

RESOLUTION #19-0204-10

Authorize Havener Park Maintenance and Use Agreements with I-9 Sports

WHEREAS, the Liberty Township Board of Trustees is entering into an agreement giving the I-9 Sports "preferred scheduling" of the athletic fields at Havener Park in order to hold youth sports events, and

WHEREAS, the Township Park Supervisor is responsible to coordinate with the organizations and ensure the terms of the agreements are met, and

WHEREAS, the Park Supervisor and Parks & Road Svcs. Superintendent have reviewed the attached agreement and recommend the Board's approval to formalize the agreement and establish terms of use of the Liberty Township park system.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF TRUSTEES OF LIBERTY TOWNSHIP, DELAWARE COUNTY, OHIO to approve the attached Maintenance & Use Agreement for Havener Park athletic fields use by I-9 Sports, and further authorizes the Parks & Road Svcs. Superintendent and Park Supervisor to sign any and all attendant documents.

Motion made by Leneghan and seconded by Eichhorn.

Vote: yes Mrs. Eichhorn yes Mrs. Leneghan yes Mr. Gemperline

This Resolution shall be in force and become effective immediately upon its execution.

2/4/2019
Date

Melanie Leneghan
Melanie Leneghan, Trustee

CERTIFIED BY:

Nancy Denutte
Nancy Denutte, Fiscal Officer

Mike Gemperline
Mike Gemperline, Trustee
Shyra Eichhorn
Shyra Eichhorn, Trustee



2019 PARK USE AND MAINTENANCE AGREEMENT LIBERTY TOWNSHIP, DELAWARE COUNTY

Havener Park Use and Maintenance Agreement with the Liberty Township Trustees 10104 Brewster Lane, Suite 125, Powell, Ohio and 1-9 Sports, 25605 Yearsley Road, Marysville, Ohio 43040

1. Purpose:

The purpose of this agreement is to state the covenants and conditions under which 1-9 sports shall receive Preferred Scheduling and have Preferred use of the Athletic Fields located at Havener Park, 4085 Liberty Road, Delaware, Ohio for recreational use, to hold youth flag football events only.

2. Term:

The term of this agreement shall become effective on and be inclusive of _____ or on and be inclusive the date the last Party signs this Agreement, whichever comes later, and continue through October 31, 2019.

3. Renewal:

Upon written agreement of the Parties, this Agreement may be renewed for successive one (1) year periods subject to the same terms and conditions provided herein and upon any such terms and conditions as may be specifically agreed upon, added and/or amended in writing by the parties.

4. Authority:

Consistent with the rule making authority provided by R.C.505.261, the Board is authorized to enter this agreement.

5. No Preference:

In reaching this agreement, all persons and/or organizations were treated on a like or similar basis, and no differentiation was made on the basis of race, color, religion, national origin, sex, or political affiliation.

6. 1-9 Liaison:

1-9 shall designate an 1-9 officer to serve as a primary liaison to the Park Supervisor regarding Athletic field and/or Park usage. In addition to a primary liaison, 1-9 shall also designate a separate 1-9 officer as a back-up liaison (primary and back-up liaison collectively "1-9 liaison"). In the event the primary liaison is unavailable or unable to act in the capacity of a liaison, the back-up liaison shall serve in the same capacity as the primary and in the primary liaison's stead.

Prior to the commencement of this Agreement, 1-9 shall provide in writing to the Township complete contact information, including, but not limited to, names, addresses, phone numbers (home and cell),

and email addresses for both 1-9 liaisons. 1-9 shall provide updated contact information for the 1-9 liaisons to the Park Supervisor as such information changes.

At any time, 1-9 may appoint different or change either or both of the designated 1-9 liaisons. If any such appointments or changes are made, 1-9 shall immediately and prior to such appointment or change taking effect notify the Park Supervisor in writing of such appointment or change. Such notification shall include the same contact information as is required above to be provided for an 1-9 liaison.

7. Scheduling:

To obtain a preferred scheduling reservation of the Athletic Fields, the 1-9 liaison shall provide advance notification to the Park Supervisor of 1-9's desire to use certain athletic fields in the Park. Advance notification shall be given as follows:

- A. Advance Notification shall be made in writing.
- B. Advance notification shall be provided at least one (1) month prior to the date 1-9 intends to use the athletic fields. In lieu of providing advance notification to the Park Supervisor of each individual event, game, and/or activity, 1-9 may provide a complete or partial game schedule to the Park Supervisor in accordance with the other requirements of this section. Assuming the game schedule meets all requirements of this section, such game schedule shall be considered advance notification of 1-9's desire to use the specified athletic fields for each event, game, and/or activity shown on the game schedule.
- C. Advance Notification shall include all of the following information:
 - I. The date and times (beginning and end) of the intended use of the athletic fields.
 - ii. Identify the specific athletic fields that 1-9 intends to reserve for use.
 - iii. Specify the type of recreational use to be made of the identified athletic fields (i.e. soccer, baseball or softball games).

