ORIGINAL

City of Peoria, Arizona
Agreement

Agreement No: **A11-023** Date: **August 4, 2010**

Materials and/or Services: **Facility Use Agreement with Arizona Amateur Baseball League**

Contact: **Terry Andersen**

Location: City of Peoria, Materials Management

Mailing Address: 8314 West Cinnabar Avenue, Peoria, AZ 85345

Phone: (623) 773-7115

OFFER

To the City of Peoria: The undersigned on behalf of the entity, firm, company, partnership, or other legal entity listed below offers on its behalf to the City an Agreement that contains all terms, conditions, specifications and amendments in the Agreement issued by the City. Any exception to the terms contained in the Agreement must be specifically indicated in writing and are subject to the approval of the City prior to acceptance. The signature below certifies your understanding and compliance with Paragraph 1 of the City of Peoria Standard Terms and Conditions (form COP 202) contained in the Agreement package issued by the City.

Arizona Transaction (Sales) Privilege Tax License Number: _____

For clarification of this offer contact:

Name: BRIAN KREPS

Telephone: 480-375-0204 Email: CHANDLEROFFICIALS@COX.NET

ARIZONA AMATEUR BASEBALL LEAGUE
Company Name

Authorized Signature for Offer

5160 W. GLENVIEW
Address

BRIAN KREPS
Printed Name

CHANDLER AZ 85226
City State Zip Code

PRESIDENT
Title

ACCEPTANCE OF OFFER AND CONTRACT AWARD (For City of Peoria Use Only)

Your offer is accepted by the City, subject to approval of each written exception that your Agreement contained. The contract consists of the following documents: 1.) Agreement issued by the City; 2.) Your offer in Response to the City's Agreement; 3.) This written acceptance and contract award.

As the contractor, you are now legally bound to sell the materials and/or services listed by the attached award notice, based on the Agreement, including all terms, conditions, specifications, amendments and your offer as now accepted by the City. The Contractor shall not commence any billable work or provide any material, service or construction under this contract until the Contractor receives an executed Purchase Order or Notice to Proceed.

Attested by:

Mary Jo Waddell, City Clerk

CC: _____

Contract Number: ACON 39010

Official File: _____

City of Peoria, Arizona. Effective Date: 8/18/10

Approved as to form: Ellen Van Riper, Assistant City Attorney

Stephen M. Kemp, City Attorney

Contract Awarded Date August 17, 2010

J.P. de la Montaigne, Community Services Director

Herman Koebergen, Materials Manager

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A CON 39010

STANDARD TERMS AND CONDITIONS

Materials Management
Procurement
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Peoria, Arizona 85345-6560
Phone: (623) 773-7115
Fax: (623) 773-7118

THE FOLLOWING TERMS AND CONDITIONS ARE AN EXPLICIT PART OF THE SOLICITATION AND ANY RESULTANT CONTRACT.

1. **CERTIFICATION:** By signature in the Offer section of the Offer and Contract Award page (COP Form 203), the Vendor certifies:

   a. The submission of the offer did not involve collusion or other anti-competitive practices.

   b. The Vendor shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11456.

   c. The Vendor has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip favor, or service to a public servant in connection with the submitted offer. Failure to sign the offer, or signing it with a false statement, shall void the submitted offer or any resulting contracts, and the vendor may be debarred.

2. **GRATUITIES:** The City may, by written notice to the Contractor, cancel this contract if it is found by the City that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the City with a view toward securing an order, securing favorable treatment with respect to the awarding, amending, or the making of any determinations with respect to the performing of such order. In the event this contract is cancelled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity. Paying the expense of normal business meals which are generally made available to all eligible city government customers shall not be prohibited by this paragraph.

3. **APPLICABLE LAW:** In the performance of this agreement, contractors shall abide by and conform to any and all laws of the United States, State of Arizona and City of Peoria including but not limited to federal and state executive orders providing for equal employment and procurement opportunities, the Federal Occupational Safety and Health Act and any other federal or state laws applicable to this agreement.

   Contractor specifically understands and acknowledges the applicability to it of the Americans with Disabilities Act, the Immigration Reform and Control Act of 1986, and the Drug Free Workplace Act of 1989. In addition, if this agreement pertains to construction, Contractor must also comply with A.R.S. § 34-301, as amended (Employment of Aliens on Public Works Prohibited) and A.R.S. § 34-302, as amended (Residence Requirements for Employees).

   Under the provisions of A.R.S. § 41-4401, Contractor hereby warrants to the City that Contractor and each of its subcontractors ("Subcontractors") will comply with, and are contractually obligated to comply with, all Federal immigration laws and regulations that relate to their employees and A.R.S. § 23-214(A) (hereinafter, "Contractor Immigration Warranty").

   A breach of the Contractor Immigration Warranty shall constitute a material breach of this agreement and shall subject Contractor to penalties up to and including termination of this agreement at the sole discretion of the City. The City may, at its sole discretion, conduct random verification of the employment records of Contractor and any Subcontractors to ensure compliance with the Contractor Immigration Warranty. Contractor agrees to assist the City in regard to any random verifications performed.

   Neither Contractor nor any Subcontractor shall be deemed to have materially breached the Contractor Immigration Warranty if Contractor or the Subcontractor establishes that it has complied with the employment verification provisions prescribed by §§ 274A and 274B of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. §23-214(A).

   The provisions of this Paragraph must be included in any contract Contractor enters into with any Subcontractors who

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provide services under this agreement or any subcontract. "Services" is defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

Contractor warrants, for the term of this agreement and for six months thereafter, that is has fully complied with the requirements of the Immigration Reform and Control Act of 1986 and all related or similar legal authorities.

This contract shall be governed by the City and Contractor shall have all remedies afforded each by the Uniform Commercial Code, as adopted in the State of Arizona, except as otherwise provided in this contract or in statutes pertaining specifically to the City. This contract shall be governed by the laws of the State of Arizona and suit pertaining to this contract may be brought only in courts in the State of Arizona.

This contract is subject to the provisions of ARS §38-511; the City may cancel this contract without penalty or further obligations by the City or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the City or any of its departments or agencies, is at any time while the contract or any extension of the contract is in effect, an employee of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.

4. **LEGAL REMEDIES:** All claims and controversies shall be subject to resolution according to the terms of the City of Peoria Procurement Code.

5. **CONTRACT:** The contract between the City and the Contractor shall consist of (1) the Solicitation, including instructions, all terms and conditions, specifications, scopes of work, attachments, and any amendments thereto, and (2) the offer submitted by the Vendor in response to the solicitation. In the event of a conflict in language between the Solicitation and the Offer, the provisions and requirements in the Solicitation shall govern. However, the City reserves the right to clarify, in writing, any contractual terms with the concurrence of the Contractor, and such written contract shall govern in case of conflict with the applicable requirements stated in the Solicitation or the Vendor's offer. The Solicitation shall govern in all other matters not affected by the written contract.
6. **CONTRACT AMENDMENTS:** This contract may be modified only by a written Contract Amendment (COP Form 217) signed by persons duly authorized to enter into contracts on behalf of the City and the Contractor.

