

By: Administration  
Action: Pulled from agenda and no action taken: December 14, 2015

**City of Wasilla  
Resolution Serial No. 15-36**

**A resolution of the Wasilla City Council authorizing the Mayor to execute a five year lease agreement with the Wasilla Youth Soccer Association for use and improvements of the soccer facility at the Bumpus Ballfield complex.**

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WHEREAS, the Wasilla Youth Soccer Association has used a portion of the Bumpus Ballfield complex for youth soccer under lease agreements since 2002; and

WHEREAS, a new lease agreement is needed for Wasilla Youth Soccer Association to continue using and making improvements to the soccer facility; and

WHEREAS, the Wasilla Youth Soccer Association has successfully implemented their soccer program at this facility since 2002; and

WHEREAS, the Wasilla Youth Soccer Association has successfully maintained the soccer facility since 2002; and

WHEREAS, the Wasilla Youth Soccer Association has successfully obtained grant funding for improvements to the facility including a new soccer field recently constructed.

NOW, THEREFORE, BE IT RESOLVED, the Wasilla City Council hereby authorizes the mayor to execute a five year lease agreement with the Wasilla Youth Soccer Association for use and improvements of the soccer facility at the Bumpus Ballfield complex.

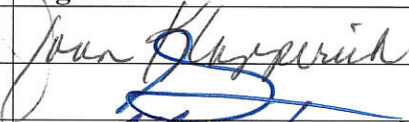
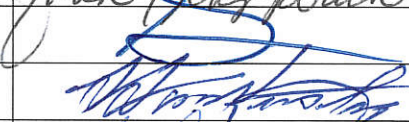

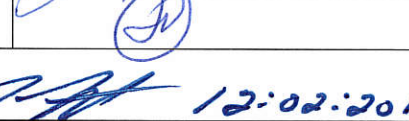
**CITY COUNCIL LEGISLATION STAFF REPORT**

**Resolution Serial No. 15-36: Authorizing the Mayor to execute a five year lease agreement with the Wasilla Youth Soccer Association for use and improvements of the soccer facility at the Bumpus Ballfield complex.**

Originator: Mayor Bert L. Cottle

Date: December 2, 2015

Agenda of: December 14, 2015

Route to:	Department Head	Signature	Date
X	Recreation & Cultural Services Director		12/2/15
X	Public Works Director		12/1/15
X	Finance Director		12-2-2015
X	Deputy Administrator		12/2/15
X	City Clerk		12/2/15

Reviewed by Mayor Bert L. Cottle:

 12-02-2015

**Fiscal Impact:**  yes  no

**Account name/number:**

**Attachments:** Lease Agreement (10 pages)

**Summary Statement:** The Wasilla Youth Soccer Association has used a portion of the Bumpus Ballfield complex for youth soccer under lease agreements since 2002. A new lease agreement is needed for Wasilla Youth Soccer Association to continue using and making improvements to the soccer facility. The Wasilla Youth Soccer Association has been successful in implementing their soccer programs, maintaining the soccer facility, and obtaining grant funding for improvements.

**Staff Recommendation:** Adopt Resolution Serial No. 15-36.

## LEASE AGREEMENT

This lease agreement (hereinafter called "Agreement") is made and entered into by and between the City of Wasilla (hereinafter called "City") and the Wasilla Youth Soccer Association, Inc. (hereinafter called "Association").

WHEREAS, the City owns real property (hereinafter called Bumpus Recreational Area) more particularly described as follows:

NE 1/4 OF THE SW 1/4 of Section 5, Township 17N R1W, Seward Meridian,  
Alaska

As the referenced location above (hereinafter called "soccer complex"); the Association wishes to lease property for soccer fields pursuant to the terms and conditions of this Agreement, and subject to valid existing rights. This agreement is for the general purpose of conducting recreational sports events and activities connected to and related therewith, and for no other purpose.

NOW THEREFORE, in consideration of the covenants and agreements contained herein, the City and Wasilla Youth Soccer Association, Inc. agree as follows:

### **Section 1. Description of Facility**

The Wasilla Youth Soccer Association, Inc. does hereby lease the following described facility known as the Bumpus Soccer Fields in the Palmer Recording District, Alaska, located in the NE 1/4 of the SW 1/4 of Section 5, Township 17N R1W Seward Meridian, Alaska, south of Mystery Avenue and all improvements including the field, fencing, and parking lot, and excluding the area used by the water utility.