Assuming advance notification has been properly given by the 1-9 liaison and received by the Park Supervisor in accordance with this section, 1-9 shall receive a preferred scheduling reservation for use of the specified athletic fields.

The Park Supervisor shall post a schedule showing the reservations he/she has received for the use of the Athletic fields in a conspicuous location at the Township Park Department Office located at 2845 Home Road, Powell, Ohio 43065.

The Park Supervisor may schedule athletic fields and enter into agreements with other organizations for times not reserved by the 1-9 as part of the 1-9 preferred scheduling reservations.

8. Scope of use:

During such times as 1-9 has properly secured, in accordance with this agreement, a preferred scheduling reservation of the athletic fields, 1-9 shall receive exclusive actual use of the scheduled athletic fields ahead of and before the general public or any other user of such athletic fields. Such preferred use by 1-9 is subject to the following conditions, restrictions, and terms.

A. Athletic field usage:

- i. 1-9 shall comply with all Park and/or athletic field rules and/or regulations and shall assure that all of its employees volunteers, coaches, players, and/or any other persons participating in 1-9 events, games, and/or other 1-9 activities held in the Park and/or athletic fields abide by and comply with such rules and/or regulations.
- ii. 1-9 shall furnish all equipment, goals, nets, corner flags, balls, bases, chalk and/or supplies for the athletic fields such as line paint and goal pins or (weights). This includes 1-9's responsibility to line the athletic fields, baseball and softball diamonds.
- iii. There shall be no practicing at any time on any of the athletic fields. There is a dedicated practice area to be used for soccer practice(s).
- iv. One (1) athletic field, as designated by the Park Supervisor shall be idle and remain idle for as long as the Park Supervisor determines to allow for athletic field maintenance and needed turf recovery. The designated idle athletic field shall rotate as determined by the Park Supervisor. Such designation shall be posted at the athletic field and such designation and rotation shall be communicated to the 1-9 liaison by the Park Supervisor. Until use of the idle athletic field is expressly permitted by the Park Supervisor, there shall be no use (games or practice) of the idle athletic field.
- v. In addition to the idle athletic field, the Park Supervisor, in his or her sole discretion, may from time to time determine that due to the condition of all or portions of certain athletic field(s), present conditions affecting all or portions of such athletic field(s) or for other good cause that such athletic field(s) or portions thereof should not be used and should be closed. In the event the Park Supervisor makes such a determination and closure, the Park Supervisor shall post at the athletic field notice of such closure and communicate such closure to the 1-9 liaison. There shall be no use (games or practice) of the closed athletic field(s) or portion(s) thereof until use is expressly permitted by the Park Supervisor.
- vi. The Park and/or athletic field(s) shall not be used for tournaments, camps, extra 1-9 events, unless the Parties agree to such use via a separate agreement and fee per event. 1-9 Sports cannot run concessions or contract out for concessions services on Township Property.
- vii. This agreement shall be operative for the Spring 2019, and the Fall 2019 season, Sundays only. The collective seasons shall extend from April 2, 2019 to June 4, 2019 and August 10, 2019 to October 31, 2019.

B. Cancellations:

Cancellations shall occur as follows:

- i. 1-9 may cancel an event, game or activity. Where such cancellation occurs, the 1-9 liaison shall contact the Park Supervisor as soon as the 1-9 liaison knows of the cancellation and notify him or her of the cancellation and, if necessary reschedule the event, game or activity.
- ii. The Park Supervisor may cancel events, games, or activities due to weather or athletic field conditions. Such cancellations are made in the interest of safety and/or athletic field maintenance and/or preservation. In the event of such cancellation, the Park Supervisor shall contact the 1-9 liaison and notify him or her of the cancellation. The Park Supervisor shall attempt to provide as much advance notice of the cancellation as possible. At the time of the notice of cancellation or at some later time, the Parties may reschedule the event, game, or activity.

C. Maintenance:

1-9, at its own expense, shall line and paint all athletic field(s). The 1-9 liaison shall notify in advance and schedule such lining and painting with the Park Supervisor. If athletic field conditions are not favorable for line painting, the Park Supervisor may request the field painting be performed at a different date when field conditions are more favorable.

