



8/1/2023
City Council Regular Meeting

**Handouts received after
agenda posted**



OTIS TOLBERT

9-11 MEMORIAL GOLF TOURNAMENT

SATURDAY, SEPTEMBER 9TH, 2023
LEMOORE GOLF COURSE
350 IONA AVENUE - LEMOORE, CA

CHECK-IN TIME: 7:00AM
SHOT GUN START: 8:00AM



REGISTRATION
\$125/PERSON
\$500/TEAM

***PRICE INCLUDES: Tournament Entry, Cart,
Range Balls, Swag Bag, and Lunch***

For additional information, please email tolbert911golf@gmail.com
Or call/text Rick Krick (559) 904-5610 or Diane Badasci (559) 924-3633

All proceeds will benefit the Otis Vincent Tolbert 9-11 Memorial Scholarship Fund - Tax I.D. #77-0502708



OTIS TOLBERT

9-11 MEMORIAL GOLF TOURNAMENT

Saturday, September 9, 2023

Check-In Time: 7:00am Shot Gun Start: 8:00am

Location: Lemoore Golf Course - 350 Iona Avenue - Lemoore, CA

\$125 Per Person – 4 Man Scramble/\$500 per team

Includes: Tournament Entry, Cart & Range Balls, Swag Bag and Lunch

Contests - Prizes to Top Three Teams

Opportunities to Donate Raffle Prizes and Sponsor a Hole

LCDR Otis V. Tolbert, USN graduated from Lemoore High School Class of 1980,

he lost his life in The Pentagon on September 11, 2001

For additional information, please email tolbert911golf@gmail.com

Or call/text Rick Krick (559) 904-5610 or Diane Badasci (559) 924-3633

All proceeds will benefit the Otis Vincent Tolbert 9-11 Memorial Scholarship Fund - Tax I.D. #77-0502708

Make all checks payable to: Diane Badasci – memo Otis Tolbert Scholarship

We also accept Cash – Venmo – Zelle

**Mail to: Diane Badasci
952 Boxwood Ln
Lemoore, CA 93245**

On behalf of the LCDR Otis V. Tolbert Memorial Scholarship Fund Committee, THANK YOU for helping make a difference in the life of a Lemoore High School student and honoring Otis Tolbert's legacy.



OTIS TOLBERT

9-11 MEMORIAL GOLF TOURNAMENT

Dear Golfers,

On **Saturday, September 9, 2023**, the LCDR Otis V. Tolbert Fourth Annual 9-11 Memorial Golf Tournament will be held at Lemoore Golf Course. This event was established to help sustain scholarships for Lemoore High School students.

Otis moved to Lemoore in 1966. He graduated from Lemoore High School in 1980, where he excelled in football, track and field and playing the Tuba in the LHS Band. He earned a football scholarship to Fresno State. At Fresno State, Otis was a full-back for the Fresno State Bulldogs and earned a degree in Criminal Justice. He was commissioned an Ensign at Officer's Candidate School in 1989. Because of his hard work and dedication, he was hand picked to serve as the Chief of Naval Operations Intelligence Plot Staff. On September 11, 2001, he was the Assistant Officer in Charge at the Pentagon. On that day, Otis along with 124 brave Navy, Army and Civilian personnel were killed by terrorists attacks on America.

Please consider making a gift today in support of this special event. All proceeds go to the scholarship fund. Items for a raffle would also be greatly appreciated and beneficial to the success of the event. There is also the opportunity to sponsor a hole. One sign \$100, two signs \$175, three signs \$225 or four signs for \$250. This will include your name and/or business name, phone number and/or email on the hole/putting green/or entrance for all the players to see. We encourage golf teams to sponsor. All donations are tax deductible. **Tax ID#77-0502708.**

We would like to play in the Otis Tolbert Fourth Annual 9-11 Memorial Golf Tournament.

FREE MULLIGANS IF YOU PAY BY: August 1 – 4, August 11 – 3, August 18 – 2, September 1 – 1 (**all per team**)

Contact Name: _____ Phone or email _____

Players Name: _____ Phone: _____ \$125.00

Players Name: _____ Phone: _____ \$125.00

Players Name: _____ Phone: _____ \$125.00

Players Name: _____ Phone: _____ \$125.00

Make all checks payable to: Diane Badasci – memo Otis Tolbert Scholarship

We also accept Cash – Venmo – Zelle

Mail to: Diane Badasci
952 Boxwood Ln
Lemoore, CA 93245

On behalf of the LCDR Otis V. Tolbert 9-11 Memorial Scholarship Fund Committee, THANK YOU for helping make a difference in the life of a Lemoore High School student and honoring Otis Tolbert's legacy. For additional information, please email: tolbert911golf@gmail.com



OTIS TOLBERT

9-11 MEMORIAL GOLF TOURNAMENT

Dear Sponsors,

On **Saturday, September 9, 2023**, the LCDR Otis V. Tolbert Fourth Annual 9-11 Memorial Golf Tournament will be held at Lemoore Golf Course. This event was established to help sustain scholarships for Lemoore High School students.