### **Section 2. Term**

The term of this Agreement shall be for five years, with five year extensions available commencing on the 1st day of January 2016, and ending on the 31st day of December 2020, unless terminated by either party pursuant to Section 19 (B).

### **Section 3. Purpose**

- A. The Wasilla Youth Soccer Association, Inc. shall manage, operate and maintain (hereinafter called "manage") the fields through the term of this lease. It shall be responsible for all activities and details necessary to open, maintain and manage a safe, quality recreation facility for public use.
- B. The Wasilla Youth Soccer Association, Inc. is responsible for all vandalism reporting during the effective dates of this Agreement. Vandalism shall be immediately reported to the Public Works Director. Immediate safety measures shall be taken and immediate repairs completed according to duties listed in Section 5.

- C. The Wasilla Youth Soccer Association, Inc. shall allow the use of the soccer fields to the public when the Association does not have scheduled activities.
- D. The Wasilla Youth Soccer Association, Inc. may charge other teams for miscellaneous maintenance. A schedule of fees shall be prepared and approved by the City, and made part of this agreement.

#### **Section 4. Consideration**

Consideration for this lease is the duties assumed by the parties under the terms of this agreement.

#### **Section 5. Duties**

- A. (1) Wasilla Youth Soccer Association, Inc. will provide for the following:
    - Trash pickup, cleaning of the soccer fields, grounds and parking areas.
  - (2) Maintenance, leveling, mowing and weed control of soccer fields to keep in playable condition.
  - (3) At least weekly inspection of facilities and site for hazardous conditions and immediate remedy or reporting of hazardous conditions to the City of Wasilla.
  - (4) Minor repair of any damage to field or amenities.
  - (5) Pay for garbage collection if trash cans are exceeded.
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- B. The City of Wasilla shall provide for the following:
    - (1) Maintenance and periodic sampling of the well and pump on site.
    - (2) Make water available for irrigation.

#### **Section 6. Plan**

The Wasilla Youth Soccer Association, Inc. shall not make any improvements or alterations to the facility without first submitting a written proposal for such to the Public Works Director for approval 30 days prior to work, and obtaining the consent of the city to the improvements or alterations.

## **Section 7. Annual Report**

The Wasilla Youth Soccer Association, Inc. shall submit to the City a report on or before March 15th of each year of the term of this Agreement. At a minimum, the report shall include the following:

- A. A schedule and past season report summarizing the past year's activities affecting the fields.
- B. A report of all improvements made to the area during the past year, including a revised site plan depicting any changes in location of items listed in the site plan submitted under Section 6.
- C. A proposed schedule and plan of operation for the fields during the upcoming season including all scheduled events, times reserved for specific uses or maintenance, dates of closure, times reserved for groups (by name) and times available for uses not yet scheduled.
- D. A proposal describing improvements, alterations and construction to be made during the term of the Lease Agreement for the upcoming seasons. A detailed cost estimate per improvement is required. No work may be started without written City approval.
- E. Copies of evidence of all licenses, permits, authorizations and insurance policies required for the execution of the terms of this agreement.
- F. Current copy of the Wasilla Youth Soccer Association, Inc.'s by-laws, with notes of any recent changes, and a current list of the Association's officers with names, addresses and phone numbers.
- G. Written notice with address and phone numbers identifying all current officers or employees responsible for execution of this schedule and describing the duties, authority and responsibility of each relative to this Agreement.
- H. A plan of operation describing how the various tasks necessary to execute this Agreement will be performed and identifying one person with overall responsibility for performance by the Association under this Agreement.

## **Section 8. Posted Schedule**

The Wasilla Youth Soccer Association, Inc. shall post an activity schedule showing the dates and times that the fields will be used or available for use by the Association or any other organization. The City will provide a kiosk with a bulletin board near the field entrance for this purpose. This schedule shall be updated on a weekly basis during the effective dates of this Agreement. It shall include the Association's phone number for information regarding use and scheduling of activities for the fields, and a phone number to call in case of emergency affecting the fields.

### **Section 9. Use and Operation**

Use and operation of the fields shall provide for the maximum availability of the facility to the public. The Wasilla Youth Soccer Association, Inc. shall be responsible for all activities and details necessary to open, maintain and manage a safe, quality recreation facility for public use.

### **Section 10. Rights-of-Way**

Authority to issue easements and rights-of-ways will be retained by the City.

### **Section 11. Ownership of Improvements at Termination**

All real property improvements to the soccer fields at the termination of this Agreement shall, without compensation to the Association, become the property of the City.