1-9 shall not apply any treatments to any Liberty Township athletic field(s). (This includes but is not limited to: herbicides, pesticides, fertilizers).

1-9 shall be responsible for the safe and adequate condition of all goals, nets or other apparatus that is necessary to its activities. If the Township or Park Supervisor objects to the appearance or condition of any such items, 1-9 shall immediately obtain and install a replacement.

Athletic fields: 1-9 must furnish all supplies and equipment for athletic fields.

1-9 representatives, coaches, parents shall not perform any work on the athletic fields after a rain event, without the permission of Park Supervisor or Park staff on duty.

D. Irrigation:

The athletic fields are not artificially irrigated. The Parties shall not artificially irrigate the athletic fields.

E. Restrooms:

1-9 shall obtain at its own expense, a number of temporary toilets or port-a-potty facilities (collectively "facilities") sufficient to handle participants and attendees of 1-9 games, events, and/or activities. 1-9 is responsible for obtaining and paying for any permits necessary to place such facilities at the Park.

The facilities shall be positioned and staked down at the Park and proximate to the athletic field as agreed upon by 1-9 and the Park Supervisor. The facilities shall remain at the Park and in such positions during those times 1-9 is using the Park and/or athletic field(s). 1-9, at its own expense, shall arrange for such facilities to be regularly maintained and serviced in accordance with all applicable and/or environmental regulations and standards.

At all times while the Facilities are being transported in, around, or out of the Park, while the facilities are located and/or used in the Park, and/or while the facilities are being maintained and/or serviced in the Park.

- i. 1-9 shall be fully responsible for the facilities and/or for the servicing and maintenance of such facilities.
- ii. The Indemnified Parties shall not be responsible for the facilities, for any damage done to such facilities, or for any damage to the environment caused by such facilities.
- iii. The Indemnified Parties shall not be responsible for any damage or injury, including any illness, sickness, disease, or death, to any person, property, occupant of the facilities or any other person in anyway caused by or related to such facilities.
- iv. 1-9 shall indemnify and hold free and harmless the indemnified parties from any and all negligence or liability for damages for illness or injuries, including death, related to or connected in any way with the facilities the facilities' use, misuse or abuse, and/or the servicing and maintenance of the facilities or lack thereof.

F. Traffic:

As determined by 1-9 or the Park Supervisor, if traffic from any 1-9 game(s), event(s), and/or activities create congestion and/or traffic flow issues either within or outside the Park by vehicles traveling through the Park or entering and/or exiting the Park, 1-9 shall arrange, provide, and pay for, at no expense to the Board, Park Supervisor, or Township, a uniformed off-duty police officer to provide traffic control. Advance notice of the identity of the officer and the dates and times that such officer is to be deployed shall be provide to the Park Supervisor.

G. Parking:

Parking lot(s) for the parking of vehicles is/are designated and available in the Park. Vehicles parked in the park shall only be parked in such parking lot(s) and only in spaces in the parking lot(s) designed and designated for the parking of vehicles. There shall be no parking at any time of vehicles in any designated lanes of travel allowing vehicles to enter or exit the park, travel through the Park or through a parking lot in the Park, or on any grass areas.

Emergency vehicles must be able to enter, exit, and travel through the Park at all times. Lanes of travel must therefore be kept open and clear sufficiently allowing such vehicles to pass.

Parking regulations shall be strictly enforced. Vehicles parked in violation of these restrictions may be ticketed and/or towed at the owner's expense.

1-9 shall assure compliance with these parking regulations. Any repeated failure of 1-9 to enforce compliance with these parking regulations may be considered breach of this agreement and be grounds for termination of this agreement.

It is 1-9's responsibility to monitor the amount of games being scheduled at one time.

1-9 should allow for ample time between games for vehicles to empty parking lots before the start of the next scheduled games.

H. Refuse and Garbage Collection:

Where in the sole discretion of the Park Supervisor, the Park Supervisor determines that, due to the volume of trash generated by 1-9 events, games, and/or activities, extra or additional refuse collections beyond normal refuse collections are necessary, the Park Supervisor shall notify the 1-9 liaison of the need for such extra or additional collections. The Park Supervisor shall then arrange for extra and additional collections. 1-9 shall be responsible for and pay the full actual cost of any and all such extra or additional refuse collection(s).

The Township shall invoice 1-9 for all extra or additional refuse collection(s). 1-9 shall pay such invoice in full no later than the due date indicated on the invoice which due date shall not be less than ten (10) days after the date of the invoice. Failure to timely pay an invoice by the due date shall result in a ten percent (10%) penalty on any unpaid balance and may be considered breach of this agreement and be grounds for termination of this agreement.

