

RESOLUTION #568

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YACOLT,
WASHINGTON, AUTHORIZING A LICENSE AGREEMENT BETWEEN THE TOWN
OF YACOLT AS LICENSOR AND THE KWRL BABE RUTH LEAGUE AS
LICENSEE, FOR THE NON-EXCLUSIVE USE OF THE TOWN OF YACOLT'S
BASEBALL FIELD FACILITIES.**

Whereas, The Town of Yacolt is the owner of Property the 'Field 4', tax lots numbers 64536000 and 279490000 (the "Property"); including all ancillary rights to use all of the property as appropriate for purposes including ingress, egress, parking, etc. legally described in Exhibit A, and as such parcels may have been altered by events including boundary line adjustments of record, (together the "Property");

Whereas, KWRL Babe Ruth League (hereafter, "KWRL") desires to support Babe Ruth league baseball and related activities for children, and desires to use the Property for such purposes;

Whereas, the Yacolt Town Council believes that KWRL's use of the Property will stimulate business, tourism and revenue for the community, promotes community pride and involvement, and is therefore in the public interest; and,

Whereas, the Town Council of the Town is in regular session this 18th day of June, 2018, and all members of the Town Council have had notice of the time, place, and purpose of said meeting:

NOW THEREFORE, be it Resolved by the Town Council of the Town of Yacolt, Washington, as follows:

Section 1 - Grant of License - Authorization to Enter License Agreement: The Town of Yacolt hereby grants a non-exclusive license to the KWRL to use the Property for the purposes and at such times and in such manner as set forth in Exhibit A hereto, upon execution by the parties of the Agreement attached as Exhibit A. The Mayor is hereby authorized to execute a license agreement in the form attached hereto as Exhibit A.

Section 2 - Severability: If any section, subsection, paragraph, sentence, clause, or phrase of this Resolution is declared unconstitutional or invalid for any reason by a court of competent jurisdiction, the remaining portion of this Resolution shall remain in full force and effect.

Section 3 - Effective Date:

This Resolution shall take effect immediately upon adoption. If published, the Town Clerk may use the following summary:

Town of Yacolt- Summary of Resolution #568

The Town Council of the Town of Yacolt adopted Resolution #568 at its regularly scheduled Town Council meeting held on June 18th, 2018. The content of the Resolution is summarized in its title as follows:

A Resolution of the Town Council of the Town of Yacolt, Washington, Authorizing a License Agreement between the Town of Yacolt as Licensor and the KWRL Babe Ruth League as Licensee, for the Non-Exclusive Use of the Town of Yacolt's Baseball Field Facilities. The effective date of the Resolution is June 18th, 2018.

A copy of the full text of the Resolution will be mailed upon request to the undersigned at the Town of Yacolt Town Hall, P.O. Box 160, Yacolt, WA 98675. Telephone - (360) 686-3922.

Published this 27th day of June, 2018
Katie Younce, Assistant Clerk

RESOLVED by the Town Council of the Town of Yacolt, Washington, at a regular meeting thereof this 18th day of June.

TOWN OF YACOLT




Vince Myers, Mayor

Attest:


Katie Younce, Assistant Clerk

Approved as to form:



David W. Ridenour, Town Attorney

Ayes: Council Members Boget, Bryant, Moseley,
Nays: _____
Absent: Council Member Noble Rowe-Tice
Abstain: _____

TOWN CLERK'S CERTIFICATION

I hereby certify that the foregoing is a true and correct copy of Resolution #568 of the Town of Yacolt, Washington entitled:

A Resolution of the Town Council of the Town of Yacolt, Washington, authorizing a license agreement between the Town of Yacolt as licensor and the KWRL Babe Ruth league as licensee, for the non-exclusive use of the Town of Yacolt's baseball field facilities as approved according to law by the Town Council on the date therein mentioned. The resolution has been published or posted according to law.

Attest:


Katie Younce, Assistant Clerk

Published: 6-27-18, 2018
Effective Date 18th June, 2018
Resolution Number: #568

EXHIBIT A

LICENSE AGREEMENT BETWEEN THE TOWN OF YACOLT AND KWRL BABE RUTH

This Agreement is made this 18th day of June, 2018, by and between the Town of Yacolt, a Washington municipal corporation, ("*Yacolt*" or "*Licensors*") and KWRL Babe Ruth League, a Washington licensed public benefit corporation, ("*KWRL*" or "*Licensee*").