7. **CONTRACT APPLICABILITY:** The Offeror shall substantially conform to the terms, conditions, specifications and other requirements found within the text of this specific Solicitation. All previous agreements, contracts, or other documents, which have been executed between the Offeror and the City are not applicable to this Solicitation or any resultant contract.

8. **PROVISIONS REQUIRED BY LAW:** Each and every provision of law and any clause required by law to be in the contract will be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the contract will forthwith be physically amended to make such insertion or correction.

9. **SEVERABILITY:** The provisions of this contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the contract which may remain in effect without the invalid provision or application.

10. **RELATIONSHIP TO PARTIES:** It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. The Contractor is advised that taxes or Social Security payments will not be withheld from any City payments issued hereunder and that the Contractor should make arrangements to directly pay such expenses, if any.

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11. **INTERPRETATION-PAROL EVIDENCE:** This contract represents the entire agreement of the Parties with respect to its subject matter, and all pervious agreements, whether oral or written, entered into prior to this contract are hereby revoked and superseded by this contract. No representations, warranties, inducements or oral agreements have been made by any of the Parties except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this contact. This contract may not be changed, modified or rescinded except as provided for herein, absent a written agreement signed by both Parties. Any attempt at oral modification of this contract shall be void and of no effect.

12. **ASSIGNMENT-DELEGATION:** No right or interest in this contract shall be assigned by Contractor without prior written permission of the City and no delegation of any duty of Contractor shall be made without prior written permission of the City.

13. **SUBCONTRACTS:** No subcontract shall be entered into by the contractor with any other party to furnish any of the material, service or construction specified herein without the advance written approval of the City. The prime contractor shall itemize all sub-contractors which shall be utilized on the project. Any substitution of sub-contractors by the prime contractor shall be approved by the City and any cost savings will be reduced from the prime contractor's bid amount. All subcontracts shall comply with Federal and State laws and regulations which are applicable to the services covered by the subcontract and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract and if the Subcontractor were the Contractor referred to herein. The Contractor is responsible for contract performance whether or not Subcontractors are used.

14. **RIGHTS AND REMEDIES:** No provision in this document or in the vendor's offer shall be construed, expressly or by implication, as waiver by the City of any existing or future right and/or remedy available by law in the event of any claim of default or breach of contract. The failure of the City to insist upon the strict performance of any term or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the contract, or by law, or the City's acceptance of and payment for materials or services, shall not release the Contractor from any responsibilities or obligations imposed by this contract or by law, and shall not be deemed a waiver of any right of the City to insist upon the strict performance of the Contract.

15. **INDEMNIFICATION:** To the fullest extent permitted by law, the Contractor shall defend, indemnify and hold harmless the City, its agents, representatives, officers, directors, officials and employees from and against all claims, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of, or alleged to have resulted from the acts, errors, mistakes, omissions, work or services of the Contractor, its employees, agents, or any tier of subcontractors in the performance of this Contract. Contractor's duty to defend, hold harmless and indemnify the City, its agents, representatives, officers, directors, officials and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use resulting therefrom, caused by any acts, errors, mistakes, omissions, work or services in the performance of this Contract including any employee of the Contractor or any tier of subcontractor or any other person for whose acts, errors, mistakes, omissions, work or services the Contractor may be legally liable.

    The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

16. **OVERCHARGES BY ANTITRUST VIOLATIONS:** The City maintains that, in practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the Contractor hereby assigns to the City any and all claims for such overcharges as to the goods and services used to fulfill the Contract.

17. **FORCE MAJEURE:** Except for payment for sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force Majeure. The term *"force majeure"* means an occurrence that is beyond the control of the party affected and occurs without

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its fault or negligence. Without limiting the foregoing, force majeure includes acts of God: acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; floods; lockouts, injunctions-intervention-acts, or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence. The force majeure shall be deemed to commence when the party declaring force majeure notifies the other party of the existence of the force majeure and shall be deemed to continue as long as the results or effects of the force majeure prevent the party from resuming performance in accordance with this Contract.

Force majeure shall not include the following occurrences:

a. Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, inefficiencies, or similar occurrences.

b. Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this Force Majeure term and Condition.

Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure. If either party is delayed at any time in the progress of the work by force majeure, then the delayed party shall notify the other party in writing of such delay within forty-eight (48) hours commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be hand delivered or mailed *Certified-Return Receipt* and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing. The time of completion shall be extended by contract modification for a period of time equal to the time that the results or effects of such delay prevent the delayed party from performing in accordance with this contract.

18. **RIGHT TO ASSURANCE:** Whenever one party to this contract in good faith has reason to question the other party's intent to perform he may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

19. **WARRANTIES:** Contractor warrants that all material, service or construction delivered under this contract shall conform to the specifications of this contract. Unless otherwise stated in Contractor's response, the City is responsible for selecting items, their use, and the results obtained from any other items used with the items furnished under this contract. Mere receipt of shipment of the material/service specified and any inspection incidental thereto by the City shall not alter or affect the obligations of the Contractor or the rights of the City under the foregoing warranties. Additional warranty requirements may be set forth in the solicitation.

20. **INSPECTION:** All material and/or services are subject to final inspection and acceptance by the City. Materials and/or services failing to conform to the specifications of this Contract will be held at Contractor's risk and may be returned to the Contractor. If so returned, all costs are the responsibility of the Contractor. The City may elect to do any or all:

    a. Waive the non-conformance.

    b. Stop the work immediately.

    c. Bring material into compliance.

    This shall be accomplished by a written determination for the City.

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21. **TITLE AND RISK OF LOSS:** The title and risk of loss of material and/or service shall not pass to the City until the City actually receives the material or service at the point of delivery, unless otherwise provided within this Contract.

22. **NO REPLACEMENT OF DEFECTIVE TENDER:** Every tender of materials and/or service shall fully comply with all provisions of the Contract. If a tender is made which does not fully conform, this shall constitute a breach of the Contract as a whole.

23. **DEFAULT IN ONE INSTALLMENT TO CONSTITUTE TOTAL BREACH:** Contractor shall deliver conforming materials in each installment of lot of this Contract and may not substitute nonconforming materials. Delivery of nonconforming materials or a default of any nature, at the option of the City, shall constitute a breach of the Contract as a whole.

24. **SHIPMENT UNDER RESERVATION PROHIBITED:** Contractor is not authorized to ship materials under reservation and no tender of a bill of lading will operate as a tender of the materials.

25. **LIENS:** All materials, service or construction shall be free of all liens, and if the City requests, a formal release of all liens shall be delivered to the City.

26. **LICENSES:** Contractor shall maintain in current status all Federal, State and Local licenses and permits required for the operation of the business conducted by the Contractor as applicable to this Contract.

27. **PATENTS AND COPYRIGHTS:** All services, information, computer program elements, reports and other deliverables, which may be patented or copyrighted and created under this contract are the property of the City and shall not be used or released by the Contractor or any other person except with the prior written permission of the City.

28. **PREPARATION OF SPECIFICATIONS BY PERSONS OTHER THAN CITY PERSONNEL:** All specifications shall seek to promote overall economy for the purposes intended and encourage competition and not be unduly restrictive in satisfying the City's needs. No person preparing specifications shall receive any direct or indirect benefit from the utilization of specifications, other than fees paid for the preparation of specifications.