Otis moved to Lemoore in 1966. He graduated from Lemoore High School in 1980, where he excelled in football, track and field and playing the Tuba in the LHS band. He earned a football scholarship to Fresno State. At Fresno State, Otis was a full-back for the Fresno State Bulldogs and earned a degree in Criminal Justice. He was commissioned an Ensign at Officer's Candidate School in 1989. Because of his hard work and dedication, he was hand picked to serve as the Chief of Naval Operations Intelligence Plot Staff. On September 11, 2001, he was the Assistant Officer in Charge at the Pentagon. On that day, Otis along with 124 brave Navy, Army and Civilian personnel were killed by terrorists attacks on America.

Please consider making a gift today in support of this special event. All proceeds go to the scholarship fund. Items for a raffle would also be greatly appreciated and beneficial to the success of the event. There is also the opportunity to sponsor a hole. One sign \$100, two signs \$175, three signs \$225 or four signs for \$250. This will include your name and/or business name, phone number and/or email on the hole/putting green/or entrance for all the players to see. All donations are tax deductible. **Tax ID#77-0502708**.

We would like to make a donation or provide a raffle prize. \$ _____

Contact Name: _____

Phone Number: _____ Email: _____

Information for signs:

Make all checks payable to: Diane Badasci – memo Otis Tolbert Scholarship

We also accept Cash – Venmo – Zelle

Mail to: Diane Badasci
952 Boxwood Ln
Lemoore, CA 93245

On behalf of the LCDR Otis V. Tolbert 9-11 Memorial Scholarship Fund Committee, THANK YOU for helping make a difference in the life of a Lemoore High School student and honoring Otis Tolbert's legacy. For additional information, please email: tolbert911golf@gmail.com or call/text Rick Krick (559) 904-5610 or Diane Badasci (559) 924-3633.

**LEASE AGREEMENT
BETWEEN THE CITY OF LEMOORE
AND
LEMOORE YOUTH SOCCER LEAGUE (LYSL)**

This LEASE AGREEMENT is made and entered into this 1st day of August, 2023 (“Effective Date”), by and between City of Lemoore, a Municipal Corporation (“City”), and Lemoore Youth Soccer League (“Association”). City and Association may be referred to hereinafter individually as a “Party” or collectively as the “Parties”.

RECITALS

WHEREAS, City is the owner of certain real property commonly known as the Lemoore Sportsplex and the Lemoore Sports Complex, which includes a parking lot, thirteen (13) soccer fields, a concession stand, and restroom facilities identified in Exhibit A attached hereto and incorporated by reference (“Field”); and

WHEREAS, the Parties agree that it is in their mutual interest and the interest of the community that the City leases the Field to the Association under the terms and conditions set forth herein.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual covenants and promises contained herein, the Parties hereto AGREE as follows:

1. AGREEMENT TO LEASE. Subject to the terms of this Agreement, City hereby leases the Field to the Association.
2. TERM. The term of this Agreement (“Term”) shall be for a period of five (5) years commencing on the Effective Date of this Agreement. Subject to City’s approval, this Agreement may be renewed after the expiration of the Term for one (1) successive period of five (5) years, subject to the terms and provisions of section 3, below. If Association elects to renew this Agreement, it shall provide City with written notice no later than ninety (90) days prior to expiration of the Term.
3. FEES.
 - a. As consideration for this Agreement, Association shall pay to the City the sum of four thousand dollars (\$4,000.00) for the first year of this Agreement. Thereafter, the fee will be increased by five percent (5%) over the prior year’s fee. The first payment shall be due upon the Effective Date of this Agreement. Fees for subsequent years shall be due by the fifteenth (15th) day of July and may be paid in advance.
 - b. In the event Association renews this Agreement pursuant to section 2, above, fees

shall be subject to renegotiation.

4. USE.

- a. During regular league activities, beginning the first day of August and continuing through the second weekend in November, the Association shall have use of the Field on Mondays through Thursdays from 3:00 p.m. until 9:00 p.m. and Saturdays from 5:00 a.m. until 9:00 p.m.
- b. Subject to City approval, District 7 league activities will be available to Association on Sundays with thirty (30) days written notice.
- c. Association and/or City, as mutually agreed, shall be responsible for activating and deactivating Field lights. Association shall be charged ten dollars (\$10.00) per hour per soccer field for light use outside of the prescribed times of use. Per hour pricing may be adjusted to comport with the City's Master User Fee Schedule.
- d. Association shall submit a schedule of proposed use for upcoming years by May 31st of the preceding year. The schedule of proposed use will be subject to the priority of usage in section 5 of this Agreement and may be adjusted monthly as the needs of the Parties dictate. City shall make all reasonable effort to limit the scheduling of activities during times when Association has primary use of the Field. City shall not schedule non-City public usage unless such can be accomplished in a manner so as not to unreasonably interfere with Association's use.
- e. Association shall provide adequate supervision and crowd control at all scheduled activities to ensure protection of Field. Adequacy of supervision and crowd control shall be determined by the City. An Association board member must be present at Field while games are in progress.
- f. Subject to availability and City's approval, Association shall have primary use of the Field for three (3) weekends per calendar year for tournament play or league activities, provided Association gives the City three (3) months advance written notice of the dates requested.
- g. The Field will only be scheduled as a youth sports, teen, special event or collegiate venue and City will not operate a Lemoore Parks and Recreation Youth Soccer Program so long as there is at least one established outdoor soccer league in the City of Lemoore.
- h. Association acknowledges that City and/or City authorized users shall be permitted to access and use the Field as reasonably necessary at all times, including times designated for Association use.
- i. City permits the Association to charge for parking or admission to the Field during those times when regular season or post season play are actively occurring. Association shall not collect parking or admission fees during times when City or

City organized public usage occurs concurrently with Association use.