Background

Whereas, The Town of Yacolt is the owner of Property the 'Field 4', tax lots numbers 64536000 and 279490000 (the "Property"); including all ancillary rights to use all of the property as appropriate for purposes including ingress, egress, parking, etc. legally described in Exhibit A, and as such parcels may have been altered by events including boundary line adjustments of record, (together the "Property");

Whereas, KWRL desires to support Babe Ruth League baseball and related activities for children, and desires to use the Property for such purposes;

Whereas, the Yacolt Town Council believes that KWRL's use of the Property stimulates business, tourism and revenue for the community, promotes community pride and involvement, and is therefore in the public interest; and,

Whereas, the Yacolt Town Council has passed Resolution #568 authorizing the execution of this Agreement to give permission to KWRL to make non-exclusive use of the Property as described herein:

Now, therefore, in consideration of the mutual covenants and provisions set forth herein, the parties agree as follows:

Agreement

1. **Grant of License.** The Town of Yacolt hereby grants to KWRL, its agents, guests and invitees, a non-exclusive license and privilege to use the Property for the purposes and at such times and in such manner as hereinafter set forth.
2. **Purpose of License:** KWRL is authorized to use the Property for the purpose of KWRL Babe Ruth baseball fields, and all other reasonable uses related to that purpose. KWRL agrees that its use of the Property shall be proper, legal and safe.
3. **Term of License.** This Agreement shall commence upon the effective date of the Agreement described above, and shall continue for one (1) year, at which time the Agreement shall terminate automatically unless extended by the parties.
4. **Termination.** Either party may terminate this Agreement at any time and for any reason by giving to the other party sixty (60) days written notice.

5. **No Transfer or Assignment.** The license granted to KWRL under this Agreement is personal to KWRL. Any attempt to transfer or assign this Agreement by the Licensee shall terminate this Agreement.
6. **Cooperation and Scheduling.** KWRL understands that its license to use the Property is non-exclusive, and that Yacolt and other licensees are also expected to use the Property during the term of this Agreement. In order to avoid scheduling conflicts, KWRL agrees to provide a schedule of anticipated uses as least thirty (30) days in advance of all activities on the Property, including planned baseball, and softball practices and games, and to obtain written approval from the Licensor for said schedule. KWRL agrees that it shall not unreasonably interfere with the normal operations and activities of Licensor, and KWRL agrees to use ordinary care in its activities on the Property to minimize damage to the Property and inconvenience to the Licensor, its agents, employees, licensees and invitees. For its part, Yacolt agrees that it will provide to Licensee a schedule of the Town's desires and intentions to use the Property that provides at least thirty (30) days advance notice of the Town's planned use of the Property. As a form of advance notice through this Agreement, Yacolt discloses that it intends to regularly use some or all of the Property for events including, without limitation, annual events such as the Town Easter Egg Hunt, the 4th of July Celebration, and the Spring Clean-Up. In the case of any scheduling conflict, KWRL understands and agrees that the use of the Property by the Licensor shall be considered a priority over use of the Property by the Licensee. As a general matter, the parties agree to work cooperatively and in reasonable fashion to avoid scheduling conflicts over the use of the Property.
7. **Compliance with Applicable Law/ Necessary Permits.** At all times during the term of this Agreement, KWRL will comply with any and all applicable federal, state and local laws, rules and regulations, and shall obtain or cause to be obtained any and all state or local licenses or permits required of or applicable to the uses to be made of the Property.
8. **Maintenance of Property.**
 - 8.1 KWRL agrees to pay all costs involved in construction, repairs and maintenance of the buildings and grounds related to its use of the Property. All construction, plumbing and electrical work shall comply with all applicable laws and codes. KWRL agrees to reasonably clean the Property following activities to ensure debris from an event does not damage or impact public property. KWRL agrees to obtain written permission prior to constructing or altering the Property or its improvements other than general clean up, lawn mowing and tilling. KWRL agrees to notify Yacolt and Clark Public Utilities in writing prior to any grading or excavating on the Property. KWRL assumes all responsibility for utility maintenance improvements and security of Property. KWRL agrees that NO herbicides, pesticides, fungicides or dust palliatives may be applied to the soil or vegetation. Any substance used to enhance or decrease growth in vegetation must be verified to be a safe product for use near a well field. KWRL agrees to obtain in writing approval from the Public Works Department of the Licensor and Clark Public Utilities prior to use of any such substance.
 - 8.2 **Repair and Restoration.** If Licensee, its agents or contractors cause any damage to the Property or to Licensor's roads, infrastructure or other property and improvements, Licensee shall repair and restore the Property and improvements to their original condition prior to Licensee's use of the Property under this Agreement. In the event that repair and restoration is performed following the termination this Agreement, the Licensee's indemnity and

insurance obligations under this Agreement shall continue until repair and restoration is completed.

9. **Revenue from Activities.** All proceeds from activities under this Agreement including revenue from concessions and memorabilia sales shall belong to KWRL or its designee.
10. **Breach and Cure.** In the event that Licensee breaches any of its obligations under this Agreement, Licensor shall send Licensee a written notice specifying the nature of such breach. Licensee shall have ten (10) days from the receipt of such notice to cure such breach. If more time is reasonably required for Licensee's performance, then Licensee shall commence performance within such ten (10) day period and, thereafter, diligently proceed to completion. If Licensee fails to cure or to commence cure within such ten (10) day period, then Licensor shall have the right to terminate this License immediately by serving Licensee with written notice of termination. Licensor shall have all rights and remedies available under Washington law including, but not limited to, actions for damages and specific performance, for any breach of Licensee's obligations hereunder. In the event litigation arises out of this Agreement, the losing party agrees to pay the prevailing party's attorney's fees incident to said litigation, together with all costs and expenses incurred in connection with such action, and whether or not incurred in the trial court or on appeal.
11. **Alteration in Writing.** This Agreement supersedes any and all prior understandings and agreements, whether written or oral, between the parties with respect to the subject matter of this License. No alteration or variation of this Agreement shall be valid unless made in writing and signed by Licensor and Licensee.
12. **Notices.** All notices and other communications between the parties shall be in writing and may be hand-delivered or mailed by first-class mail, postage prepaid, to the parties hereto at the appropriate address below. The parties shall keep each other advised of their mailing addresses to enable the notices anticipated herein.