29. **COST OF BID/PROPOSAL PREPARATION:** The City shall not reimburse the cost of developing presenting or providing any response to this solicitation. Offers submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner.

30. **RIGHT TO AUDIT RECORDS:** The City may, at reasonable times and places, audit the books and records of any Contractor as related to any contract held with the City. This right to audit also empowers the City to inspect the papers of any Contractor or Subcontractor employee who works on this contract to ensure that the Contractor or Subcontractor is complying with the Contractor Immigration Warranty made pursuant to Paragraph 3 above.

31. **ADVERTISING:** Contractor shall not advertise or publish information concerning this Contract, without prior written consent of the City.

32. **DELIVERY ORDERS:** The City shall issue a Purchase Order for the material and/or services covered by this contract. All such documents shall reference the contract number as indicated on the Offer and Contract Award (COP Form 203).

33. **FUNDING:** Any contract entered into by the City of Peoria is subject to funding availability. Fiscal years for the City of Peoria are July 1 to June 30. The City Council approves all budget requests. If a specific funding request is not approved, the contract shall be terminated.

34. **DISCLAIMER:** The City of Peoria, Arizona provides current and complete solicitation information for registered Plan Holders only. Updates, amendments and related information regarding the solicitation contained herein will be delivered

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only to registered Plan Holders. The City assumes no liability or duty to so update or send any update to persons who are not Plan Holders. Any person who acquires these documents from any source other than the City website or directly from the Materials Management Division, has no assurance that the solicitation is valid. No person may amend this document, nor may any person publish it without this disclaimer

35. **PAYMENT:** A separate invoice shall be issued for each shipment of material or service performed, and no payment will be issued prior to receipt of material and/or services and correct invoice.

36. **PUBLIC RECORD:** All offers submitted in response to this solicitation shall become the property of the City and shall become a matter of public record available for review, subsequent to the award notification, in accordance with the City's Procurement Code. However, subsequent to the award of the contract, any information and documents obtained by the City during the course of an audit conducted in accordance with Paragraph 30 above for the purpose of determining compliance by Contractor or a Subcontractor with the Contractor Immigration Warranty mandated by Paragraph 3 above shall remain confidential and shall not be made available for public review or produced in response to a public records request, unless the City is ordered or otherwise directed to do so by a court of competent jurisdiction.

37. **PROHIBITED LOBBYING ACTIVITIES:** The Offeror, his/her agent or representative shall not contact, orally or in any written form any City elected official or any City employee other than the Materials Management Division, the procuring department, City Manager, Deputy City Manager or City Attorney's office (for legal issues only) regarding the contents of this solicitation or the solicitation process commencing from receipt of a copy of this request for proposals and ending upon submission of a staff report for placement on a City Council agenda. The Materials Manager shall disqualify an Offeror's proposal for violation of this provision. This provision shall not prohibit an Offeror from petitioning an elected official after submission of a staff report for placement on a City Council agenda or engaging in any other protected first amendment activity after submission of a staff report for placement on a City Council agenda.

38. **PROHIBITED POLITICAL CONTRIBUTIONS**: Consultant during the term of this Agreement shall not make a contribution reportable under Title 16, Chapter 6, Article 1, Arizona Revised Statutes to a candidate or candidate committee for any city elective office during the term of this Agreement. The City reserves the right to terminate the Agreement without penalty for any violation of this provision.

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SPECIAL TERMS AND CONDITIONS

Agreement Number: **A11-023**

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1. **Purpose:** Pursuant to provisions of the City Procurement Code, the City of Peoria, Materials Management Division intends to establish a contract for use of the Peoria Sports Complex Facility for Adult Baseball League.

2. **Authority:** This Solicitation as well as any resultant contract is issued under the authority of the City. No alteration of any resultant contract may be made without the express written approval of the City Materials Manager in the form of an official contract amendment. Any attempt to alter any contract without such approval is a violation of the contract and the City Procurement Code. Any such action is subject to the legal and contractual remedies available to the City inclusive of, but not limited to, contract cancellation, suspension and/or debarment of the contractor.

3. **Offer Acceptance Period:** In order to allow for an adequate evaluation, the City requires an offer in response to this Solicitation to be valid and irrevocable for sixty (60) days after the opening time and date.

4. **Eligible Agencies:** Any contract resulting from this Solicitation shall be for the exclusive use of the City of Peoria.

5. **Contract Type:** Fixed Price

6. **Insurance Requirements:** The Contractor, at Contractor's own expense, shall purchase and maintain the herein stipulated minimum insurance with companies duly licensed, possessing a current A.M. Best, Inc. Rating of A-, or approved unlicensed in the State of Arizona with policies and forms satisfactory to the City.

   All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of the Contract is satisfactorily completed and formally accepted; failure to do so may, at the sole discretion of the City, constitute a material breach of this Contract.

   The Contractor's insurance shall be primary insurance as respects the City, and any insurance or self-insurance maintained by the City shall not contribute to it.

   Any failure to comply with the claim reporting provisions of the insurance policies or any breach of an insurance policy warranty shall not affect coverage afforded under the insurance policies to protect the City.

   The insurance policies, except Workers' Compensation, shall contain a waiver of transfer rights of recovery (subrogation) against the City, its agents, representatives, directors, officers, and employees for any claims arising out of the Contractor's acts, errors, mistakes, omissions, work or service.

   The insurance policies may provide coverage which contain deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to the City under such policies. The Contractor shall be solely responsible for the deductible and/or self-insured retention and the City, at its option, may require the Contractor to secure payment of such deductibles or self-insured retentions by a Surety Bond or an irrevocable and unconditional letter of credit.

   The City reserves the right to request and to receive, within 10 working days, certified copies of any or all of the herein required insurance policies and/or endorsements. The City shall not be obligated, however, to review same or to advise Contractor of any deficiencies in such policies and endorsements, and such receipt shall not relieve Contractor from, or be deemed a waiver of the City's right to insist on, strict fulfillment of Contractor's obligations under this Contract.

   The insurance policies, except Workers' Compensation and Professional Liability, required by this Contract, shall name the City, its agents, representatives, officers, directors, officials and employees as Additional Insureds.

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7. **Required Insurance Coverage:**

   a. Commercial General Liability

   Contractor shall maintain Commercial General Liability insurance with a limit of not less than $1,000,000 for each occurrence with a $2,000,000 Products/Completed Operations Aggregate and a $2,000,000 General Aggregate Limit. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage including, but not limited to, the liability assumed under the indemnification provisions of this Contract which coverage will be at least as broad as Insurance Service Office, Inc. Policy Form CG 00011093 or any replacements thereof. The coverage shall not exclude X, C, U.

   Such policy shall contain a severability of interest provision, and shall not contain a sunset provision or commutation clause, nor any provision which would serve to limit third party action over claims.

   The Commercial General Liability additional insured endorsement shall be at least as broad as the Insurance Service Office, Inc.'s Additional Insured, Form B, CG 20101185, and shall include coverage for Contractor's operations and products and completed operations.