- j. Association shall not use the Field for any other purpose(s) not directly connected with the operation of Association's soccer related activities.
 - k. City reserves the right to cancel any scheduled Association use due to adverse weather conditions that could endanger participants. Representatives from the City and Association will make reasonable efforts to meet prior to an event to assess the conditions of the Field and determine if cancellation or some other action is required. The final decision to cancel an event shall be made by the City's Community Services Manager or their designee.
 - l. Upon expiration and/or termination of this Agreement, Association shall return the Field to its original condition, allowing for reasonable and normal wear.
5. PRIORITY OF USAGE. Use of Field shall be provided based on the following priorities:
- a. Priority 1:
 - i. Facility lease agreements with organizations that have had consistent and historical use of the Field, including, but not limited to, the Lemoore Youth Softball Association and Lemoore Youth Soccer League; and
 - ii. City activities and programs.
 - b. Priority 2:
 - i. Lemoore resident, youth programs, youth non-profit organizations or youth leagues not associated with Association or the City.
 - c. Priority 3:
 - i. Other scheduled organized public usage, including but not limited to activities sponsored by civic and non-profit organizations or such activities as company picnics and/or family gatherings. Priority 3 rentals may include rentals outside of the City of Lemoore. No adult leagues or teams are permitted.

6. CONCESSION STAND.

- a. The Association is exclusively responsible for the operation of the concession stand and its contents, including, but not limited to, all concession stand equipment, appliances, utensils, and any other item necessary for operation.
- b. All equipment, including, but not limited to, the ice machine, refrigerator, and concession items will be maintained and serviced by the Association, and

Association will be responsible for all repairs. City will not be responsible for any damage, service, maintenance and/or repair costs.

- c. The Association bears full responsibility for directing and controlling all volunteers and/or employees utilized during Association's concession stand operations.
 - d. Association shall be responsible for all direct utility costs associated with operating the concession stand.
 - e. Association shall comply with all applicable permits and requirements as set forth by the City, Kings County Health and Human Services Agency and any other applicable law or regulation.
 - f. City shall set forth minimum standards for all vendors performing, selling or providing products and services at the Field. Vendors and contractors shall name the City of Lemoore as an additional insured and proof of insurance must be provided to the City ten (10) days in advance of vendor's services.
7. RESTROOMS. During periods of scheduled use by Association, City shall be responsible for the toiletry supply and routine cleaning of restrooms. For purposes of this Agreement, routine cleaning shall consist of one (1) service on Monday and Friday of each week.
8. STORAGE. Association shall be allowed to maintain storage/maintenance areas, including storage containers (i.e., sea train containers) on the Field. The City is not responsible for any damage and/or theft to Association property while stored at the Field. City will not be responsible for any associated service, maintenance and/or repair costs. Association shall maintain its storage and/or maintenance areas in a manner acceptable to City.
9. ASSOCIATION MAINTENANCE AND REPAIR OF FIELD.
- a. Except for the items identified in section 10 of this Agreement, Association shall assume responsibility for all maintenance, damage, repair and upkeep of the Field during Association use.
 - b. Association shall notify City of any damage to the Field within forty-eight (48) hours of finding the damage. City shall determine, in its sole discretion, the Party responsible for repair of the damage or replacement of the damaged item and determine the manner in which repair or replacement is to be performed.
 - c. The Association shall be responsible for preparation of the playing fields (i.e., field lines, corner flags, goals, etc.) prior to games and may access the Field as reasonably necessary during the calendar year to perform maintenance related items or projects.

- d. Association shall remove all litter and other debris on or about the Field caused by the participants and spectators during Association's use of the Field. Association will be responsible for the cost of any additional dumpsters and must schedule additional dumpsters through the City's Utility Division.
- e. Association shall be responsible for any repair or maintenance required due to vandalism of and/or graffiti on Association equipment and structures. Graffiti removal shall be completed in accordance with the current City ordinance governing graffiti removal.

10. CITY MAINTENANCE AND REPAIR OF FIELD.

- a. City shall be responsible for regular maintenance of all fixed assets and grounds, including maintenance of the irrigation system, mowing, fertilizing, weed abatement, and gopher/rodent control.
- b. City shall be responsible for major structural repairs and/or capital improvements to the Field which are the subject of this Agreement. City shall have the sole discretion in determining what constitutes major structural and/or capital improvements.

11. ALTERATIONS TO THE FIELD. Except as otherwise provided in section 9 of this Agreement, Association shall make no alterations, improvements, or modifications to the Field without the prior written consent of City. Any such alterations, improvements or modifications to the Field shall become the sole and exclusive property of City upon completion of the alterations, improvements or modifications. If the City elects to require the Association to remove any alteration, improvements or modifications, Association shall do so and return the Field to its original condition, allowing for reasonable and normal wear.

