

GILLETTE SOFTBALL/BASEBALL COMPLEX FACILITY LEASE

This lease made on the _____ day of _____, 2014 by and between the City of Gillette, hereinafter CITY or LESSOR, and the Gillette Girls Fastpitch Association, Inc., 17 Sandstone Cir, PO Box 4242 Gillette Wyoming 82717, hereinafter Fastpitch or LESSEE:

WHEREAS, LESSOR and LESSEE have determined that it is in the public interest to enter into the following lease agreement and take all actions necessary to authorize and enter into the same as provided by law.

NOW THEREFORE, in consideration of the mutual covenants and agreements herein, LESSOR hereby leases to LESSEE the premises situated within the City Limits of the City of Gillette as more fully described below subject to the following terms and conditions:

1. PURPOSE. It is expressly understood and agreed that the premises leased herein are to be used by LESSEE for its Girls Fastpitch Program.
2. LAND. LESSOR leases to LESSEE a portion of Tract A of the Field of Dreams Subdivision, to the City of Gillette namely the Softball/Baseball Complex and permanent improvements presently thereon, namely four softball fields and a concession building, meeting building and associated restroom facilities. The parcel of land is more fully described on the attached Exhibits, marked "1" and "2" incorporated herein by this reference.
3. TERM. The term of this lease shall begin on the 1 day of November 2014, and the initial term of the Lease shall be for a period of five (5) years.
4. RENEWAL. LESSEE is granted an option to renew the lease for additional periods of five (5) years at the conclusion of the initial term. It is the understanding of the parties that the renewal shall be automatic at the conclusion of the initial term and any extension thereof, provided however, if LESSOR or LESSEE wishes to renegotiate the terms of this lease or to

terminate this lease, such intention must be communicated to the other party by a written notice post marked within ninety (90) days of the termination of the initial term or any extension thereof.

5. IMPROVEMENTS. LESSEE shall have the right to erect improvements, with approval of LESSOR, upon the land leased to be used in conjunction with its Girls Fastpitch Program. In conjunction therewith, LESSEE agrees to install improvements or expansions only with approval of City Council and any funds provided by the City for improvements will be subject to Council approval through the budget process. In addition, any and all construction shall conform to all relevant City regulations, including but not limited to the zoning and building codes. Any additional improvements on the leased land shall revert to LESSOR upon the termination of this lease. The LESSOR shall retain the exclusive naming rights for the complex and any associated infrastructure including scoreboard advertising.
6. MAINTENANCE. LESSEE agrees to provide light field maintenance, such as installing and maintaining bases, ground clean-up and other similar related matters. LESSEE agrees to keep premises neat and clean during the period of their use. LESSOR agrees to provide heavy field maintenance such as irrigation repair and maintenance, mowing, parking lot maintenance and repair, and turf maintenance and repair. LESSOR will maintain the field lighting. LESSOR will supply dumpsters or roll-outs for the facility and will clean and maintain the bathrooms.
7. PAYMENT OF LEASE RENTAL. The LESSEE agrees to pay the LESSOR \$250.00 per field / per month for seven (7) months (4 fields April-July, 2 fields August –October) each year for use of the fields. The LESSEE will make total payment of \$5,500 on November 1 of each year. LESSEE may lease additional fields in August –October upon notice to LESSOR and immediate payment of \$250 per field per month.
8. CONCESSIONS AND ADVERTISING. Lessee shall have the exclusive authority to operate the concession facilities for the leased site, including providing and supplying all necessary appliances for the operation. Sunflower seeds and chewing gum shall not be offered for sale or allowed

within the leased area. Lessee shall also have the ability to permit advertising for a fee on signage to be placed on the outfield fencing and shall be appropriately secured. The advertisements shall be displayed on solid material such as wood or metal. Vinyl or plastic banners shall not be permitted for such outfield advertising; however, vinyl or plastic banners will be permitted for one-time events, provided they are promptly removed after the completion of the event.

9. UTILITIES. LESSEE agrees to be accountable for and to pay all sewer, trash, electric fees, and water associated with the concession stands (irrigation and restroom water paid for by LESSOR), which relate to the period of Fastpitch use. Hook-up and shutoff of utilities are the responsibility of LESSOR. LESSOR shall bill LESSEE on an annual basis to be paid by LESSEE within 45 days of mailing.
10. EQUIPMENT. LESSEE and LESSOR agree that in the event that both parties agree to jointly purchase specialized equipment for maintenance for the ballpark, said equipment shall remain at and be used at the ball park except for removal for periodic repair. At the option of the LESSEE, the equipment may be specifically marked with the logo(s) of the LESSEE. This clause shall only be effective when Fastpitch has shared equally in the cost of the equipment.
11. ASSIGNMENTS. LESSEE shall not have the right to assign this lease or any interest therein, without the prior written consent of the LESSOR.
12. SCHEDULING. LESSEE and LESSOR agree that LESSEE shall have first priority on the use of all facilities within the land leased and will therefore, have complete scheduling authority for their league activities for all fields during the period from April 1st to November 1st of every year. LESSEE and LESSOR acknowledge that the leased ball fields are appropriate for use by Gillette Little League, a Wyoming NonProfit Corporation, (hereinafter Little League) and agree that Fastpitch will accommodate and schedule Little League practices or games when the fields are not used by Fastpitch. Although schedules are flexible and subject to change, Fastpitch and Little League will exchange written schedules before May 1 in order to