   Any Contractor subletting any part of the work, services or operations awarded to the Contractor shall purchase and maintain, at all times during prosecution of the work, services or operations under this Contract, an Owner's and Contractor's Protective Liability insurance policy for bodily injury and property damage, including death, which may arise in the prosecution of the Contractor's work, service or operations under this Contract. Coverage shall be on an occurrence basis with a limit not less than $1,000,000 per occurrence, and the policy shall be issued by the same insurance company that issues the Contractor's Commercial General Liability insurance.

   b. Automobile Liability

   Contractor shall maintain Commercial/Business Automobile Liability insurance with a combined single limit for bodily injury and property damage of not less than $1,000,000 each occurrence with respect to the Contractor's any owned, hired, and non-owned vehicles assigned to or used in performance of the Contractor's work. Coverage will be at least as broad as coverage code 1, "any auto", (Insurance Service Office, Inc. Policy Form CA 00011293, or any replacements thereof). Such insurance shall include coverage for loading and off loading hazards. If hazardous substances, materials or wastes are to be transported, MCS 90 endorsement shall be included and $1,000,000 per accident limits for bodily injury and property damage shall apply.

   c. Workers' Compensation

   The Contractor shall carry Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor's employees engaged in the performance of the work or services; and, Employer's Liability insurance of not less than $100,000 for each accident, $100,000 disease for each employee, and $500,000 disease policy limit.

   In case any work is subcontracted, the Contractor will require the Subcontractor to provide Workers' Compensation and Employer's Liability to at least the same extent as required of the Contractor.

8. **Certificates of Insurance:** Ten (10) days prior to commencing work or services under this Contract, Contractor shall furnish the City with Certificates of Insurance, or formal endorsements as required by the Contract, issued by Contractor's insurer(s), as evidence that policies providing the required coverages, conditions and limits required by this Contract are in full force and effect.

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In the event any insurance policy(ies) required by this contract is(are) written on a Aclaims made" basis, coverage shall extend for two years past completion and acceptance of the Contractor's work or services and as evidenced by annual Certificates of Insurance.

If a policy does expire during the life of the Contract, a renewal certificate must be sent to the City fifteen (15) days prior to the expiration date.

All Certificates of Insurance shall be identified with bid serial number and title. A $25.00 administrative fee will be assessed for all certificates received without the appropriate bid serial number and title.

9. **Cancellation and Expiration Notice:** Insurance required herein shall not expire, be canceled, or materially changed without thirty (30) days prior written notice to the City.

10. **Independent Contractor:**

a. General

i. The Contractor acknowledges that all services provided under this Agreement are being provided by him as an independent contractor, not as an employee or agent of the City Manager or the City of Peoria.

ii. Both parties agree that this Agreement is nonexclusive and that Contractor is not prohibited from entering into other contracts nor prohibited from practicing his profession elsewhere.

b. Liability

i. The City of Peoria shall not be liable for any acts of Contractor outside the scope of authority granted under this Agreement or as the result of Contractor's acts, errors, misconduct, negligence, omissions and intentional acts.

ii. To the fullest extent permitted by law, the Contractor shall defend, indemnify and hold harmless the City, its agents, representatives, officers, directors, officials and employees from and against all claims, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of, or alleged to have resulted from the acts, errors, mistakes, omissions, work or services of the Contractor, its employees, agents, or any tier of subcontractors in the performance of this Contract. Contractor's duty to defend, hold harmless and indemnify the City, its agents, representatives, officers, directors, officials and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use resulting therefrom, caused by any acts, errors, mistakes, omissions, work or services in the performance of this Contract including any employee of the Contractor or any tier of subcontractor or any other person for whose acts, errors, mistakes, omissions, work or services the Contractor may be legally liable.

The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

c. Other Benefits

The Contractor is an independent contractor, therefore, the City Manager will not provide the Contractor with health insurance, life insurance, workmen's compensation, sick leave, vacation leave, or any other fringe benefits. Further, Contractor acknowledges that he is exempt from coverage of the Comprehensive Benefit and Retirement Act (COBRA). Any such fringe benefits shall be the sole responsibility of Contractor.

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11. **Licenses:** Contractor shall maintain in current status all Federal, State and Local licenses and permits required for the operation of the business conducted by the Contractor.

12. **Safety Standards:** All items and/or services supplied on this contract shall comply with the current applicable Occupations Safety and Health Standards of the State of Arizona Industrial Commission, the National Electric Code, and the National Fire Protection Association Standards.

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PEORIA SPORTS COMPLEX
FEES/CHARGES AGREEMENT

ORGANIZATION:	Arizona Amateur Baseball League
CONTACT PERSON:	Brian Kreps
ADDRESS:	5160 W Glenview
CITY, STATE, ZIP:	Chandler, AZ 85226
PHONE:	480.375.0204
TYPE OF EVENT:	Adult Baseball League

EVENTS:	**DATE(S):**	**FACILITIES:**
AZABL League Games	8/14/10, 8/21/10 8/28/10, 9/11/10 **Future dates TBD	Practice Fields

CHARGES: FACILITY RENTAL

Practice Fields	$ 150.00 per game
Lights	$ 25.00 per hour

CHARGES: MISCELLANEOUS

Facility Supervision	$ 15.00 per hour (if needed)

Complex Supervisor shall determine appropriate staff levels based on schedule and size of event. Charges for additional services or facilities shall be based on the Sports Complex current schedule of fees. If additional services are deemed necessary, the City will notify AZ Amateur Baseball League of applicable charges.

USER: In order to confirm rental reservation, a deposit of $ 500.00 must be received upon execution of this agreement or, when otherwise agreed, no later than 60 days prior to the start of the event. Failure to do so will result in the loss of scheduled fields/facilities. Any and all expenses above the estimated cost will be billed to the user. Those remaining charges are due to the City of Peoria within ten (10) business days of receipt of the final invoice. In the event of user cancellation of said scheduled event, the City of Peoria shall keep users reservation deposit set above.

The undersigned parties agree to abide by and follow all Peoria Stadium rules and regulations, all laws of the United States, State of Arizona, and all ordinances within the City of Peoria. Any violation can result in the cancellation of the agreement and discontinuation of use privileges at the Peoria Sports Complex.

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SPECIAL PROVISIONS

Agreement Number: **A11-023**

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Additional terms and conditions for:

Arizona Amateur Baseball League
(AZABL)

1. This agreement will cover the following use period(s) of: 8/14/10, 8/21/10, 8/28/10, 9/11/10.

2. Future dates of facility usage to be determined and mutually agreed upon by both parties.

3. **AZABL** agrees to pay all fees associated with the use period as indicated on the fees and charges agreement. **AZABL** further understands that pricing is based on "free admission" events. **AZABL** agrees there will be no fee for parking. Should **AZABL** require an admission or parking fee, **AZABL** understands that the admission or parking fee is subject to a facility surcharge with the value to be determined by the City of Peoria and collected at time of settlement.

4. The City of Peoria and **AZABL** shall schedule and hold operational meetings prior to the start of the use period. Available fields and times will be established in these meetings.

4. The City of Peoria has the right to cancel and/or change any scheduled facilities due to any construction, maintenance, City special event or Professional Baseball activities scheduled. The City will inform **AZABL** in writing of such situation, when possible, at least sixty (60) days prior to the start of the use period. The City has the right to schedule additional events at the Sports Complex, on the same usage days, provided they are not utilizing the same usage area(s) and are not in direct conflict with **AZABL**.