12. SIGNAGE. Should Association desire to place signage on or about the Field, such signage and its location shall be subject to City's prior written approval, which approval shall not be unreasonably withheld. Association at its sole cost and expense shall also comply with all applicable laws related to such signage.

13. LIENS AND ENCUMBRANCES. At no cost to City, Association shall keep the Field free from any liens or encumbrances arising out of any work performed, materials furnished or obligations incurred by Association. Association shall promptly pay all claims for labor or materials furnished and indemnify City for any such claims which are alleged to have been furnished to or for Association at or for use in the Field, which claims are or may be secured by any mechanics' or materialmen's lien against the Field or any interest therein. City may record, post, and maintain notices of non-responsibility in and on the Field.

14. HAZARDOUS MATERIALS. Association shall not use, maintain, or keep any Hazardous

Materials, other than ordinary cleaning supplies and waste, on or in the Field without City's prior written approval. Association shall promptly give notice to City of any Hazardous Materials dispersal or spill, or Hazardous Materials claim, of which it is aware. Association shall indemnify and hold City harmless from any and all claims, costs, damages, penalties or liabilities arising out of Association's use or release of any Hazardous Materials at, in or on the Field. This provision does not apply to existing Hazardous Materials or Hazardous Materials which are introduced to the Field by City. The foregoing indemnification obligation shall survive the expiration or earlier termination of this Agreement. The term "Hazardous Materials" as used in this Agreement shall mean any products, substances, chemical, material or waste whose presence, nature, quantity and/or intensity of existence, use, manufacture, disposal, transportation, spill, release or effect, either by itself or in combination with other materials expected to be on the premises, is either (a) potentially injurious to the public health, safety or welfare and environment of the premises, (b) regulated or monitored by any governmental authority, or (c) a basis for liability of City to any governmental agency or third party under any applicable statute or common law theory. Hazardous Materials shall include, but not be limited to, hydrocarbons, MTBE, petroleum, gasoline, crude oil, or any products, by-products, or fractions thereof.

15. TERMINATION. In addition to any other provision in this Agreement, this Agreement may be terminated upon the following:

- a. This Agreement shall terminate automatically if either party fails to remedy any breach of any term or condition of this Agreement within thirty (30) days after receiving written demand from the other Party to do so. If either Party is making good-faith efforts to eliminate any such breach or default, the period for correction shall be extended for such length of time as is reasonably necessary to remedy the breach.
- b. City may terminate this Agreement with or without cause upon sixty (60) days' prior written notice to the Association.

16. INSURANCE. At no cost to City, Association will procure and maintain the following insurance policies throughout the Term of this Agreement and name the City as additional insured.

- a. Comprehensive general liability insurance in an amount not less than one million dollars (\$1,000,000.00) per occurrence for each bodily injury, property damage, and personal injury arising out of Association's alleged or actual omission, act or negligence in the performance or failure to perform its obligations under this Agreement. The insurance will also include, but not be limited to, premises and operations liability, and independent contractors' liability.
- b. City, its officers, agents and employees, shall be named as additional insureds on

the above policies by separate endorsement with coverage at least as broad as ISO form CG 20 10 or CG 20 26. The insurance carried by Association is primary to any insurance policies maintained by City, and no insurance held or owned by City will be called upon to contribute to a loss covered without reservation by Association's policies. Association's insurance policy will not be canceled or materially changed without first giving thirty (30) calendar days' prior written notice to City. Neither the existence of any of the insurance coverages required under this Agreement nor the minimum coverage limits specified herein with respect to any such coverage shall be deemed to limit or restrict in any way Association's indemnification obligations under this Agreement. Insurance coverages required under this Agreement shall be provided under either: (i) valid and enforceable policies issued by insurance companies legally authorized to do business in the State of California; or (ii) a program of self-insurance meeting all requirements of California law applicable to insurance coverage of that nature. Prior to accessing or using the Field, Association shall deliver to City properly executed certificates of insurance clearly evidencing all coverages, limits, and endorsements required above in this Agreement.

- c. If, at any time, Association employs any person(s), Association shall, at Association's sole cost and expense, keep or cause to be kept in force workers' compensation insurance with statutory limits and employer's liability insurance with limits of not less than one million dollars (\$1,000,000.00) per accident.
17. INDEMNIFICATION. Association agrees to indemnify, defend and hold City, its officers, employees and agents, harmless from and against any and all actions, claims, damages, disabilities or expenses, including attorneys' fees and costs through trial and on appeal, that may be asserted by any person or entity, arising out of or in connection with this Agreement, use of the Field during the Association's right to use the Field, or the tortious acts, errors, or omissions of a Party, its officers, agents, employees, participants, volunteers, and/or invitees, whether or not there is concurrent passive or active negligence on the part of such Party, but excluding liability to extent caused by the negligence or willful misconduct of the other Party. This indemnification obligation shall survive the expiration or earlier termination of this Agreement.
 18. DISCRIMINATION. Association for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that no person on the grounds of race, color, sex, disability, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of Field.
 19. ASSIGNMENT. This Agreement, the terms and conditions herein and rights and privileges herein are personal to Association and are not assignable without the prior written consent of City.
 20. TAXES AND ASSESSMENTS. This Agreement may result in a taxable possessory interest and subject the Association to payment of property taxes. Association shall pay

all taxes and assessments of any kind assessed or levied upon Association for the leased premises by reason of this Agreement or of any improvements upon or in connection with this Agreement or the leased premises.