I. Use of Park and Athletic Field(s) by General Public:

During such times as 1-9 has preferred use of the athletic field(s), properly reserved and secured in accordance with this agreement:

- i. 1-9 shall have exclusive use of the scheduled athletic fields Sundays only.

At all times when 1-9 does not have preferred use of the athletic field(s), the general public, in accordance with Park rules, shall have full use and access to the Park and athletic field(s).

- ii. The general public shall, in accordance with Park rules, have full access to and be permitted to use all other areas of the Park exclusive of the athletic field(s).

J. Signs:

1-9 shall obtain prior authorization from the Park Supervisor before placing any signs in the Park or from the Road Superintendent before placing any sign in a public road right-of-way ("ROW") located within the Township. The Township retains the right to remove any and all signs placed by 1-9 in the Park and/or ROW and not properly authorized in accordance with this section.

K. 1-9 Representative:

1-9 shall have an adult supervisor or a responsible adult present at all times during its usage of the premises.

L. Limitation:

This agreement and the terms and conditions contained herein apply to South Liberty Park and do not apply to any other Park or athletic field(s) located in any other Park in the Township.

9. Township Responsibilities:

The Township shall provide the following:

- A. Athletic field use Sundays only.
- B. The Township shall provide general maintenance of the Park and athletic fields.
- C. The Township shall provide and maintain driveways and parking areas within the Park.
- D. The Township shall provide regular refuse collection in the Park at no cost to 1-9. As provided elsewhere in this agreement, extra or additional refuse collection(s) shall also be made by the Township, however, 1-9 shall be responsible for and pay the full actual cost of any and all such extra or additional refuse collection(s).

10. Township Rights:

The Township reserves the right to:

- A. Prohibit use of the Park and/or athletic field(s) in the event of inclement weather, post inclement weather damage or other issues caused by the inclement weather, for health, safety, and turf conditions, and/or for other good cause.
- B. To enter into use agreements with organizations for athletic field use during those times not specifically reserved by 1-9 under the Preferred Scheduling reservations set forth by this agreement.
- C. To hold other events in the Park, simultaneously or otherwise, which do not compete for parking or use of the athletic field(s) being used by 1-9 and which generally do not interfere with 1-9 events, games, and/or activities.
- D. Enter the Park and/or athletic field(s) at any time to perform maintenance as may from

time to time become necessary or be required by law or for other good cause.

- E. Park Supervisor may request moving athletic game fields at any time, due to excessive wear of turf or goal box damage.

11. No lease:

This agreement is not and does not constitute a lease. The parties agree that this agreement should not be interpreted as a lease and that this agreement does not confer any of the obligations, rights, or benefits of a lease on the parties.

12. Compensation:

In exchange for preferred use of the athletic field(s), 1-9 agree to pay twelve-percent (12%) of the registration fee for the first one hundred (100) participants to Liberty Township and ten percent (10%) of the registration fee for all participants over the first one hundred (100). 1-9 will provide Liberty Township with a breakdown of participant registrations for the spring 2019 and fall 2019 season, along with an accounting of monies due before the start of both seasons. 1-9 agree to pay Liberty Township the monies due as soon as the final participant accounting is approved by Park Supervisor and before the start of the Spring and Fall Seasons. Such amounts shall be paid in its entirety into the Liberty Township Park Capital Improvements Fund to be used for the improvement and maintenance of the Park or other Liberty Township Parks. Failure to timely pay by the Spring 2019 or Fall 2019 start date shall result in a ten percent (10%) penalty on any unpaid balance and no events, games and/or activities shall be held/played until such monies and penalty are paid in full. In addition, a failure to timely pay monies by the Spring 2019 or Fall 2019 season start date may be considered breach of this agreement and be grounds for termination of this agreement.

13. Insurance

1-9 shall carry and maintain current throughout the life of the Agreement and without lapse, such bodily injury and property damage liability insurance as will protect it and the Indemnified Parties against any and all claims for personal injury, including death, or property damage, which may arise out of or result from 1-9's use of the Park and/or Athletic Fields and/or 1-9's performance of this Agreement or from the use of any vehicle(s) in connection therewith, and shall include coverage for the indemnification as described above.

