the laws of the Cherokee County and of the State of Georgia which regulate the operation of food and beverage serving facilities.

**ARTICLE XIV  
ADVERTISING**

Advertising, including sponsorship marketing/advertising signage and materials, shall be limited to the exterior fencing or other areas as approved by the CRPA Director or designee, in accordance with regulations adopted by the Board of Commissioners.

**ARTICLE XV  
FENCE SCREENING**

Screening will be allowed only during League and tournament seasons. All screening must be removed and stored, out of sight, at the end of the season.

**ARTICLE XVI  
RIGHT TO ENTER**

The County shall have the right to enter CSA facilities for any reasonable purpose to include, but not limited to, safety inspections and ensuring code compliance.

**ARTICLE XVII  
EXTENSIONS**

Upon the expiration of this Agreement, CSA may apply to the County for two (2) five (5) year extensions. These extensions may be granted only with the written agreements of the Parties and must be executed prior to the expiration of the previous period. So long as each party is in compliance with this Agreement, approval for such extensions shall be approved by resolution of the Board of Commissioners of Cherokee County and the Board of Directors of CSA.

**ARTICLE XVIII  
TERMINATION**

1. This Agreement may be terminated by either of the Parties following the giving of one hundred eighty days written notice of the Parties' intent to terminate.
2. After the termination of this lease, for any reason, CSA may apply to the County within one (1) year of said termination date to remove any permanent structure(s) which had been built solely with CSA funds and the County shall decide whether to agree to this; however, CSA may within said year remove all furnishings from said structures. Any such removal as is authorized by the County shall be accomplished without damage to County property and CSA shall bear all expenses in removing them including expenses associated with restoring the Soccer Fields to their original condition, as nearly as can be.
3. Upon termination, for any reason, any property in the possession of the other Party, which was provided by the County or CSA, shall be returned to said Party.

**ARTICLE XIX  
SCHEDULED MEETINGS**

In March and August of each year, the CSA President shall schedule and meet with the Recreation & Parks Agency Director, or designee, for purposes of reviewing and planning: CSA numbers of participants; maintenance needs; planned improvements, concerns expressed by abutting neighborhoods; and policies and practices to be followed.

**ARTICLE XX  
LIABILITY**

1. CSA shall secure and maintain commercial general liability insurance for the entire term of this agreement to cover all CSA uses of the Soccer Fields and related uses. Said insurance shall be in the amount of not less than \$1 million per occurrence. The County shall be named additional insured for said policy or policies.
2. Each time this Agreement is extended, the County reserves the right to review and adjust the minimum amount of insurance coverage required of CSA.

**ARTICLE XXI  
INTERPRETATION**

This Agreement has been and shall be construed as having been made and delivered in the State of Georgia, and it is mutually agreed and understood by both Parties that this Agreement shall be governed by the laws of the State of Georgia. Venue shall be Cherokee County, Georgia.

**ARTICLE XXII  
AMENDMENTS/MODIFICATION**

The provisions of this Agreement may be amended only upon the mutual consent of the Parties. No additions to, or alterations of, the terms of this Agreement shall be valid unless made in writing and formally approved and executed by the duly authorized agents of both Parties.

**ARTICLE XXIII  
INDEMNIFICATION**

1. CSA shall indemnify and hold harmless the County, its officers, agents, and employees, or any of them, from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason of or arising out of any action or omissions of CSA, its officers, agents, and employees, or any of them, in performing its obligations under this Agreement.

2. In the event that any suit based upon such a claim, action, loss, or damages is brought against the County on grounds for which CSA has indemnified the County, CSA shall defend the same at its sole cost and expense; provided, that the County retains the right to participate in said suit if any principle of governmental or public law is involved; and a final judgment is rendered against the County, its officers, agents, and employees, or any of them, or jointly against the County and CSA and their respective officers, agents, and employees, or any of them, CSA shall satisfy the same.

**ARTICLE XXXIV  
ENTIRE AGREEMENT**

This Agreement contains all of the agreements of the Parties with respect to the subject matter covered or mentioned therein, and no prior Agreement shall be effective to the contrary.

**ARTICLE XXV  
RATIFICATION**

Acts taken in conformity with this Agreement prior to their effective date(s) are hereby ratified and affirmed.

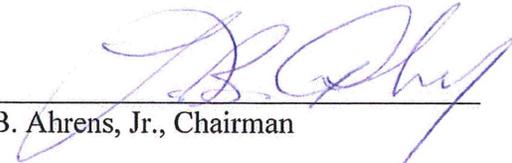
**ARTICLE XXVI  
SEVERABILITY**

If any section or part of this Agreement is held by a court to be invalid, such action shall not affect the validity of any other part of this Agreement.

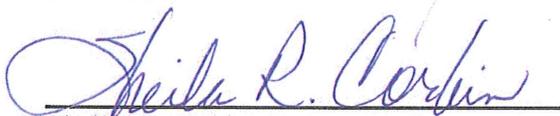
[Signatures on following page]

IN WITNESS THEREOF, The County and CSA have caused this Agreement to be executed in their respective names by their duly authorized officers and have caused this Agreement to be dated as of the 2<sup>nd</sup> day of November, 2010.

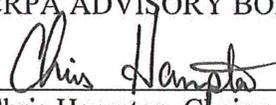
CHEROKEE COUNTY BOARD OF COMMISSIONERS

  
\_\_\_\_\_  
L.B. Ahrens, Jr., Chairman



ATTEST:  
  
\_\_\_\_\_  
Sheila R. Corbin, County Clerk

APPROVED AS TO FORM:  
\_\_\_\_\_  
Angelia Davis, County Attorney  
JARRARD & DAVIS, LLP

CRPA ADVISORY BOARD RECOMMENDED:  
  
\_\_\_\_\_  
Chris Hampton, Chairman  
Approved by CRPA Advisory Board 10/26/10  
Date

CHEROKEE SOCCER ASSOCIATION

  
\_\_\_\_\_  
By: CSA Board President

ATTEST:  
  
\_\_\_\_\_  
By: CSA Board Secretary/Treasurer