5. Due to existing contracts with the Seattle Mariners and San Diego Padres professional baseball teams, there can be no guarantee by the City of Peoria as to what facilities will be available during the scheduled use period. The City of Peoria shall exercise its best efforts to accommodate **AZABL** facility request and their scheduled starting times.

6. **AZABL** will serve as tournament director, managing all related recruitment, registration and seed/bracket scheduling responsibilities. **AZABL** is responsible for all out of pocket costs associated with the event including umpires, baseballs, license fees, insurance, awards, and souvenirs.

7. The City will provide the facility in event ready condition ensuring the complex fields are fully prepped for first game times only. Fields will be re-dressed if necessary midway through the day. The City will provide necessary staff for the entry gates and will assist the tournament director with event implementation.

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8. **AZABL** will leave the usage areas and all connecting structures, both above and below ground, in pre-event condition and will pay all costs related to establishing the pre-event condition. **AZABL** understands that ground staking is prohibited on complex grounds.

9. **AZABL** agrees to acquire all necessary permits and sales tax licenses from the City. Also, liability insurance needs to be at the level broken out in the "Special Terms & Conditions" section of this contract, and the "City of Peoria" must be named additionally insured.

10. **AZABL** must obtain all permits as required for compliance by City of Peoria current Fire Code regulations.

11. Concession rights shall be held by the City of Peoria.

12. Pepsi Bottling Company is the sole source provider for all non-alcoholic beverage sales. **AZABL** understands that all non-alcoholic beverages must be purchased directly from Pepsi Bottling Company. Purchase contact information will be provided upon contract execution.

13. In the event of inclement weather, complex staff shall exercise judgment on the playing availability This will include an evaluation of potential field damage and projected costs for material. The complex will meet with the **AZABL** prior to any materials, such as drying agents, being added to the fields. Estimated amounts and costs will be provided to the **AZABL**. The **AZABL** may be responsible for these additional costs.

14. The City will hold first right of refusal for any sponsorship that may take place during the event. All sponsorship must be approved by the City. The City may solicit sponsors or advertising for the event and retain any revenues associated with said sponsorship or advertising.

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Peoria Sports Complex

Rules & Regulations

Section 1. Definitions.

A. "City" means the City of Peoria, Arizona, an Arizona municipal corporation.

B. "Director" means the director of the Community Services Department or his designee.

C. "Facility" means the Peoria Sports Complex, located at the northwest corner of 83rd Avenue and Paradise Lane, Peoria, Arizona, including its premises and grounds.

D. "Person" means the state, the county, a political subdivision of the state, other governmental entity, a corporation, firm, partnership, association, organization or any other group acting as a unit and a natural person.

E. "Rules and Regulations" means the rules and regulation promulgated herein.

F. "Stadium" Means the stadium located at the Peoria Sports Complex.

G. "User" means a person who has entered into an agreement with the City to use the Stadium, the Facility, or any portions of either, in accordance with its terms and conditions.

Section 2. Authority.

A. The Director shall have the responsibility for the management, operation and security of the Facility, subject to review and approval of certain agreements, charges, rates, practices and policies by the City Council.

Section 3. Facility Use Agreements.

A. The Director, with the assistance and approval of the City Attorney's Office, shall develop a facility use agreement form (hereinafter "Facility Use Agreement") to be used to authorize use of the Stadium or the Facility for various types of events. The Director shall have the authority to modify the basic form when it is in the best interests of the City to do so and subject to approval of modifications by the City Attorney's Office as to form.

B. The Director shall have the authority to make minor additions and modifications to the Facility Use Agreement as may be reasonably necessary to accommodate particular uses.

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The Rules and Regulations shall be incorporated by reference and become a part of each Facility Use Agreement.

C. Agreements for uses, such as concerts, large conventions or paid admission events, that are, by the determination of the Director, not subject to the prevailing schedule of fees and charges or the utilization of the standard Facility Use Agreement form because of the nature, scope, uniqueness, public benefit or significance of a particular proposed event ("Unique Events"), may be negotiated by the Director, with the assistance of the City Attorney's Office. All negotiated agreements for Unique Events shall be at the direction of the City Council and subject to its approval. In the event that a Unique Event is requested by a potential User without sufficient time to seek the recommendation of the City Council, The Director shall present such a proposed use to the City Manager for review and approval.

D. A person, group or organization wishing to use the facilities shall make application to do so to the Director on such forms as the Director provide. The applicant shall provide such information as may be required by the Director to determine the facilities, arrangement, special services and equipment necessary to staging a proper management of the events.

E. All uses of the Facility shall be documented by a completed Facility Use Agreement, or as otherwise provided in this section, and the document shall be signed by the Director or City Manager, as appropriate, on behalf of the City.

Section 4. Fees, Charges and Deposits.

A. Fees and charges for the use of the Facility and related equipment and amenities shall be established by the City Council from time to time pursuant to applicable city code provisions. Any and all applicable fees, charges and deposits shall be stated on every facility Use Agreement.

B. All facility use fees, charges and deposits shall be paid by certified check, bank draft or in such other manner as is deemed adequate by the Director. Any instrument used for payment shall be made payable to the "City of Peoria" and shall be deposited with the City finance director.

C. Unless otherwise specifically provided by a Facility Use Agreement, the fees, charges and deposits for the use of the facility shall include the use of the Stadium seating, field area and dressing rooms. Additional fees and charges shall be charges for special services or equipment required by User. All Users shall pay a clean-up deposit that shall be refunded if the User performs a cleanup of the Stadium, satisfactory to the Director, after the use for which the deposit has been made.

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D. The director shall determine the amount of deposit to be paid at the time a reservation is made, but in no event shall the deposit be less than 10% of the total use fees and charges. No reservation of the Facility shall be firm until a facilities use agreement is executed and the required deposit is made and the reservation may be released, at the discretion of the Director, at any time prior to both the execution and the deposit.

E. All deposits and rental payments shall be non-refundable, unless otherwise provided or in cases in which the City is unable to deliver possession of the Facility to the User.

Section 5. Concessions/Novelties/Retail Sales/Parking.

A. The City reserves all concession and novelties rights, other retail sales and parking fees to events held in the Facility for its own benefit, except as otherwise may be agreed in writing. Novelties shall be defined to include programs, records, tapes, souvenir items and other goods, whether related to a User's event or not all encompass all retail sales other than concessions, parking and event admission charges. Concession and parking operations for all events in the Facility will be conducted by a concessionaire or concessionaires selected by the City, as provided by law, unless otherwise agreed in writing. Users desiring to conduct their own novelties or parking sales and operations shall first secure a City of Peoria transaction privilege license, if such is otherwise required by the City Tax Code, and promptly pay all transaction privilege taxes due for such sales.

Section 6. Broadcasting Rights.

A. The City reserves all commercial broadcasting, television, recording and filming rights for its own benefit. Although to exercise these rights may be granted to a User, or another, by written agreement. There shall be no charge for releasing these rights in respect to legitimate news coverage of events.

Section 7. Box Office.

A. The City reserves the right to operate or contract out the box offices for all events in the Stadium under the supervision of the Director.

