

AS AMENDED ON JULY 8, 2013  
RESOLUTION NO. 2293

A RESOLUTION OF THE CITY OF SALISBURY AUTHORIZING THE MAYOR TO SIGN A JOINT LAND USE AGREEMENT BETWEEN THE CITY OF SALISBURY AND THE WEST SALISBURY LITTLE LEAGUE.

WHEREAS, on April 13, 1976 the City of Salisbury and the Wicomico County entered into a 25 (twenty-five) year joint land use agreement which permitted the County to develop and operate recreational facilities on City-owned land which is located at 1406 Pemberton Drive; and

WHEREAS, during that time the County has allowed the West Salisbury Little League to develop and operate recreational facilities on that land; and

WHEREAS, the agreement expired in 2001 and was only brought to the attention of the Administration last year when the County expressed its desire to no longer be party to the agreement; and

WHEREAS, the City of Salisbury desires to allow the West Salisbury Little League to continue to use this City-owned property; and

WHEREAS, the terms and conditions of the agreement require that the League be responsible for the maintenance of all the facilities including the structures and the ball fields; and

WHEREAS, the League is responsible for all equipment used for the program; making all necessary repairs to the facilities; the removal of trash and maintaining the cleanliness of the facilities; and

WHEREAS, the League is responsible for providing appropriate adult supervision at the facility; and

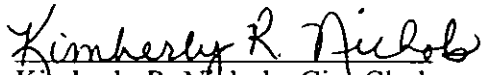
WHEREAS, the City of Salisbury is responsible for maintaining the children's playground equipment that is located on the facility, and the parking lot, and for conducting an annual inspection of the security lighting; and

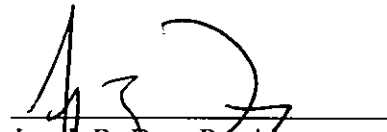
WHEREAS, this agreement shall be valid for a period of three years, commencing on September 1, 2013 and ending on August 31, 2016.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Salisbury, Maryland does hereby authorize the Mayor to sign the attached AGREEMENT dated July 22, 2013.

THIS RESOLUTION was duly passed at a meeting of the Council of the City of Salisbury held on July 8, 2013, and is to become effective immediately upon adoption.

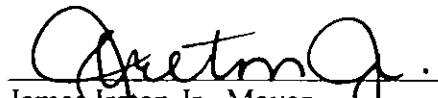
ATTEST:

  
Kimberly R. Nichols, City Clerk

  
Jacob R. Day, President  
Salisbury City Council

APPROVED BY ME THIS:

22<sup>nd</sup> Day of July, 2013

  
James Ireton Jr., Mayor

1 CITY OF SALISBURY  
2 LAND USE AGREEMENT

3  
4 THIS AGREEMENT, made this 22<sup>nd</sup> day of July, 2013, by and between the  
5 WEST SALISBURY LITTLE LEAGUE, INC. ("League") and THE CITY OF SALISBURY (the City), WITNESSETH:  
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7 WHEREAS, West Salisbury Little League desires to utilize the Little League Complex on  
8 Pemberton Drive for regularly scheduled games and practices; and  
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10 WHEREAS, the City has consented to such utilization by the League under the terms and  
11 conditions herein set forth.  
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13 NOW, THEREFORE, for and in consideration of the mutual covenants herein contained, the City  
14 grants to the League, use of the facilities and fields at the Little League Complex located at 1406  
15 Pemberton Drive, Salisbury, MD 21801. Use of this facility by and between the parties shall be as  
16 follows:  
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18 **ARTICLE I**  
19 **PREMISES**  
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21 Upon the terms and conditions hereinafter set forth and in consideration of the prompt  
22 performance by the League of each of the covenants and agreements hereinafter contained to be kept  
23 and performed by the League, the performance of each of which is declared to be an integral part of the  
24 consideration to be furnished by the League, the City does hereby grant and consent to the League the  
25 use of the following described premises, situate, lying and being in Wicomico County, State of  
26 Maryland, and being more particularly described as:  
27

28 The West Salisbury Little League Complex located on Pemberton Drive, including the  
29 baseball fields, parking lot, playground, contact building (concession stand and  
30 restrooms) and garage all located at 1406 Pemberton Drive, Salisbury, MD 21801  
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33 **ARTICLE II**  
34 **TERM**  
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36 The League shall have the right to the use of the above described premises for its regularly-  
37 scheduled games and practices for a term of three (3) years commencing September 1, 2013 and ending  
38 August 31, 2016 unless sooner terminated as herein provided.  
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40 **ARTICLE III**  
41 **USE OF PREMISES**  
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43 League shall have the right to utilize the aforesaid premises for its regularly-scheduled games  
44 and practices.  
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46 League may conduct special events on the property only with the prior written consent of the  
47 City Public Works Director. League shall provide all additional trash removal, security, utilities,

48 maintenance, and other services deemed necessary by the City Public Works Director for special events  
49 conducted by the League.