Prior to commencement of this Agreement, 1-9 shall present to the Park Supervisor current certificates of insurance and shall maintain current such insurance during and throughout the entire term of this Agreement, without lapse. Said insurance shall, at a minimum be of the type of insurance and include the amount of coverage on said policies of insurance as is specified below:

- A. Commercial General Liability Insurance: Commercial general liability insurance with coverage in an amount equal to and covering all sums which 1-9 may or shall become legally obligated to pay as damages, but in an amount providing for a minimum of or at least one million dollars (\$1,000,000.00) coverage per occurrence with an annual aggregate of at least two million dollars (\$2,000,000.00), including coverage for subcontractors, if any are used, covering all events, games, and/or 1-9 activities held at the Park and/or on the Athletic Fields. This insurance shall include, but not be limited to, the following coverage:

- i. Broad Form Property Damage

ii. Personal Injury

- B. Umbrella or Excess Liability Insurance: Umbrella or excess liability insurance (over and above commercial general liability insurance) with coverage in an amount equal to and covering all sums which 1-9 may or shall become legally obligated to pay as damages, but in an amount providing for a minimum of at least two million dollars (\$2,000,000.00) of coverage and covering all events, games, and/or 1-9 activities held at the Park and/or on the Athletic Fields.
- C. Auto/Vehicle Liability Insurance: Auto/vehicle liability insurance covering all owned, leased, non-owned, and/or hired vehicles used in connection with 1-9's use of the Park and/or Athletic Fields and/or 1-9's performance of this Agreement with coverage in an amount equal to that required by law and covering all sums which 1-9 may or shall become legally obligated to pay as damages, but in an amount providing for minimum coverage of at least three hundred thousand dollars (\$300,000.00) (Combined Single Limit) or, one hundred thousand dollars (\$100,000.00) per person and three hundred thousand dollars (\$300,000.00) per accident for bodily injury and one hundred thousand dollars (\$100,000.00) per accident for property damage or more as may be required for particular vehicles or particular uses of vehicles as required by applicable law.

The Board, Park Supervisor, and Township shall be named as "Additional Insured" on the policies listed in paragraphs A, B, and C above. 1-9 shall be responsible for any and all premiums for all required policy(ies) of insurance.

The insurance company needs to be identified for each insurance policy and coverage. The certificates of insurance are to be signed by a person authorized by the insurance company to bind coverage on its behalf. All insurance shall be written by insurance companies licensed to do business in the State of Ohio and in good standing with the Ohio Department of Insurance.

The above required insurance coverage shall be primary insurance as respects the Indemnified Parties and any insurance maintained by the Indemnified Parties shall be excess to the above required insurance and shall not contribute to it.

The insurer shall provide thirty (30) days written notice to the Park Supervisor before any cancellation or non-renewal of insurance coverage. Failure to provide such written notice will obligate the insurer to provide coverage as if cancellation or non-renewal did not take place. If there is any change in insurance carrier or liability amounts, a new certificate of insurance must be provided to the Park Supervisor within seven (7) calendar days of change. During the life of the Agreement, the Board may require 1-9 to provide respective and/or additional certificate(s) of insurance in order to verify coverage. Failure to provide a requested certificate of insurance within seven (7) calendar days of the request may be considered as default. In addition, to the rights and protections provided by the insurance policies as required above the Board, Park Supervisor, and Township shall retain any and all such other and further rights and remedies as are available at law or in equity.

14. WORKER'S COMPENSATION INSURANCE:

1-9 shall carry and maintain throughout the life of the Agreement Worker's Compensation Insurance as required by Ohio law and any other state in which work will be performed. 1-9 shall be responsible for any and all premiums for such policy(ies). At any time throughout the life of the Agreement the Board or Park Supervisor may request proof of such insurance. Proof of such insurance shall be promptly provided upon request.

15. RELEASES OF LIABILITY:

Throughout the term of this Agreement and without lapse, 1-9 shall have in place and maintain effective a policy requiring that before participating in any 1-9 event, game, and/or activity occurring in the Park and/or on the Athletic Fields and in exchange for the ability to participate in the same, that all persons or, if the

person is a minor, a parent or legal guardian on behalf of the minor, commit to, agree to, and sign a written waiver of rights, a release of liability of, and an agreement to indemnify 1-9 and the Indemnified Parties (collectively "Release"). The Releases all include, but not be limited to, the following:

