

FORT SMITH BOYS & GIRLS CLUB
EVANS UNIT BASEBALL AND SOFTBALL FIELD
USE LICENSE AGREEMENT

This agreement is made and entered into this 1st of November, 2018, by and between the Fort Smith Boys & Girls Clubs (“FSBGC”) and the Fort Smith Public Schools District (“FSPS”).

Whereas, FSPS desires to secure fields for use by its Southside High School baseball and softball teams; and

Whereas, FSBGC desires to license its fields and facilities thereon to FSPS on a long-term basis;

Now, therefore, in consideration of the terms, dates, conditions, and promises herein contained, mutual agreement is as follows:

1. Fields Licensed. For the consideration recited below, FSBGC agrees to license and FSPS agrees to pay for, on the terms and conditions set forth in this Agreement, the baseball field at Evans Boys & Girls Club known as Forsgren Field and the softball field at Evans Boys & Girls Club.

2. Schedule and Limitations of Use. FSPS, as licensee, will be permitted to use the aforementioned fields between _____ and _____ of each season, subject to a use-schedule to be agreed upon by the parties by February 1, 2019. The fields may only be used by FSPS baseball and softball teams for practices and playing games.

3. Licensor’s Representations and Warranties. FSBGC represents and warrants to FSPS as follows:

- A. To establish a separate bank account with a substantial portion of the proceeds received from each license fee deposited therein to be used to help fund the turf replacement.
- B. To maintain the field lights, fences, concession stand structure and equipment, and press box structure and equipment.
- C. To maintain and repair the backstop net and parking lot.
- D. To pay for all utilities, including electric, water/sewage, etc.
- E. To maintain and repair the sprinklers.
- F. During use, to make available all utilities associated with the licensed fields, including: water and electric for lights, scoreboards, concession and rest rooms.
- G. During use, to make available parking, press boxes, scoreboards, PA systems and restrooms .
- H. To make available the concession stands for use by the FSPS during high school baseball and softball games and tournaments.
- I. To make available the white metal storage (equipment) room for use by the FSPS.

4. Licensee’s Representations and Warranties. To the extent not the responsibility of FSBGC, above, FSPS represents and warrants to FSBGC as follows:

- A. To maintain the fields year-round, including:
 - a. Mowing, weed control, and fertilizing the grass.

- b. Maintaining the dugout interior, warning track, and scoreboard.
 - c. Grooming / disinfecting the field one time per year using a certified field maintenance firm.
 - d. Maintaining and replacing the bases, including home plate and the pitching rubber, as needed.
- B. To clean the bathrooms as needed based upon FSPS use.
 - C. To provide and maintain portable screens and backstops.
 - D. To maintain and replace as needed the fence windscreen for the baseball field.
 - E. To clean the seating area, bleachers, and concrete areas based upon FSPS use.
 - F. To be responsible for getting the field ready for all games.
 - G. To use its best efforts to prevent the player(s) from using the field without one of the coaches present.
 - H. To use its best efforts to prevent the field from being "Burned" for drying purposes.
 - I. To use its best efforts to prevent players & opposing players from any "soft toss" on fences that are not designated for "soft toss."
 - J. To work with FSBGC officials to avoid any scheduling conflicts with any games or practices involving FSBGC games and maintenance of the fields.
 - K. To use lights for games only. No use of lights for practices without the specific approval by the FSBGC.
 - L. To be responsible for replacing or repairing, any broken or lost equipment.
 - M. To be responsible for the securing of each facility after each use.
 - N. To be responsible for maintaining and returning the fields, equipment and all facilities in as good condition as when received including, without limitation, promptly repairing any/all damage to the property of FSBGC, if any, caused by FSPS's use.
 - O. To not make any alterations or changes to the fields, equipment or facilities without specific approval by the FSBGC executive director.
 - P. To only use the fields, equipment and facilities for games and practice by Southside High School teams.

5. Term. This License Agreement shall last for a term of ten (10) years. If, at the conclusion of the ten-year Term, either party wishes to terminate the Agreement, it may do so only by providing thirty (30) days advance written notice to the other party. Unless otherwise terminated in accordance with this Paragraph, this License Agreement shall be automatically renewed for successive periods of one (1) year thereafter with perpetual yearly increases of \$1,000.00 per field, until terminated as herein provided.

6. License Fee. FSPS agrees to pay FSBGC the following consideration for the licensed fields, payable within thirty (30) days of the completion of the baseball and softball seasons:

| | | |
|----------------|--------------------|-------------------------|
| A. Year One: | \$30,000.00 | (\$15,000.00 per field) |
| B. Year Two: | \$32,000.00 | (\$16,000.00 per field) |
| C. Year Three: | \$34,000.00 | (\$17,000.00 per field) |
| D. Year Four: | \$36,000.00 | (\$18,000.00 per field) |
| E. Year Five: | \$38,000.00 | (\$19,000.00 per field) |
| F. Year Six: | \$40,000.00 | (\$20,000.00 per field) |
| G. Year Seven: | \$42,000.00 | (\$21,000.00 per field) |
| H. Year Eight: | \$44,000.00 | (\$22,000.00 per field) |
| I. Year Nine: | \$46,000.00 | (\$23,000.00 per field) |
| J. Year Ten: | \$48,000.00 | (\$24,000.00 per field) |

7. Assignment. Licensed rights under this agreement shall not be assigned nor sublet by any party, in whole or in part, without the prior written consent of the other party, which may be withheld, or conditioned, in such party's sole discretion.

8. Governing Law. This Agreement shall be subject to and governed by the laws of the State of Arkansas.

9. Entire Agreement. This Agreement constitutes the full and final expression of intent by each party and supersedes all prior agreements or understandings. No paragraph, clause, condition or privilege may be modified, varied, altered or added except by mutual agreement of the parties, in writing.

10. Counterparts. This Agreement may be executed in multiple counterparts which when read together shall constitute and comprise a single document.

11. Authority. Each of the parties represents and warrants that the persons executing this Agreement are duly authorized by their respective entities to execute a binding agreement on the entity's behalf and shall be binding.

In witness thereof, the parties hereto have executed this contract in the day and year first above written.

FS Boys & Girls Club Executive Director

Fort Smith Public Schools Athletic Director

Southside High School Baseball Coach

Southside High School Softball Coach