21. NO WAIVER. The failure by either Party to enforce any term or provision of this Agreement shall not constitute a waiver of that term or provision, or any other term or provision. No waiver by either Party of any term or provision of this Agreement shall be deemed or shall constitute a waiver of any other provision of this Agreement, nor shall any waiver constitute a continuing waiver unless otherwise expressly provided in writing.
22. NOTICE. Any notice required or permitted to be given under the terms of this Agreement shall be mailed by certified mail, with return receipt requested, or personally delivered to the Party to whom such notice is required or permitted to be given hereunder. If mailed, any such notice shall be deemed to have been given three (3) days after deposit in the United States mail. If delivered personally, any such notice shall be deemed to have been given when received by the Party to whom notice is given. *Any notice to City shall be addressed as follows:* City of Lemoore Parks and Recreation Department, 711 West Cinnamon Drive, Lemoore, California 93245. *Any notice to Association shall be addressed as follows:* Lemoore Youth Soccer League, [ADDRESS]. Any change in the above addresses shall be promptly provided to the other Party.
23. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between and City and Association concerning the subject matter hereof. Any modification, waiver or amendment to this Agreement must be in writing signed by both Parties and approved by the governing body of each Party.
24. SEVERABILITY. In the event that one or more of the provisions of this Agreement shall, for any reason, be held to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any of the other provisions of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.
25. TITLES AND HEADINGS. The titles and headings herein are for reference purposes only and shall not limit or define the meaning of the provisions of this Agreement nor shall they be used to interpret or construe the terms and conditions of this Agreement.
26. APPLICABLE LAW. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California. The state courts of the County of Kings shall be the exclusive venue for any litigation arising in any way from this Agreement.
27. COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which, taken together, shall constitute one and the same Agreement. A copy, original or facsimile with all signatures appended together shall be deemed a fully executed Agreement.

28. WARRANTY OF AUTHORITY. Each person below warrants and guarantees that s/he is legally authorized to execute this Agreement on behalf of the designated entity and that such execution shall bind the designated entity to the terms of this Agreement.

IN WITNESS WHEREOF, the undersigned have entered into this Agreement as of the Effective Date first set forth above.

LEMOORE YOUTH SOCCER LEAGUE

CITY OF LEMOORE

LYSL Board President

Date

Nathan Olson, City Manager

Date

ATTEST:

APPROVED AS TO FORM:

LYSL Board Member

Date

Mary Lerner, City Attorney

Date

**LEASE AGREEMENT
BETWEEN THE CITY OF LEMOORE
AND
LEMOORE YOUTH SOFTBALL ASSOCIATION (LYSA)**

This LEASE AGREEMENT is made and entered into this 1st day of August 2023 (“Effective Date”), by and between City of Lemoore, a Municipal Corporation (“City”), and Lemoore Youth Softball Association (“Association”). City and Association may be referred to hereinafter individually as a “Party” or collectively as the “Parties”.

RECITALS

WHEREAS, City is the owner of certain real property commonly known as the Lemoore Sportsplex and the Lemoore Sports Complex, which includes a parking lot, six (6) softball fields, a concession stand, and restroom facilities identified in Exhibit A attached hereto and incorporated by reference (“Field”);

WHEREAS, the Parties agree that it is in their mutual interest and the interest of the community that the City leases the Field to the Association under the terms and conditions set forth herein;

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual covenants and promises contained herein, the Parties hereto AGREE as follows:

1. AGREEMENT TO LEASE. Subject to the terms of this Agreement, City hereby leases the Field to the Association.
2. TERM. The term of this Agreement (“Term”) shall be for a period of five (5) years commencing on the Effective Date of this Agreement. Subject to City’s approval, this Agreement may be renewed after the expiration of the Term for one (1) successive period of five (5) years, subject to the terms and provisions of section 3, below. If Association elects to renew this Agreement, it shall provide City with written notice no later than ninety (90) days prior to expiration of the Term.
3. FEES.
 - a. As consideration for this Agreement, Association shall pay to the City the sum of four thousand dollars (\$4,000.00) for the first year of this Agreement. Thereafter, the fee will be increased by five percent (5%) over the prior year’s fee. The first payment shall be due upon the Effective Date of this Agreement. Fees for subsequent years shall be due by the fifteenth (15th) day of April and may be paid in advance.
 - b. In the event Association renews this Agreement pursuant to section 2, above, fees shall be subject to renegotiation.