- A. A waiver of all rights to bring a cause of action against 1-9 and the Indemnified Parties for any accident, injury, bodily injury, Sickness, disease, illness, death, or occurrence, regardless of type or nature, negligent or accidental, actual or threatened, intentional or unintentional, known or unknown, realized or unrealized, related in any manner, in whole or in part, to the presence of the person in the Park and/or on the Athletic Fields, occurring while the person was in the Park and/or on the Athletic Fields, and/or through engagement and/or participation in any 1-9 events, games, and/or any other 1-9 activities occurring in the Park and/or on the Athletic Fields.
- B. A release releasing 1-9 and the Indemnified Parties from all liability for any accident, injury, bodily injury, sickness, disease, illness, death, or occurrence, regardless of type or nature, negligent or accidental, actual or threatened, intentional or unintentional, known or unknown, realized or unrealized, related in any manner, in whole or in part, to the presence of the person in the Park and/or on the Athletic Fields, occurring while the person was in the Park and/or on the Athletic Fields, and/or through engagement and/or participation in any 1-9 events, games, and/or any other 1-9 activities occurring in the Park and/or on the Athletic Fields.
- C. Indemnification of and an agreement to hold free and harmless 1-9 and the Indemnified Parties from liability for any accident, injury, bodily injury, sickness, disease, illness, death, or occurrence, regardless of type or nature, negligent or accidental, actual or threatened, intentional or unintentional, known or unknown, realized or unrealized, related in any manner, in whole or in part, to the presence of the person in the Park and/or on the Athletic Fields, occurring while the person was in the Park and/or on the Athletic Fields, and/or through engagement and/or participation in any 1-9 events, games, and/or any other 1-9 activities occurring in the Park and/or on the Athletic Fields.

Complete signed copies of all Releases all be provided to the Park Supervisor prior to the person participating in any 1-9 event, game, or other 1-9 activity.

Failure to secure a Release from any person prior to the person participating in any 1-9 event, game, or other 1-9 activity and/or provide a copy of such Release to the Park Supervisor may be considered breach of this Agreement and be grounds for termination of this Agreement.

As used in this Section, the word "person" includes, but is not limited to, whether compensated or volunteer, all coaches, coaching staff, referees, game officials, players regardless of team affiliation (home or visitor), individuals providing maintenance, individuals handling equipment, all parents and volunteers assisting teams, and/or any other individuals assisting in any way with an i-9 event, game, or other 1-9 activity.

16. RECREATIONAL IMMUNITY:

The Parties agree that no participant in any 1-9 event, game, or other 1-9 activity held in the Park and/or on the Athletic Fields has paid a fee or consideration to the Board, Park Supervisor, or Township to enter upon the Park or Athletic Field premises or to participate in any event, game, and/or other 1-9 activity organized or held under or pursuant to this Agreement. Any fee or consideration paid by a participant is/was paid only to 1-9 as solely a club or league fee. As a result, the Parties further agree that the Board, Park Supervisor, and Township have preserved and maintain the recreational user immunity conferred on the same by R.C. § 1533.181 and that no interpretation shall be made to the contrary. 1-9 consents and agrees to waive all of its rights and support and defend, by all necessary means, such immunity as pertains to the Board, Park Supervisor, and Township.

17. INDEMNITY:

1-9 shall provide indemnification as follows:

- A. To the fullest extent of the law and without limitation, 1-9 agrees to and shall indemnify and hold free and harmless the Indemnified Parties from any and all actions, claims, suits, demands, judgments, damages, losses, costs, fines, penalties, fees, and expenses, including, but not limited to attorney's fees, arising out of or resulting from any accident, injury, bodily injury, sickness, disease, illness, death, or occurrence, regardless of type or nature, negligent or accidental, actual or threatened, intentional or unintentional, known or unknown, realized or unrealized, related in any manner, in whole or in part, to 1-9's or any 1-9 subcontractor's use of the Park and/or Athletic Fields and/or 1-9's or any 1-9 subcontractor's performance of this Agreement or the actions, inactions, or omissions of 1-9 or any 1-9 subcontractor, including, but not limited to the performance, actions, inactions, or omissions of 1-9's or any 1-9 subcontractor's boards, board members, officers, officials, employees, volunteers, agents, servants, or representatives. 1-9 agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties that 1-9 shall, at its own expense, promptly retain defense counsel to represent defend, and protect the Indemnified Parties, paying any and all attorney's fees, costs, and expenses. 1-9 further agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties, that 1-9 shall pay, settle, compromise and procure the discharge of any and all judgments, damages, losses, costs, fines, penalties, fees, and/or expenses, including but not limited to attorney's fees.
- B. 1-9 shall assume full responsibility for, pay for, and shall indemnify and hold free and harmless the Indemnified Parties from any harm, damage, destruction, injury, or loss, regardless of type or nature, known or unknown, realized or unrealized, to any property, real or personal, belonging to the Indemnified Parties or others, including but not limited to real estate, buildings, structures, fixtures, furnishings, equipment, vehicles, supplies, accessories and/or parts arising out of or resulting in whole or in part from any actions, inactions, or omissions negligent or accidental, actual or threatened, intentional or unintentional of 1-9, 1-9's boards, board members, officers, officials, employees, volunteers, agents, servants, or representatives, any 1-9 subcontractor, and/or any participant in any 1-9 event, game, and/or other 1-9 activity.