### **Section 12. Assignment Prohibited-Encumbrances Prohibited**

The Wasilla Youth Soccer Association, Inc. may not assign any interest in this Agreement, nor delegate any duties under this Agreement nor enter into any contracts for commercial concessions or vending on the premises without the prior written approval of the City. Any attempt by the Association to assign any part of its interest or delegate duties under this Agreement shall give the City the right to immediately terminate this Agreement without any liability for work performed subsequent to termination.

The Wasilla Youth Soccer Association, Inc. is not permitted and may not encumber by mortgage, deed of trust assignment, or other instrument, its interest in this Agreement, whether as security for indebtedness of the Association or otherwise. The execution of any such encumbrance by the Association shall be held to be a material violation of the terms and conditions of this agreement and shall, by the fact of such an encumbrance, constitute an automatic termination of Wasilla Youth Soccer Association, Inc.'s rights and interests in this Agreement.

The Wasilla Youth Soccer Association, Inc. further agrees to keep the premises and every part thereof, including all improvements and facilities, free and clear of all mechanic's, materialmen's wage and other liens arising out of or in connection with any work or labor done, services performed, or materials or appliances used or furnished for or in connection with the operation of the fields.

### **Section 13. Permits, Laws and Taxes**

The Wasilla Youth Soccer Association, Inc. shall acquire and maintain in good standing and provide evidence to the City of all permits, licenses, and other entitlements necessary to its performance under this agreement. All actions taken by the Association under this Agreement shall comply with all applicable statutes, ordinances, rules and regulations. The Association shall pay all taxes and fees pertaining to this Agreement.



#### **Section 14. Non-Discrimination**

The Wasilla Youth Soccer Association, Inc. shall not discriminate against any person on the basis of race, age, color, national origin, gender, marital status or physical handicap.

#### **Section 15. Inspection of Premises**

A designated City representative will enter and inspect the fields on a monthly basis during the season, and a copy of the inspection comments will be sent to Wasilla Youth Soccer Association, Inc.

#### **Section 16. Indemnification and Liability Insurance**

The Association shall agree to indemnify, defend, save and hold harmless the City, its council members, officers, agents and employees from all liability, including costs and expenses, for all actions or claims resulting from injuries or damages sustained by any person or property arising directly or indirectly as a result of any alleged error, omission, or negligent act of the Association, its subcontractors, or anyone directly or indirectly employed by them, arising from the Association's use or occupancy of the fields or the performance under this Agreement.

The Wasilla Youth Soccer Association, Inc.'s liability, as set forth in this Section, includes all actions or claims resulting from injuries or damages sustained by any person or property arising directly or indirectly from actions or inactions of the Association, its employees, contractors, subcontractors or agents. The responsibility assumed by the Association pursuant to the terms of this Section does hereby apply to fully indemnify, defend, save and hold harmless the City even if it is claimed or alleged that the claim, action, liability, damage, injury or death, was due in part to the actions or failures to act of the City. The responsibility and the liability of the Association pursuant to this paragraph shall not apply only if the action, claim, liability, damage, injury or death, is ultimately established as arising by reason of the sole negligence, sole misconduct, or willful negligence or willful misconduct of the City, its agents or employees.

Without limiting the Association's liability, it shall purchase at its own expense and maintain in force at all times during the term of the Agreement: Worker's Compensation Insurance, and comprehensive general liability insurance, as particularly described below.

Where specific limits are shown, it is understood that they shall be the minimum acceptable limits unless risk allocation assessments performed by an insurance company proves otherwise. If the Association's policies contain higher limits, the City shall be entitled to the extent of such higher limits.

Worker's compensation Insurance. The Wasilla Youth Soccer Association, Inc. shall provide and maintain, for all employees engaged in work under the Agreement, Worker's Compensation Insurance, and shall require that such insurance be obtained by any contractor or subcontractor who directly or indirectly provides services under this Agreement unless specifically exempted by State law. Employer's Liability Protection shall not be less than \$100,000 per person, \$100,000 per occurrence. Where applicable, coverage for all federal acts must be included as well.

Comprehensive (Commercial) General Liability Insurance. The Association shall provide and maintain coverage limits of not less than \$1,000,000 combined single limit per occurrence bodily injury and property damage.