accommodate each other's needs for practice, game and tournament activities. Lessee agrees that Little League tournaments will take priority over softball games and practices. However, Fastpitch tournaments have precedence over everything. Tournaments are defined as more than one game with out-of-town teams. Scheduled practices by either Fastpitch or Little League will have priority over non-scheduled practices. Fastpitch may charge a fee for the use of the fields to recover its out of pocket costs, if such use by Little League requires the extra use of lighting or other out of pocket costs incurred by Fastpitch. LESSEE and LESSOR agree that the operation of the Fastpitch program will follow national and state Fastpitch rules, and that during the lease period, the City of Gillette will not interfere in the operation of the leased area for the operation of the Fastpitch program.

13. AMENDMENTS. No amendment to this lease shall be binding upon either of the parties hereto, unless it is in writing and signed by all the parties.
14. COMMUNICATION. Any notices or other communication between parties shall be in writing and shall be deemed delivered when mailed, postage prepaid and addressed as follows: City of Gillette, P.O. Box 3003, Gillette, Wyoming, 82717, and Fastpitch, 17 Sandstone Circle, PO Box 4242 Gillette Wyoming 82717. Either party may provide an additional or more current address if necessary.
15. DEFAULT. Either party shall be deemed to be in default of any covenant hereunder only if the party has received written notice of such alleged default from the other party, and if within thirty (30) days after receipt of such notice the party has not diligently commenced to comply with such covenant. Upon default, the non-defaulting party shall have the right and privilege of terminating this lease upon giving six (6) months notice, in writing, to the other party of its intention to do so, and in the event this lease is so terminated, then all rights and interests of the parties hereto shall thereupon cease, and any permanent building or other fixture erected by LESSEE shall thereupon be, and become the property of the LESSOR.
16. Insurance and Indemnification. Lessee agrees to maintain insurance on the subject property in accordance with Lessee's Standard Insurance

Requirements as described on Exhibit "3" attached hereto and incorporated herein by reference.

At the option of LESSOR, any and all structures that have been placed thereon by LESSEE shall be removed or demolished at the expense of LESSEE, and said premises restored to the same condition as when leased. If default by LESSEE occurs, LESSEE shall surrender the property peacefully and in the event suit is necessary to enforce this provision or any other provision of the lease, the LESSEE shall pay all costs, including a reasonable attorney's fee.

Final

LESSEE

Gillette Girls Fastpitch Association, Inc.

President _____ Date _____

Gillette Girls Fastpitch Association, Inc.

LESSOR

CITY OF GILLETTE

Mayor John Opseth Date

CITY OF GILLETTE
(SEAL)

ATTEST:

Karlene Abelseth Date

City Clerk

EXHIBIT 3

Insurance Requirements

Lessee shall procure and maintain for the duration of the lease insurance against claims for injuries to persons or damages to property which may arise from or in connection with the activities of the Lessee hereunder and the results of that work by the Lessee, his agents, representatives, employees or sub contractors. The City of Gillette specifically does not waive and specifically reserves any and all immunities granted by the Wyoming Governmental Claims Act, W.S. 1-39-101 et seq., unless specifically waived herein.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 12 07 covering CGL on an “occurrence” basis, including products-completed operations, personal & advertising injury, with limits no less than **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Lessee has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.
3. **Workers’ Compensation:** as required by the State of Wyoming with Statutory Limits.

If the Lessee maintains higher limits than the minimums shown above, the City of Gillette requires and shall be entitled to coverage for the higher limits maintained by the Lessee.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

The City of Gillette, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Lessee including materials, parts, or equipment furnished in connection with such work or

operations. General liability coverage can be provided in the form of an endorsement to the Lessee's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used.

Primary Coverage

For any claims related to this contract, the Lessee's insurance coverage shall be primary insurance as respects the City of Gillette, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City of Gillette, its officers, officials, employees, or volunteers shall be excess of the Lessee's insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the City of Gillette.

Waiver of Subrogation

Lessee hereby grants to City of Gillette a waiver of any right to subrogation which any insurer of said Lessee may acquire against the City of Gillette by virtue of the payment of any loss under such insurance. Lessee agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the City of Gillette has received a waiver of subrogation endorsement from the insurer.

Employers Liability/Stop Gap Coverage

The Commercial General Liability policy shall be endorsed to contain Employers Liability/Stop Gap Coverage

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City of Gillette. The City of Gillette may require the Lessee to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City of Gillette.

Verification of Coverage

Lessee shall furnish the City of Gillette with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City of Gillette before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Lessee's obligation to provide them. The City of Gillette reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Special Risks or Circumstances

City of Gillette reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.