18. CRIMINAL BACKGROUND CHECKS:

Prior to any adult (any person age eighteen (18) or older) participating in any 1-9 event, game, and/or other 1-9 activity held in the Park and/or on the Athletic Field(s), where such adult mayor will have direct contact or interaction with any minor, 1-9 shall require such adult to submit to a criminal background check and 1-9 shall evaluate the results of such check in accordance with this Section. Criminal background checks shall be performed by an agency competent to perform such checks. 1-9 shall be responsible for arranging for such criminal background checks and paying for all costs associated with the criminal background checks.

The results of all criminal background checks conducted pursuant to the requirements of this Agreement shall be provided by the conducting agency to 1-9. 1-9 shall evaluate the results of all criminal background checks to determine, based on such checks, the suitability of the subject to participate in 1-9 events, games, and/or other 1-9 activities held in the Park or on the Athletic Field(s) where such adult mayor will have direct contact or interaction with any minor. 1-9 shall be solely responsible for all such suitability determinations and, in accordance with the Indemnity provisions of this Agreement, shall indemnify and hold free and harmless the Indemnified Parties from any consequences of such decision and any event, occurrence, criminal activity perpetration, victimization, or other activity resulting from, occurring as a consequence of or despite such determination, or in any way connected to such decision.

1-9 shall indefinitely maintain and preserve the results of all criminal background checks conducted pursuant to the requirements of this Agreement. 1-9 shall, upon request, immediately make the results of a criminal background check conducted pursuant to this Agreement available to the Board and/or Park Supervisor.

19. ACCESS TO RECORDS:

At any time, during regular business hours, with reasonable notice and as often as the Board, Park Supervisor, Township or other agency or individual authorized by such board/persons may deem necessary, 1-9 shall make available to any or all the above named parties or their authorized representatives, all sub Agreements invoices, receipts, payrolls, personnel records, enrollees records, participant records, reports, documents and all other information or data relating to all matters covered by this Agreement. The above named parties shall be permitted by 1-9 to inspect, audit, make excerpts, photo static copies and/or transcripts of any and all documents relating to all matters covered by this Agreement.

20. RETENTION OF RECORDS:

1-9 for a minimum of three (3) years after expiration or termination of this Agreement, agrees to retain and maintain, shall retain and maintain, and shall assure that all of his/her/its subcontractors retain and maintain all records, documents, writings and/or other information related to performance of this Agreement. If an audit, litigation, or other action is initiated during the time period of this Agreement, 1-9 shall retain and maintain such records until the action is concluded and all issues are resolved or the three (3) years have expired, whichever is later.

21. TERMINATION:

This Agreement may be terminated as follows:

A. Termination for the Convenience:

Either Party may terminate this Agreement at any time and for any reason by giving at least thirty (30) days advance notice, in writing, to the other Party.

The Parties may immediately or upon a mutually agreeable date terminate this Agreement at any time and for any reason upon the mutual written consent of the Parties.

B. Breach or Default:

Upon breach or default of any of the provisions, obligations or duties embodied in this Agreement, the aggrieved Party shall provide written notice of the breach or default to the breaching or defaulting Party and permit the breaching or defaulting Party to remedy the breach or default within a specified reasonable period of time. If the breach or default is not satisfactorily remedied within the specified time period, this Agreement may, at the election of the aggrieved Party, be immediately terminated.

C. Waiver:

The waiver of any occurrence of breach or default is not and should not be interpreted as a waiver of any such subsequent occurrences. If any of the Party fails to perform an obligation or obligations under this Agreement and such failure(s) is (are) waived by the other Party, such waiver shall be limited to the particular failure(s) so waived and shall not be deemed to waive other failure(s).

Waiver by either Party shall be authorized in writing and signed by an authorized representative(s) of the waiving Party. In the case of the Township, any waiver shall be approved by the Board.

Termination pursuant to this section shall relieve the Parties of any and all further obligations under this Agreement, except that 1-9, if 1-9 initiates termination of this Agreement, shall forfeit its deposit.

The Parties retain and may, without limitation, exercise any and all available administrative, contractual, equitable or legal remedies.