Section 8. Insurance/Indemnification.

A. Every Facility Use Agreement shall contain provisions that require the User to obtain comprehensive liability protection against bodily injury, death and property damage. The Director, may require certain other coverage, with the advice of the city attorney, when they are determined to be necessary to protect the interests of the public and the City, and shall set the amounts of all coverage, the combined limit of which shall not be less than three

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million dollars ($3,000,000.00). The certificate of insurance shall name the City of Peoria as an additional insured and the User's coverage shall be designated as primary.

B. Facility Use Agreements may contain specifications relating to acceptable insurance companies. A certificate of insurance or photo static copy of the policy providing the required coverage shall be filed in the office of the Director not less than ten (10) days prior to the event. The User shall not be entitled to use the Facility under the Facility Use Agreement until compliance with all insurance provisions.

Section 9. Prohibitions.

A. No one shall bring, exhibit or set off fireworks or explosives in or about the Facility premises without the written consent of the Director.

B. No event or act shall be permitted in or about the Facility which would require structural modification of the Stadium or other buildings at the Facility, would cause damage to the Facility or and of the turf areas, or, in the judgement of the Director, create a substantial risk or serious harm to performers, participants or attendees of an event held at the Facility, unless appropriate measures are taken to protect the Stadium, the turf areas or other portions of the Facility as approved in advance by the Director.

C. No stakes, pegs, pipes or other such devices shall be driven into the Facility field.

D. No digging, drilling or trenching will be allowed on the Stadium field without the express written permission of the Director.

E. No trucks, cranes or trailers will be allowed on the Stadium field without the use of appropriate planking approved by the Director.

F. No fires of any kind will be allowed on the Stadium field.

G. No one shall be permitted to enter any area not permitted by the Facility Use Agreement or applicable use document.

Section 10. Damage to Facility.

A. The User shall be responsible for any and all damage to the Facility and other buildings, furnishings, fixtures or equipment sustained from use of the Facility, whether caused by: the User, its agents or employees; persons performing in the Facility, their agents and employees; or members of the public. The User shall not be responsible for damage constituting ordinary wear and tear, or the acts of the City, its agents or employees.

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B. All Users shall abide by all governmental rules, regulations, statutes, laws, ordinances, orders or decrees, specifically all environmental rules, relating to any hazardous substances, releases or spills as such may be defined by any federal, state or local governmental entity or as related to or imposing standards of conduct concerning any hazardous, toxic or dangerous waste. Users found in violation of such rules, regulations, statutes, laws, ordinances, orders or decrees shall be liable for all costs of discovery, cleanup, disposal, and other losses and liabilities, penalties, and damages, including all injuries, costs, expenses and claims, and all reasonable attorneys fees incurred as a direct or indirect result of Users actions. Further, to the extent that the City is required to pay for any of the above, the violating User shall indemnify the City in full.

C. The City may require cash deposits or other forms of security, in addition to required insurance, to protect against damage of the facility.

Section 11. Signs, Posters, and Literature.

A. Signs may only be posted on billboards and in areas provided for such use and are subject to prior written approval by the Director. All signs, advertisements, show cards and posters must relate to the performance or exhibition to be given on the premises. The hanging of pictures, banners, or any other items requires prior written approval of the Director.

B. The User shall not distribute or circulate any advertising matter or programs at the entrance to or on any part of the premises that does not pertain completely to the immediate attraction. Such material must have prior approval of the Director and at no time shall any such advertising matter or programs be distributed or circulated on parking facilities or sidewalks adjacent to the parking facilities.

C. Circulation of political circulars and advertisements by Users or others shall be prohibited unless previously approved by the City Attorneys Offices.

Section 12. Facility Capacity.

A. The capacity of the Facility for various types of events shall be established by the City Fire Marshall, in consultation with the Director. No persons in excess of the established capacity shall be permitted to enter the Facility.

Section 13. Assignment.

A. No User shall assign any Facility Use Agreement, or any rights or duties to another without prior written approval of the Director.

Section 14. Alteration of Premises.

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A. Each User shall take the premises in the condition in which they are found. In the event that any User finds is necessary to remove or change the location of any equipment, such changes shall be made only with the written approval of the Director and they shall be at the User's expense. The User shall return all such equipment to its original location, in the condition it was found, at the end of an authorized use, unless otherwise directed by or agreed to by the general manager.

Section 15. Performance or Persons.

A. Any use of the facilities which is contrary to established community standards, contrary to public policy or not in the best interest of the City of Peoria, or in violation of any laws of the State of Arizona, Maricopa County or the City of Peoria shall be grounds for immediate termination of the Facility Use Agreement or other document authorizing use. Any performer or any persons whose conduct is disorderly or disruptive to Facility use, or in violation of any law shall be refused entrance or shall be immediately ejected from the premises. The User shall hold the City harmless and pay the City from any claim resulting from such action.

Section 16. Sound Decibel Policy.

A. During any musical event at the Peoria Sports Complex that will result, in the judgement of the City, in unusually high sound decibel, sound decibel level readings will be taken throughout the event. Measurements will be made on three (3) minute averages, with the maximum permissible level of 75 dB at the property line. The first violation above the maximum permissible level of 75 dB will result in a warning. The second and third violations above the maximum permissible level of 75 dB will result in a fine of Two Thousand Five Hundred Dollars ($2,500) for each violation. The fourth and fifth violations above the maximum permissible level of 75 dB will result in a fine of Five Thousand Dollars ($5,000) for each violation. The sixth and subsequent violation above the maximum permissible level of 75 dB will result in a fine of Ten Thousand Dollars ($10,000) for each violation. An independent company will monitor the sound decibel levels during the event and the cost to measure the sound decibel levels will be part of the production costs of the event.

Section 17. Event Conclusion Policy.

A. Musical Events at the Peoria Sports Complex shall be concluded at the time provided for in the Agreement between the City and the Licensee. Conclusion of the event is the termination of all entertainment performances and direction to the patrons attending that the complex is now closed and they should proceed to exit the facility. The Licensee shall have a five (5) minute grace period (the "Grace Period") after the designated ending time to conclude the event. For any event, which continues past the Grace Period, a penalty shall be

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imposed in accordance with this policy. For the first (5) minutes, or any fraction thereof following the Grace Period, a fine of Five Thousand Dollars ($5,000) shall be imposed. For each subsequent five-minute period or any fraction thereof an additional fine of Ten Thousand Dollars ($10,000) shall be imposed. All such fines shall be deducted from the proceeds paid to the promoter of the musical event.

Section 18. Control of Premises.

A. All facilities shall at all times be under the control of the Director. The Director, police, fire, public safety personnel and such other persons as may be authorized by the Director shall have the right to enter the Facility at any time for purpose related to the protection of the Facility, the health and welfare of those using the Facility or attending events, or to insure that the terms of any Facility Use Agreement are being performed.

Section 19. Entrance and Exit.

A. All persons, articles, exhibits, fixtures, displays and other equipment shall be brought into and out of the Facility only at entrances and exits designated by the Director. Automobile traffic or parking in areas on the premises not designated for that purpose shall require prior approval of the Director.

Section 20. Liability for User Property.