Certificates of insurance must be furnished to the City prior to occupancy or beginning work, and must provide for a thirty (30) day prior notice of cancellation, non-renewal or other material change. Failure to furnish certificates of insurance or notice or lapse of any policy constitutes a material breach and grounds for termination of this Agreement. With the exception of Worker's Compensation Insurance, the City shall be named as an additional insured party.

### **Section 17. Severability**

If any clause or provision herein contained shall be adjudged to be invalid, it shall not affect the validity of any other clause or provision of this Agreement or constitute any cause of action in favor of either party as against the other.

### **Section 18. Jurisdiction: Choice of Law**

Any civil action arising from this Agreement shall be brought in the Alaska State Court for the Third Judicial District of the State of Alaska at Palmer. The law of the State of Alaska shall govern the rights and obligations of the parties.

### **Section 19. Termination**

- A. The City or the Wasilla Youth Soccer Association, Inc. may terminate this Agreement at the end of a term by giving thirty (30) days written notice to the other party.
- B. This Agreement may be terminated upon the best interest of either party, or for any of the following reasons:
  - 1. Failure to comply with the terms and conditions of this Agreement or if the breach is curable, to remedy any default in performance within thirty (30) days.
  - 2. Failure to actively maintain and use the facility for the described purposes.
  - 3. Abandonment of the property, which shall include failure to carry out necessary maintenance or repairs of the soccer fields.
  - 4. The Wasilla Youth Soccer Association, Inc. articles and by-laws provide that it represents all residents of the area and the Association represents that it has a policy and practice of open membership which encourages participation of persons from all segments of the community. The City may terminate this Agreement if the Association's articles or by-laws are changed or if its policies change so that it no longer represents all residents of the area or if it ceases to encourage open membership and participation from all segments of the community.



Termination under this section shall be by notice in writing stating the reason for termination and shall be effective thirty (30) days from the date of the notice. Any appeal must be written and formally presented to the City within 10 days.

**Section 20. Notice**

All notices shall be sent to both parties as follows:

Wasilla Youth Soccer Association, Inc.	City of Wasilla
P.O. Box 873302	290 E. Herning Ave.
Wasilla, AK 99687	Wasilla, AK 99654

**Section 21. Amendment Only in Writing/Full Opportunity to Review**

There are no oral agreements between the parties that are not expressed, in writing, in the course of this Agreement. Any and all verbal discussions occurring prior to the execution of this Agreement have been reduced to the terms set forth in this document. This Agreement constitutes the full and complete agreement between the parties. Any amendment to this Agreement must be in writing and executed by both parties in order for such an amendment to be effective. Both parties expressly acknowledge and agree that they have had a full and complete opportunity to review the terms of this Agreement with the advisors and/or attorneys of their choice. The parties further agree and stipulate that this Agreement is not to be construed more favorably for one party or the other as both parties acknowledge and agree that they have participated in the drafting and preparation of this Agreement.

CITY OF WASILLA

\_\_\_\_\_  
Mayor, Bert L. Cottle

STATE OF ALASKA                    )  
  ) ss.  
THIRD JUDICIAL DISTRICT        )

THIS IS TO CERTIFY that on the \_\_\_\_ day of \_\_\_\_\_, 2015, before the undersigned Notary Public for the State of Alaska, duly commissioned and sworn, personally appeared \_\_\_\_\_, known to me to be the individual described in and who executed the within and foregoing Lease on behalf of tenant and acknowledged to me that he signed the same in the name of and for and on behalf of the tenant, freely and voluntarily and by tenant's authority for the uses and purposes therein mentioned.

GIVEN UNDER MY HAND and official seal the day and year last above written.

\_\_\_\_\_  
Notary Public in and for Alaska  
My Commission Expires: \_\_\_\_\_.

WASILLA YOUTH SOCCER ASSOCIATION, Inc.

\_\_\_\_\_  
President

STATE OF ALASKA                    )  
  ) ss.  
THIRD JUDICIAL DISTRICT        )

THIS IS TO CERTIFY that on the \_\_\_\_ day of \_\_\_\_\_, 2015, before the undersigned Notary Public for the State of Alaska, duly commissioned and sworn, personally appeared \_\_\_\_\_, known to me to be the individual described in and who executed the within and foregoing Lease on behalf of tenant and acknowledged to me that he signed the same in the name of and for and on behalf of the tenant, freely and voluntarily and by tenant's authority for the uses and purposes therein mentioned.

GIVEN UNDER MY HAND and official seal the day and year last above written.

\_\_\_\_\_  
Notary Public in and for Alaska  
My Commission Expires: \_\_\_\_\_.