22. NOTICE:

All notices, consents, and/or other communications which may be required to be given by this Agreement or by operation of law, shall be in writing and shall be deemed duly given if personally (hand) delivered, sent by certified or registered United States Mail or recognized courier, return receipt requested, to the following individuals at the following addresses or facsimile numbers and shall be effective when sent, provided, or transmitted:

1-9Sports
Steve Cox
Area Director
25605 Yearsley Road
Marysville, OH 43040
Fax:
Email:

TOWNSHIP
Michael Landon
Liberty Township Park Supervisor
2845 Home Road
Powell, OH 43065
Fax: (740) 938-2001
Email: mlandon@libertytp.org

23. NON-DISCRIMINATION / EQUAL OPPORTUNITY /CIVIL RIGHTS:

1-9 certifies and agrees as follows:

- A. 1-9 all subcontractors, and/or any person acting on behalf of 1-9 or any subcontractor shall comply with any and all applicable federal, state, and/or local laws prohibiting discrimination and providing for equal opportunity.
- B. 1-9 all subcontractors, and/or any person acting on behalf of 1-9 or any subcontractor shall not in any way or manner discriminate on account of race, color, religion, sex, age, disability, handicap, sexual orientation, gender identity or military status as defined in section 4112.01 of the Revised Code, national origin, or ancestry.

24. ACCESSIBILITY:

1-9 certifies and agrees as follows:

- A. 1-9 all subcontractors, and/or any person acting on behalf of 1-9 or any subcontractor shall make all services/programs provided pursuant to this Agreement accessible to the disabled/handicapped.
- B. 1-9 all subcontractors, and/or any person acting on behalf of 1-9 or any subcontractor shall comply with any and all applicable federal, state, and/or local laws mandating accessibility and Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C 794), all requirements imposed by the applicable HHS regulations (45 CFR 8;4) and all guidelines and interpretations issued pursuant thereto.

25. DRUG FREE ENVIRONMENT:

1-9 shall comply with all applicable federal, state, and local laws regarding drug-free and smoke free workplaces and environments and shall have established and have in place a drug-free policy. There shall be no drug or alcohol usage in the Park. 1-9 shall assure that all of its employees, subcontractors, volunteers, players, and/or any other persons participating in 1-9 events, games, and/or other 1-9 activities held in the Park do not use drugs or consume alcohol in the Park. 1-9 shall make a good faith effort to ensure that all of its employees, subcontractors, volunteers, players, and/or any other persons participating in 1-9 events will not purchase, transfer use, or possess illegal drugs or alcohol, or abuse prescription drugs in any way.

26. SUBCONTRACTING:

1-9 may not subcontract any portion of this Agreement.

27. ASSIGNMENT:

This Agreement and/or any of the rights or responsibilities it contains may not be assigned or transferred to any other party without the prior express signed written consent of the other non-assigning/non-transferring Party.

28. GOVERNING LAW:

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this Agreement shall be filed in and heard before the courts of Delaware County, Ohio.

29. SIGNATURES:

Any person executing this Agreement in a representative capacity hereby warrants that he/she has authority to sign this Agreement or has been duly authorized by his/her principal to execute this Agreement on such principal's behalf and is authorized to bind such principal.

30. SEVERABILITY:

The provisions of this Agreement are severable and independent, and if any such provision shall be unenforceable in whole or in part, the remaining provisions and any partially enforceable provisions, to the extent enforceable, shall nevertheless be binding and enforceable.

31. ENTIRE AGREEMENT:

This Agreement, including its Attachments and Exhibits, shall constitute the entire understanding and agreement between the Parties, shall supersede all prior understandings and agreements/contracts relating to the subject matter hereof, and may only be amended in writing with the mutual written and signed consent of the Parties.

1-9 Sports (1-9)

Signature

Date

Printed Name,

Title

Address:

Telephone:

Email:

**BOARD OF TRUSTEES
LIBERTYTOWNSHIP
DELAWARE COUNTY,
OHIO**

Shyra Eichhorn, Trustee



Date

2/4/19

Melanie Leneghan, Trustee



Date

2.4.19

Michael Gemperline



Date

2.4-19

Board of Trustees

Liberty Township, Delaware County Ohio c/o
Matt Huffamn, Township Administrator
Liberty Township Government Office
10104 Brewster Lane, Suite 125
Powell, Ohio 43065
Telephone: (740) 938-2000
Email: mhuffman@libertytp.org

Fiscal Officer Countersignature:



Nancy Deuntte

Date 2/4/2019

Approved as to form:

Carol O'Brien
Delaware County Prosecuting Attorney

AUDITOR'S CERTIFICATION(RC S70S.41(D)):

No Township Funds are expended under this Agreement. No Fiscal Officer's Certification is required.