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**ARTICLE IV**  
**INSURANCE**

54 League shall provide the City Public Works Director with evidence of liability insurance in an  
55 amount not less than one million dollars (\$1,000,000) combined single limit of liability for bodily injury  
56 and property damage subject to an annual aggregate of two million dollars (\$2,000,000) where  
57 applicable.

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59 The City shall provide property damage insurance for the existing Complex facilities, which shall  
60 include the concession stand, press boxes, dugouts, and playground.

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**ARTICLE V**  
**WAIVER/RELEASE/INDEMNIFICATION**

65 League agrees to protect, indemnify, and hold harmless the City of Salisbury, its officers, agents,  
66 and employees from and against any and all claims, damages, demands, causes of action, and liability of  
67 any kind for and by reason of any act or omission of said League, including reasonable attorneys' fees.  
68 The League also releases the City from any claims, demands, causes of action, and liability of any kind  
69 that it may have in conjunction with the use of the premises to the fullest extent allowable under the  
70 law except for those items, if any, for which the City has obligated itself to address under this  
71 agreement. Each party shall be responsible for its own acts and omissions and the acts and omissions of  
72 its employees, officers, directors and affiliates. A party shall not be liable for any claims, demands,  
73 actions, costs, expenses and liabilities, including reasonable attorneys' fees, which may arise in  
74 connection with the failure of the other party or its employees, officers, directors, or agents to perform  
75 any of their obligations under this agreement.

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**ARTICLE VI**  
**MAINTENANCE**

80 A. General Maintenance – League hereby covenants and agrees that the League will:

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- 1) Maintain the premises in a safe and attractive condition and shall cut the grass and maintain the quality of the turf. Grass cutting and maintenance duties shall apply to the entire Little League Complex.
- 2) Be responsible for providing all labor, materials, and equipment necessary to maintain the ball diamond's infields. This shall include, but not be limited to, filling of all depressions, infield dragging, setting baselines, and general overall filling and grading of the fields.
- 3) Be responsible for providing home plates, pitching rubbers, and bases.
- 4) Be responsible for the proper storage of all equipment.

- 94 5) Be responsible for the removal and placement of trash from the grounds into the  
95 proper receptacles and its removal from the premises. The grounds include the parking lot and  
96 all areas within the Little League Complex.  
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- 98 6) Always have an adult (over the age of twenty one), paid or volunteer, on site for each  
99 practice session, game or special event, who shall be responsible for the conduct of the  
100 participants and spectators.  
101
- 102 7) Maintain all fences, gates, dugouts, scoreboards, press boxes, public address systems,  
103 telephones, irrigation systems, and sidewalks in safe and proper working order.  
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- 105 8) Be responsible for completing repairs necessary to maintain the security lighting  
106 system.  
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- 108 9) Provide all tools, equipment, and manpower to meet the commitments of the League  
109 as outlined in this section.  
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111 The City hereby covenants and agrees with the League that it will:

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- 113 1) Maintain the children’s playground.  
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- 115 2) Maintain the parking lot.  
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- 117 3) Conduct an annual inspection of security lighting. Provide findings to the League to  
118 conduct necessary repairs.  
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120 B. Contact Building – The City hereby grants permission for the League to utilize the concession  
121 stand facility located on the premises under the following terms and conditions:

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- 123 1) League shall meet all federal, state, and local permit license requirements.  
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- 125 2) League shall be responsible for all normal maintenance, repair and replacement of the  
126 concession facility, including, but not limited to plumbing, electricity, routine repairs and  
127 replacements, concessions equipment, doors, and electric lamps and bulbs. League shall pay for  
128 all utilities, including water treatment, required to operate the concession facility and the  
129 equipment therein.  
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- 131 3) League shall permit inspections of the concession facility at all reasonable times by an  
132 authorized official of the Public Works Department and shall promptly comply with any order  
133 issued as a result of such inspection.  
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- 135 4) League shall comply with all fire prevention codes of the State of Maryland and  
136 Wicomico County, and all regulations and requirements of the proper authorities for fire  
137 prevention which are applicable to the concession facility as well as activities conducted by the  
138 League. League shall maintain, at its own expense, all necessary and reasonable fire  
139 extinguishers, buckets, axes, and/or other fire prevention devices required.

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5) League shall regularly clean the restroom facilities and maintain them in a proper working order.

6) League shall maintain water, sanitation and sanitary facilities in accordance with applicable federal, state and local laws.