A. The City, its officials, agents or employees, shall not be liable for any loss, damage or injury to property of any kind that is shipped or otherwise delivered to or stored in or on the Facility premises. Properties shall not be received unless the User has made proper arrangements for receiving, handling, and storage of such material.

Section 21. Lost or Misplaced Articles; Abandoned Equipment.

A. The City shall have the sole right to collect and have the custody of articles left on the premises by those attending Facility events and others, and to provide for the disposition of such articles. Found articles of obvious value shall be held by the Director for thirty (30) days and, if unclaimed after that period of time, disposed of by the Director as provided by law, or as otherwise deemed advisable.

B. Any equipment remaining on or about the Facility following a completed use and unclaimed for more than ten (10) days after the expiration of the facilities use agreement shall be deemed abandoned and disposed of by the Director as deems advisable.

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C. The City shall not be liable for any losses suffered by the use, agents, servants or employees in which are occasioned by theft or disappearance of equipment, articles or other personal property occur.

Section 22. Permits and Licenses.

A. The User shall be responsible for obtaining any additional permits, licenses or permissions that are required by state laws or City ordinances and shall permit inspection of them by the operations manager and representatives of appropriate City departments, including the fire department and the revenue and cash management department.

Section 23. Security and Safety Personnel; City Staff Attendants.

A. The User shall employ, at its sole expense, such security and safety personnel as are deemed necessary by the Community Services Department. The employment of security and safety personnel are likewise subject to the approval of the Director and the Chief of Police in respect to their ability to provide the required services in a professional and competent manner.

1. The City reserves the right through its Chief of Police and Community Services Director to require the employment of one or more Arizona certified peace officers to assist in the provision of security. In such event, User shall use best efforts to use Arizona certified peace officers employed by the City of Peoria, Arizona without regard to the cost of such peace officers. User may only use non City of Peoria, Arizona certified peace officers when advised by the Chief of Police or his designee that such officers are not available.

B. The User shall also provide, at its sole expense, such City staff attendants as may be deemed necessary by the Director to perform City functions at the User's event. Each event shall have at least one (1) City staff attendant.

C. Facility equipment must be operated by Facility personnel or personnel approved by the Director and other support equipment provided by User or its contractors shall be subject to the inspection and approval of the Community Services Department and other appropriate City department prior to its use.

As for the use of director, that is implied by the designation of the department, it will be up to the department director to determine what the level of discretion is under the ordinance. We need to include the additional police language, this is essentially agreed on by the City and PPOA.

Section 24. Laws, Rules, and Regulations.

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A. All Users of the facilities shall comply with all laws of the State of Arizona and with all ordinances of the City of Peoria, including these Rules and Regulations. Violations may result in cancellation of the contract and discontinuance of use of the facilities unless compliance is assured to the satisfaction of the Director.

Section 25. Advertising/Disclosure Requirements.

A. All advertisement of performances and/or attractions, for which an admission is to be charged, must state the total admission prices. A prospective User shall use its best efforts to specify the identities of all performers and entertainers prior to the execution of a Facility Use Agreement. In the event that a Facility Use Agreement is executed without full disclosure of all performers and entertainers and the City objects to any of the entertainers or performers later identified, then the City shall, in its sole discretion, have the right to cancel the Facility Use Agreement without any penalties or damages, including, but not limited to any costs expended by the User in advertising for the proposed use.

Section 26. Solicitations.

A. No collections or donations, whether for charity or otherwise, shall be made, attempted or announced on or about the Facility premises, without the prior written approval of the Director.

Section 27. Copyright Infringement.

A. A User shall accept all responsibility for assuring compliance with any and all copyright laws, and shall be responsible for any liability or expense arising out of the use of any composition, work or material covered by copyright. The User shall hold harmless, pay, indemnify and defend the City from any claims, demands or expenses arising from the alleged violation of copyright laws for which the User, its employees or agents are responsible.

Section 28. Additional or Unspecified Items.

A. The City of Peoria reserves the right to impose any additional rules or regulations, terms or conditions, or to set special rental and use arrangements, whether or not expressly provided for in these rules and regulations, when it is necessary to do so in the best interest of the City in the operation of the Facility.

Section 29. Revocation.

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A. The City shall be entitled to seek any and all remedies which may be available to it in law or equity, or any combination of remedies, to enforce any facilities use agreement or to protect the City's interests in the Facility, and shall be entitled to attorney's fees and costs of any litigation. By accepting the terms and conditions of a Facility Use Agreement, a User agrees that the City shall not be liable to prosecution or for damages in the event that the City declares the User in default.

B. Any Facility Use Agreement which conflicts with the use of the Facility by the San Diego Padres or the Seattle Mariners may be canceled at any time by the City upon 30 calendar days notice from the Director unless such cancellation results from an extension of the normal Spring Training Season established by Major League Baseball. Further, the City may cancel any Facility Use Agreement if such cancellation is necessary for the City to repair, maintain or improve the Facility as required by the City's agreements with the San Diego Padres or the Seattle Mariners, or as otherwise needed. Upon cancellation, all fees and deposits previously remitted to the City shall be refunded to the User, however, the City shall not be responsible for and consequential and incidental damages ensuing from such.

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EXHIBIT A

Agreement Number: **A11-023**

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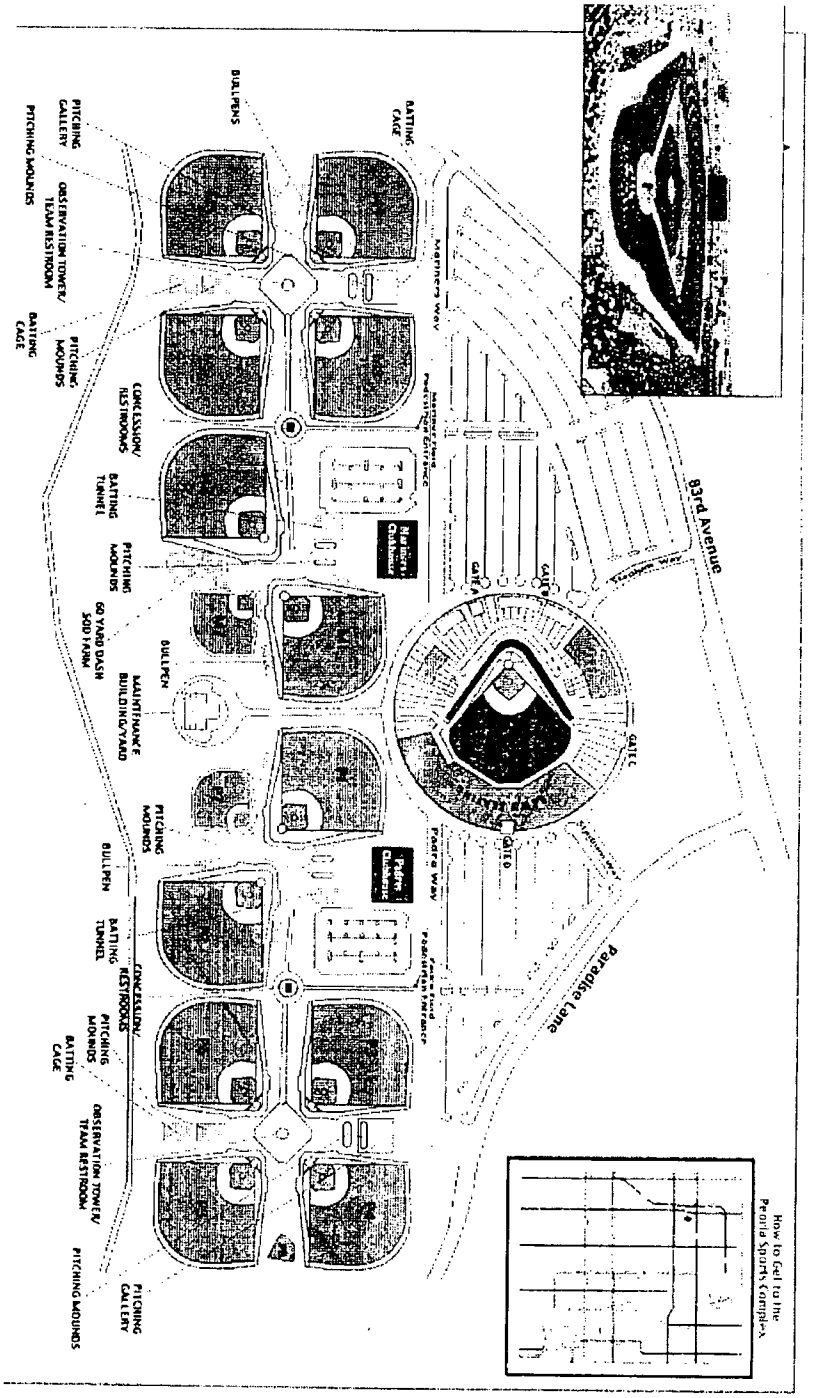