4. USE.

- a. During regular league activities, beginning the first Saturday in February and continuing through the third weekend in May, the Association shall have use of the Field on Mondays through Fridays from 3:00 p.m. until 9:00 p.m. and Saturdays from 6:00 a.m. until 9:00 p.m.
- b. City will allow the Association to schedule Association all-star practices with days and times submitted at the conclusion of the regular season provided thirty (30) days' written notice is provided. The Association shall have access to the Field and will limit use to one (1) softball diamond for each all-star team until the softball all-star season concludes.
- c. Association shall submit a schedule of proposed use for upcoming years by December 31st of the preceding year. The schedule of proposed use will be subject to the priority of usage in section 5 of this Agreement and may be adjusted monthly as the needs of the Parties dictate. City shall make all reasonable effort to limit the scheduling of non-Association activities during times when Association has primary use of the Field. City shall not schedule non-City public usage unless such can be accomplished in a manner so as not to unreasonably interfere with Association's use.
- d. Subject to availability and City's approval, Association shall have primary use of the Field the day before a tournament.
- e. Subject to availability and City's approval, Association shall have primary use of the Field for three (3) weekends per calendar year for tournament play or league activities, provided Association gives the City three (3) months advance written notice of the dates requested.
- f. Association shall provide adequate supervision and crowd control at all scheduled activities to ensure protection of Field. Adequacy of supervision and crowd control shall be determined by the City. An Association board member must be present at Field while games are in progress.
- g. The Field will only be scheduled as a youth sports, teen, special event or collegiate venue and City will not operate a Lemoore Parks and Recreation Youth Softball League so long as there is at least one established softball league in the City of Lemoore.
- h. Association acknowledges that City and/or City authorized users shall be permitted to access and use the Field as reasonably necessary at all times, including times designated for Association use.

- i. City permits the Association to charge for parking or admission to the Field during those times when regular season or post season play are actively occurring. Association shall not collect parking or admission fees during times when City or City organized public usage occurs concurrently with Association use.
 - j. Association shall not use the Field for any other purpose(s) not directly connected with the operation of Association's softball related activities.
 - k. City reserves the right to cancel any scheduled Association use due to adverse weather conditions that could endanger participants. Representatives from the City and Association will make reasonable efforts to meet prior to an event to assess the conditions of the Field and determine if cancellation or some other action is required. The final decision to cancel an event shall be made by the City's Community Services Manager or their designee.
 - l. Upon expiration and/or termination of this Agreement, Association shall return the Field to its original condition, allowing for reasonable and normal wear.
5. PRIORITY OF USAGE. Use of Field shall be provided based on the following priorities:
- a. Priority 1:
 - i. Facility lease agreements with organizations that have had consistent and historical use of the Field, including, but not limited to, the Lemoore Youth Softball Association and Lemoore Youth Soccer League; and
 - ii. City activities and programs.
 - b. Priority 2:
 - i. Lemoore resident, youth programs, youth non-profit organizations or youth leagues not associated with Association or the City.
 - c. Priority 3:
 - i. Other scheduled organized public usage, including but not limited to activities sponsored by civic and non-profit organizations or such activities as company picnics and/or family gatherings. Priority 3 rentals may include rentals outside of the City of Lemoore. No adult leagues or teams are permitted.
6. CONCESSION STAND.
- a. The Association is exclusively responsible for the operation of the concession stand and its contents, including, but not limited to, all concession stand equipment, appliances, utensils, and any other item necessary for operation.
 - b. All equipment, including, but not limited to, the ice machine, refrigerator, and

concession items will be maintained and serviced by the Association, and Association will be responsible for all repairs. City will not be responsible for any damage, service, maintenance and/or repair costs.

- c. The Association bears full responsibility for directing and controlling all volunteers and/or employees utilized during Association's concession stand operations.
 - d. Association shall be responsible for all direct utility costs associated with operating the concession stand.
 - e. Association shall comply with all applicable permits and requirements as set forth by the City, Kings County Health and Human Services Agency and any other applicable law or regulation.
 - f. City shall set forth minimum standards for all vendors performing, selling or providing products and services at the Field. Vendors and contractors shall name the City of Lemoore as an additional insured and proof of insurance must be provided to the City ten (10) days in advance of vendor's services.
7. RESTROOMS. During periods of scheduled use by Association, City shall be responsible for the toiletry supply and routine cleaning of restrooms. For purposes of this Agreement, routine cleaning shall consist of one (1) service on Monday and Friday of each week.
8. STORAGE. Association shall be allowed to maintain storage/maintenance areas, including storage containers (i.e., sea train containers) on the Field. The City is not responsible for any damage and/or theft to Association property while stored at the Field. City will not be responsible for any associated service, maintenance and/or repair costs. Association shall maintain its storage and/or maintenance areas in a manner acceptable to City.
9. ASSOCIATION MAINTENANCE AND REPAIR OF FIELD.
- a. Except for the items identified in section 10 of this Agreement, Association shall assume responsibility for all maintenance, damage, repair and upkeep of the Field during Association use.
 - b. Association shall notify City of any damage to the Field within forty-eight (48) hours of finding the damage. City shall determine, in its sole discretion, the Party responsible for repair of the damage or replacement of the damaged item and determine the manner in which repair or replacement is to be performed.
 - c. The Association shall be responsible for preparation of the playing fields (i.e., field lines, base lines, base placement) prior to games and may access the Field as reasonably necessary during the calendar year to perform maintenance related items

or projects.