**ARTICLE VII  
MISCELLANEOUS**

The Complex shall not be used for any purpose other than the League’s regularly-scheduled baseball games and practices and those special events for which the Public Works Department has given prior written approval.

The Public Works Department, its agents, and employees shall have the right to inspect the Little League Complex at all times for compliance with this Agreement.

The League shall, upon the termination of this Agreement, surrender the property to the City in as good a condition as when received, reasonable wear and tear excepted. The League, with the prior written approval of the City, shall have the right, at its sole cost and expense, during the term of this Agreement, to alter, reconstruct or demolish existing buildings and structures and to construct new buildings and structures, attach fixtures and install underground facilities and utilities in or upon the premises. All buildings, structures, fixtures, facilities, and utilities so placed in, or upon, or attached to the premises by the League shall become part of the Little League Complex and the sole property of the City, except for fixtures installed by the League, which the League shall have the right and privilege of removing the same at the termination of this Agreement, provided that any damage caused by the removal of said fixtures shall be repaired at the expense of the League. The League shall keep the premises free from any and all liens arising out of any work performed, materials furnished or obligations incurred by the League. It is understood that the League’s failure to remove or bond any such lien within ten (10) days after notice thereof shall, in and of itself, constitute damages to the City in the amount of said lien and any expenses incurred in removing the same.

**ARTICLE VIII  
AFFIRMATIVE ACTION**

League assures that it will undertake an affirmative action program as required by Md. Ann. Code § 20-304, to ensure that no person, on the ground of race, sex, color, creed, national origin, sexual orientation, or disability, be excluded from participating in any employment or participation in activities. Further, League assures that no person shall be excluded on these grounds from participating or receiving the services or benefits of any program or activity covered by Md. Ann. Code § 20.301 et seq.

~~League assures that it will undertake an affirmative action program as required by 14 CFR, Part 152, Subpart E, to ensure that no person, on the ground of race, creed, color, national origin, handicap or sex, be excluded from participating in any employment or participation in activities covered in 14 CFR, Part 152, Subpart E. Further, League assures that no person shall be excluded on these grounds from participating or receiving the services or benefits of any program or activity covered by the Subpart.~~

**ARTICLE IX**

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**Termination of Contract for Convenience**

This contract may be terminated by the City, in whole or in part, upon written notice to the League, when the City determines such termination is in the best interest of the City. The termination for convenience is effective on the date specified in the City's written notice.

**ARTICLE X**  
**Amendment**

This Contract constitutes the entire agreement between the parties and all other communications prior to its execution, whether written or oral, with reference to the subject matter of this Contract are superseded by this agreement. No amendment to the Contract shall be binding unless in writing and signed by the parties.

**ARTICLE XI**  
**Assignment**

The benefits and obligations hereunder shall inure to and be binding upon the parties hereto and neither this League nor the services to be performed hereunder shall be subcontracted, or assigned or otherwise disposed of, either in whole or in part, except with the prior written consent of the City. The City has the right to withhold such consent for any reason the City deems appropriate.

**ARTICLE XII**  
**Force Majeure**

Neither City nor League shall be held responsible for delay or default caused by fire, riot, acts of God, or war where such cause was beyond, respectively, City's or League's reasonable control. City and League shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this contract.

**ARTICLE XIII**  
**Third Party Beneficiaries**

City and League are the only parties to this contract and are the only parties entitled to enforce its terms. Nothing in this contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to third persons or parties unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this contract.

**ARTICLE XIV**  
**Survival**

The terms, conditions, representations, and all warranties contained in this contract shall survive the termination or expiration of this contract.

**ARTICLE XV**  
**Severability**

235 The City and League agree that, if any term or provision of this contract is declared by a court of  
236 competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and  
237 provisions shall not be affected, and the rights and obligations of the parties shall be construed and  
238 enforced as if the contract did not contain the particular term or provision held to be invalid. The failure  
239 of either party to enforce any provision of this contract shall not constitute a waiver by that party of any  
240 other provision of this contract.

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242 **ARTICLE XVI**  
243 **Governing Law**  
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245 This contract shall be governed by and construed in accordance with the laws of the State of Maryland,  
246 Wicomico County and the City without regard to principles of conflicts of law.  
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248 IN WITNESS WHEREOF, the parties hereto have executed this agreement under seal, the day  
249 and year first above written.

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252 WITNESS:

West Salisbury Little League, Inc.

253       Diane C Nelson      

254 By              (SEAL)

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258 WITNESS:

City of Salisbury, Maryland

259       Kimberly R. Nichols      

260 By              (SEAL)

261 James Ireton, Jr.  
262 Mayor  
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268 *Revised May 2013*  
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