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EXHIBIT B

Agreement Number: **A11-023**

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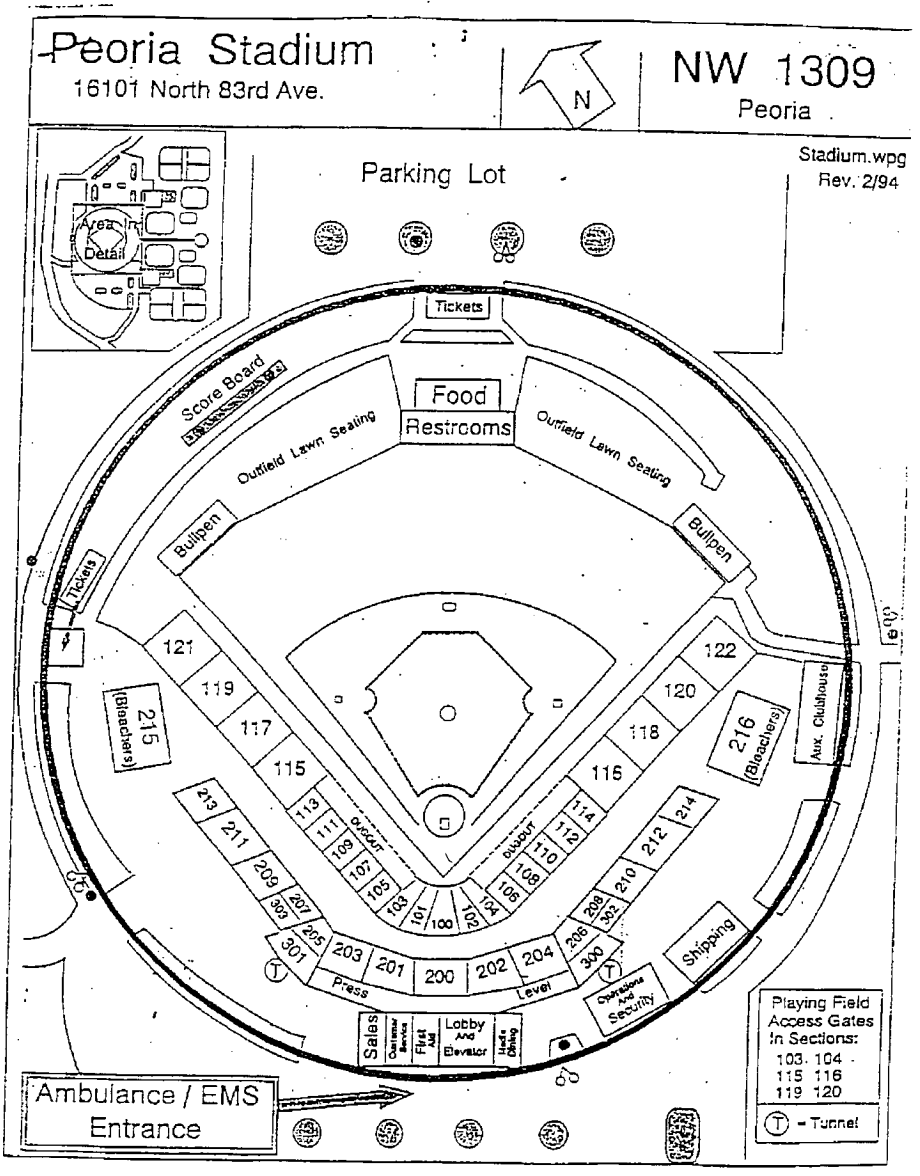

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CERTIFICATE OF INSURANCE

Issue Date (MM/DD/YY) INT
1/6/2010 9:19:52 AM

PRODUCER

SADLER & COMPANY, INC.
P.O. BOX 5866
COLUMBIA, SOUTH CAROLINA 29250-5866
(800) 622-7370
EMAIL: amateur@sadlersports.com

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED
SPORTS LEISURE & ENTERTAINMENT RPG d/b/a
Arizona Sports Officials Association / Arizona Amateur Baseball League
c/o Brian Kreps
5160 W. Glenview place
Chandler, AZ 85226

COMPANIES AFFORDING COVERAGE

COMPANY LETTER	
A	Nationwide Mutual Insurance Company
B	

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	General Liability ☑ Commercial General Liability ☐ Claims Made ☑ Occurrence ☐ Owners & Contractors Protection	RPG44735	9:12:17AM ET 01/06/2010	12:01 AM ET 01/06/2011	General Aggregate	$4,000,000
					Products - Comps Ops Aggregate	$2,000,000
					Personal & Advertising Injury	$2,000,000
					Each Occurrence	$2,000,000
					Fire Damage (Any one fire)	$300,000
					Medical Expenses (Any one person)	$5,000
					Participant Legal Liability	$2,000,000
A	Participant Accident ($100 deductible per claim)	RPG44735	9:12:17AM ET 01/06/2010	12:01 AM ET 01/06/2011	Excess Medical including dental	$100,000
					AD&D	NA
					Weekly Indemnity	X

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS

With Respect to the General Liability, the Certificate Holder is added as an Additional Insured solely in its capacity as a property owner or sponsor, but only with respect to liability arising out of the insured's operations. This insurance does not apply to the sole negligence of the Additional Insured.

CERTIFICATE HOLDER

Property Owner

City of Peoria
8401 W Monroe
Peoria, AZ 85345

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATIONS OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE
(Company A)

Amateur