- d. Association shall remove all litter and other debris on or about the Field caused by the participants and spectators during Association's use of the Field. Association will be responsible for the cost of any additional dumpsters and must schedule additional dumpsters through the City's Utility Division.
- e. Association shall be responsible for any repair or maintenance required due to vandalism of and/or graffiti on Association equipment and structures. Graffiti removal shall be completed in accordance with the current City ordinance governing graffiti removal.

10. CITY MAINTENANCE AND REPAIR OF FIELD.

- a. City shall be responsible for regular maintenance of all fixed assets and grounds, including maintenance of the irrigation system, mowing, fertilizing, weed abatement, and gopher/rodent control.
- b. City shall be responsible for major structural repairs and/or capital improvements to the Field which are the subject of this Agreement. City shall have the sole discretion in determining what constitutes major structural and/or capital improvements.

11. ALTERATIONS TO THE FIELD. Except as otherwise provided in section 9 of this Agreement, Association shall make no alterations, improvements, or modifications to the Field without the prior written consent of City. Any such alterations, improvements or modifications to the Field shall become the sole and exclusive property of City upon completion of the alterations, improvements or modifications. If the City elects to require the Association to remove any alteration, improvements or modifications, Association shall do so and return the Field to its original condition, allowing for reasonable and normal wear.

12. SIGNAGE. Should Association desire to place signage on or about the Field, such signage and its location shall be subject to City's prior written approval, which approval shall not be unreasonably withheld. Association at its sole cost and expense shall also comply with all applicable laws related to such signage.

13. LIENS AND ENCUMBRANCES. At no cost to City, Association shall keep the Field free from any liens or encumbrances arising out of any work performed, materials furnished or obligations incurred by Association. Association shall promptly pay all claims for labor or materials furnished and indemnify City for any such claims which are alleged to have been furnished to or for Association at or for use in the Field, which claims are or may be secured by any mechanics' or materialmen's lien against the Field or any interest therein. City may record, post, and maintain notices of non-responsibility in and on the Field.

14. HAZARDOUS MATERIALS. Association shall not use, maintain, or keep any Hazardous Materials, other than ordinary cleaning supplies and waste, on or in the Field without City's prior written approval. Association shall promptly give notice to City of any Hazardous Materials dispersal or spill, or Hazardous Materials claim, of which it is aware. Association shall indemnify and hold City harmless from any and all claims, costs, damages, penalties or liabilities arising out of Association's use or release of any Hazardous Materials at, in or on the Field. This provision does not apply to existing Hazardous Materials or Hazardous Materials which are introduced to the Field by City. The foregoing indemnification obligation shall survive the expiration or earlier termination of this Agreement. The term "Hazardous Materials" as used in this Agreement shall mean any products, substances, chemical, material or waste whose presence, nature, quantity and/or intensity of existence, use, manufacture, disposal, transportation, spill, release or effect, either by itself or in combination with other materials expected to be on the premises, is either (a) potentially injurious to the public health, safety or welfare and environment of the premises, (b) regulated or monitored by any governmental authority, or (c) a basis for liability of City to any governmental agency or third party under any applicable statute or common law theory. Hazardous Materials shall include, but not be limited to, hydrocarbons, MTBE, petroleum, gasoline, crude oil, or any products, by-products, or fractions thereof.
15. TERMINATION. In addition to any other provision in this Agreement, this Agreement may be terminated upon the following:
- a. This Agreement shall terminate automatically if either party fails to remedy any breach or any term or condition of this Agreement within thirty (30) days after receiving written demand from the other Party to do so. If either Party is making good-faith efforts to eliminate any such breach or default, the period for correction shall be extended for such length of time as is reasonably necessary to remedy the breach.
 - b. City may terminate this Agreement with or without cause upon sixty (60) days' prior written notice to the Association.
16. INSURANCE. At no cost to City, Association will procure and maintain the following insurance policies throughout the Term of this Agreement and name the City as additional insured.
- a. Comprehensive general liability insurance in an amount not less than one million dollars (\$1,000,000.00) per occurrence for each bodily injury, property damage, and personal injury arising out of Association's alleged or actual omission, act or negligence in the performance or failure to perform its obligations under this Agreement. The insurance will also include, but not be limited to, premises and operations liability, and independent contractors' liability.
 - b. City, its officers, agents and employees, shall be named as additional insureds on the above policies by separate endorsement with coverage at least as broad as

ISO form CG 20 10 or CG 20 26. The insurance carried by Association is primary to any insurance policies maintained by City, and no insurance held or owned by City will be called upon to contribute to a loss covered without reservation by Association's policies. Association's insurance policy will not be canceled or materially changed without first giving thirty (30) calendar days' prior written notice to City. Neither the existence of any of the insurance coverages required under this Agreement nor the minimum coverage limits specified herein with respect to any such coverage shall be deemed to limit or restrict in any way Association's indemnification obligations under this Agreement. Insurance coverages required under this Agreement shall be provided under either: (i) valid and enforceable policies issued by insurance companies legally authorized to do business in the State of California; or (ii) a program of self-insurance meeting all requirements of California law applicable to insurance coverage of that nature. Prior to accessing or using the Field, Association shall deliver to City properly executed certificates of insurance clearly evidencing all coverages, limits, and endorsements required above in this Agreement.

