

# REAL ESTATE LEASE

This Real Estate Lease (hereinafter this “Lease”), made and entered into by and between the **City of Fort Wayne Board of Park Commissioners** (hereinafter “Lessor”), and the **Fort Wayne Women’s Softball Association** (hereinafter “Lessee”).

Lessor, in consideration of the rent of an annual fee of \$1.00 and the covenants made and undertaken by Lessee herein, does hereby lease to Lessee the facility commonly known as the “Packard Park Softball Diamond” located 427 Kinsmoor Avenue, in Fort Wayne, Indiana, and depicted in Exhibit A attached hereto and made a part hereof (the “Diamond”).

A. The Lease shall commence on January 1, 2022, and shall expire on December 31, 2026 (the “Lease Term”), subject to; (a) the right of either Lessor or Lessee to terminate this Lease with or without cause upon sixty (60) days written notice to the other party, and (b) Lessor’s right to terminate this Lease upon written notice to Lessee in the event Lessor determines that a breach of this Lease by Lessee has occurred or that a condition pertaining to the Diamond exists which compromises or may compromise the safety and well-being of any person or property located or present on or in the proximity of the Diamond.

B. In the event Lessor terminates the Lease during the Lease Term in connection with the implementation of Lessor’s **Packard Park** Master Plan, Lessor: (a) shall make good faith efforts to identify alternate Lessor-owned and operated sites which may be available for Lessee to conduct its scheduled softball activities, and (b) shall advise Lessee as to the locations of such sites and the terms and conditions upon which such sites may be leased to Lessee.

C. Any improvements, alterations, or renovations made to the Diamond during the Lease Term by Lessee shall require the prior written approval of Lessor.

D. No advertising or signage may be displayed or permitted on or about the Diamond by Lessee without the prior written approval of Lessor.

**E. The Lessee shall at all times during the Lease Term:**

1. Maintain the Diamond and all areas adjacent thereto in presentable condition (e.g. cut down weeds, pick up trash).
2. Maintain infield, outfield, and practice areas for softball usage during each softball season.
3. Maintain and replace Diamond lights and pay utility costs generated by Lessee’s usage thereof.
4. Schedule use of the Diamond by Lessee annually in advance and provide Lessor’s designated representative with a written copy of such schedule on or before March 15<sup>th</sup> of each year.
5. Provide Lessor with written notice of any changes to Lessee’s published schedule concurrently with the decision to effect such schedule change.

6. Permit Lessor's use of the Diamond for Lessor-sponsored programs and activities which do not conflict with the regularly scheduled use of the Diamond by Lessee (i.e. summer daytime playground activities).

7. Accommodate requests by the general public to use the Diamond and timely respond to all such requests. Lessee will notify Lessor in writing of all such requests upon receipt thereof and Lessee's responses thereto. Lessee shall provide the requesting party with a written explanation for Lessee's decision to deny any such request. In the event Lessor disagrees with Lessee's decision to deny one or more such requests, Lessor and Lessee shall negotiate in good faith to achieve a solution that accommodates both the request and Lessor's scheduled use of the Diamond.

F. Lessee releases, forever discharge, and agree to indemnify, hold harmless and defend Lessor, the City of Fort Wayne and their respective officers, commissioners, directors, employees, representatives, authorized agents, departments, and divisions (collectively "Indemnitees") to the extent permitted by law from and against any and all liability damages, claims, demands, charges, costs and expenses (including legal costs and reasonable attorney fees) of any kind or nature which Indemnitees (or any Indemnitee) incur for personal injury (including death) or property damage in connection with the activities of Lessee or any coach, player, participant, umpire, employee, spectator or other third parties which arises or is alleged to have arisen directly or indirectly from Lessee's lease, possession, control, management, operation and use of the Diamond.

G. Lessee shall carry public liability insurance with limits of at least \$1,000,000 per person and \$2,000,000/aggregate for personal injury (including death) and property damage. Such insurance shall name Lessor and the City of Fort Wayne as additional insureds and shall not be cancellable for any reason before thirty (30) days written notice thereof to Lessor. Lessee shall annually provide with the Lessor a valid and current certificate of such insurance evidencing compliance with this Section G.

**H. In addition to any other right to terminate this Lease reserved by Lessor hereunder, Lessor may terminate this Lease upon thirty (30) days written notice to Lessee upon the occurrence of any of the following events of default, following written notice to Lessee of Lessor's intent to terminate (including a description of the event(s) of default), and Lessee's failure to cure the default(s) identified in Lessor's notice to Lessor's satisfaction within thirty (30) days following receipt of Lessor's Notice of Default and Termination of Lease:**

1. Failure of Lessee to satisfactorily maintain the Diamond in presentable condition as determined by Lessor;
2. Violation by Lessee of any of Lessor's policies, municipal Ordinances, or any of the terms and conditions of this Lease as determined by Lessor;
3. Any other breach of this Lease by Lessee which is not cured to Lessor's satisfaction following 30 days written notice of default to Lessee.



STATE OF INDIANA)

)SS:

COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public in and for said County and State, this \_\_\_\_\_ Day of \_\_\_\_\_, 2021 personally appeared Richard Samek, Pamela Kelly, M.D., William Zielke, and Justin Shurley, Members, and Steve McDaniel, Secretary, of the City of Fort Wayne Board of Park Commissioners, who signed above and acknowledged the execution of the foregoing to be their voluntary act and deed, for the uses and purposes therein set forth.

WITNESS my hand and notary seal.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed Name

My Commission Expires: \_\_\_\_\_

County of Residence \_\_\_\_\_

**LESSEE:**

\_\_\_\_\_  
**JIM HAGADORN, PRESIDENT  
FORT WAYNE WOMEN'S SOFTBALL  
ASSOCIATION**

STATE OF INDIANA)

) SS:

COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public in and for said County and State, this \_\_\_\_\_ Day of \_\_\_\_\_, 2021 personally appeared **Jim Hagadorn**, as President of the Fort Wayne Women's Softball Association and acknowledged the execution of the foregoing to be their voluntary act and deed, for the uses and purposes therein set forth.

WITNESS my hand and notarial seal.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed Name

My Commission Expires:  
\_\_\_\_\_

County of Residence:  
\_\_\_\_\_

EXHIBIT A