- c. If, at any time, Association employs any person(s), Association shall, at Association's sole cost and expense, keep or cause to be kept in force workers' compensation insurance with statutory limits and employer's liability insurance with limits of not less than one million dollars (\$1,000,000.00) per accident.
17. INDEMNIFICATION. Association agrees to indemnify, defend and hold City, its officers, employees and agents, harmless from and against any and all actions, claims, damages, disabilities or expenses, including attorneys' fees and costs through trial and on appeal, that may be asserted by any person or entity, arising out of or in connection with this Agreement, use of the Field during the Association's right to use the Field, or the tortious acts, errors, or omissions of a Party, its officers, agents, employees, participants, volunteers, and/or invitees, whether or not there is concurrent passive or active negligence on the part of such Party, but excluding liability to extent caused by the negligence or willful misconduct of the other Party. This indemnification obligation shall survive the expiration or earlier termination of this Agreement.
18. DISCRIMINATION. Association for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that no person on the grounds of race, color, sex, disability, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of Field.
19. ASSIGNMENT. This Agreement, the terms and conditions herein and rights and privileges herein are personal to Association and are not assignable without the prior written consent of City.
20. TAXES AND ASSESSMENTS. This Agreement may result in a taxable possessory interest and subject the Association to payment of property taxes. Association shall pay all taxes and assessments of any kind assessed or levied upon Association for the leased

premises by reason of this Agreement or of any improvements upon or in connection with this Agreement or the leased premises.

21. NO WAIVER. The failure by either Party to enforce any term or provision of this Agreement shall not constitute a waiver of that term or provision, or any other term or provision. No waiver by either Party of any term or provision of this Agreement shall be deemed or shall constitute a waiver of any other provision of this Agreement, nor shall any waiver constitute a continuing waiver unless otherwise expressly provided in writing.
22. NOTICE. Any notice required or permitted to be given under the terms of this Agreement shall be mailed by certified mail, with return receipt requested, or personally delivered to the Party to whom such notice is required or permitted to be given hereunder. If mailed, any such notice shall be deemed to have been given three (3) days after deposit in the United States mail. If delivered personally, any such notice shall be deemed to have been given when received by the Party to whom notice is given. ***Any notice to City shall be addressed as follows:*** City of Lemoore Parks and Recreation Department, 711 W. Cinnamon Drive, Lemoore, California 93245. ***Any notice to Association shall be addressed as follows:*** Lemoore Youth Softball Association, [ADDRESS]. Any change in the above addresses shall be promptly provided to the other Party.
23. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between and City and Association concerning the subject matter hereof. Any modification, waiver or amendment to this Agreement must be in writing signed by both Parties and approved by the governing body of each Party.
24. SEVERABILITY. In the event that one or more of the provisions of this Agreement shall, for any reason, be held to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any of the other provisions of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.
25. TITLES AND HEADINGS. The titles and headings herein are for reference purposes only and shall not limit or define the meaning of the provisions of this Agreement nor shall they be used to interpret or construe the terms and conditions of this Agreement.
26. APPLICABLE LAW. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California. The state courts of the County of Kings shall be the exclusive venue for any litigation arising in any way from this Agreement.
27. COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which, taken together, shall constitute one and the same Agreement. A copy, original or facsimile with all signatures appended together shall be deemed a fully executed Agreement.
28. WARRANTY OF AUTHORITY. Each person below warrants and guarantees that s/he is

legally authorized to execute this Agreement on behalf of the designated entity and that such execution shall bind the designated entity to the terms of this Agreement.

IN WITNESS WHEREOF, the undersigned have entered into this Agreement as of the Effective Date first set forth above.

**LEMOORE YOUTH SOFTBALL
ASSOCIATION**

CITY OF LEMOORE

LYSA Board President

Date

Nathan Olson, City Manager

Date

ATTEST:

APPROVED AS TO FORM:

LYSA Board Member

Date

Mary Lerner, City Attorney

Date



CITY OF LEMOORE
BUDGET AMENDMENT FORM

| | |
|-----------------------------|-------------------------|
| Date: 7/25/2023 | Request By: Faith Faria |
| Requesting Department: Fire | |

TYPE OF BUDGET AMENDMENT REQUEST

- Appropriation Transfer within Budget Unit
- All other appropriations (Attach Council approved Staff Report)

FROM:

| Fund | Department | Future Use | Project | Account | Current Budget | Proposed Increase/Decrease: | Proposed New Budget |
|------|------------|------------|---------|---------|----------------|-----------------------------|---------------------|
| 1225 | 835 | 0000 | 0000 | 100100 | | | \$ (358,000.00) |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |

TO:

| Fund | Budget Unit | Future Use | Project | Account | Current Budget | Proposed Increase/Decrease: | Proposed New Budget |
|------|-------------|------------|---------|---------|----------------|-----------------------------|---------------------|
| 1225 | 835 | 0000 | 24006 | 560200 | \$ 640,000.00 | \$ 358,000.00 | \$ 998,000.00 |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |

JUSTIFICATION FOR CHANGE/FUNDING SOURCE:

Increase to cover total cost of Ferrara Truck Type 1.

APPROVALS:

| | |
|------------------|-------|
| Department Head: | Date: |
| City Manager: | Date: |
| Entered By: | Date: |
| Approved By: | Date: |