Licensor: Town of Yacolt
 P.O. Box 160
 Yacolt, WA 98675

 (physical address)
 202 W. Cushman Street
 Yacolt, WA 98675

Licensee: KWRL Babe Ruth
 38706 NW 14th Ave.
 Woodland, WA 98674

 (physical address)
 202 W. Christy
 Yacolt, WA 98675

13. **Indemnification.**

- 13.1 **Licensee's Obligation.** Licensee shall indemnify, defend and hold harmless Licensor, its officers, agents, partners and employees, from and against any Claims, arising out of or in

any way connected with this License including, without limitation, Claims for loss or damage to any property, or for death or injury to any person or persons but only in proportion to and to the extent that such Claims arise from the negligent or intentional acts or omissions of Licensee, its officers, agents, or employees.

13.2 Licensor's Obligation. Licensor shall indemnify, defend, and hold harmless Licensee, its officers, agents and employees, from and against any claims, damages, costs, expenses, or liabilities (collectively "Claims") arising out of or in any way connected with this License including, without limitation, Claims for loss or damage to any property, or for death or injury to any person or persons but only in proportion to and to the extent that such Claims arise from the negligent or intentional acts or omissions of Licensor, its officers, agents, partners or employees.

14. Insurance. The Town of Yacolt agrees that it is responsible for its own insurance coverage with respect to claims or losses as a result of the Town's actions and events on the Property and/or the Town's use of the Property. The insurance required by Licensee under this Paragraph is to provide coverage for the obligations or actions of the Licensee and/or its agents, guests and invitees, as described in this Agreement. Licensee, at its sole cost and expense, shall insure its activities in connection with this Agreement and obtain, keep in force and maintain insurance as described below. KWRL shall provide a certificate of insurance for all liabilities prior to the beginning of each year's activities.

14.1 General Liability Insurance, (contractual liability included), with minimum limits of \$1,000,000 per each occurrence, with a general aggregate of coverage of \$2,000,000.00, with such coverage to be described on an occurrence basis rather than a claims-made basis, by a carrier licensed to conduct business in the State of Washington.

14.2 Property, Fire and Extended Coverage in an amount sufficient to reimburse Licensee for all of its equipment, trade fixtures, inventory, fixtures and other personal property located on or in the Premises including improvements hereinafter constructed or installed.

14.3 Worker's Compensation Insurance, to the extent required by the laws of the State of Washington.

14.4 The coverages required under this Section 14 shall not limit the liability of Licensee.

14.5 The coverages referred to under Section 14.1 and 14.2 shall include Licensor as an additional insured. Upon the execution of this Agreement and with respect to all insurance renewals, Licensee shall furnish Licensor with certificates of insurance evidencing compliance with all requirements. Certificates shall provide for thirty (30) days advance written notice to Licensor of any material modification, change or cancellation of the above insurance coverages.

14.6 Waiver of Subrogation. The Licensee hereby waives any right of recovery against the Licensor as a result of loss or damage to the property of either Licensee or Licensor when such loss or damage arises out of an Act of God or any of the property perils insurable under extended coverage, whether or not such peril has been insured, self-insured, or non-insured.

15. Lien Free Condition. Licensee shall not cause or permit any liens to be placed against the Property as a result of Licensee's exercise of rights under this Agreement. In the event of the filing of any such liens, Licensee shall promptly cause such liens to be removed.

16. **Additional Rules.** The Yacolt Town Council may by resolution adopt additional rules and regulations for KWRL's use of the Property for any reason that the Council considers appropriate, including an effort to minimize strain upon Town services. Such additional rules and regulations shall become effective sixty (60) days after written notice to KWRL.
17. **Nondiscrimination of Services and Employment.** KWRL covenants and agrees that in all matters pertaining to the performance of this Agreement, KWRL shall at all times conduct its business in a manner which assures fair, equal and nondiscriminatory treatment of all persons with respect to race, color, national origin, religion, gender, age, marital status, or disability, including compliance with all requirements of applicable federal, state and local laws and regulations issued pursuant thereto relating to the establishment of any nondiscriminatory requirements in hiring and employment practices.
18. **Corrective Legal Description Allowed.** The Parties agree that this Agreement may be re-executed in order to provide any corrective legal description of the Property so that the intent of the Parties is given full effect.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

Town of Yacolt
"Yacolt" or "Licensor"

KWRL Babe Ruth
"KWRL" or "Licensee"

Vince Myers, Mayor

Will Block, President

Attest:

Katie Younce, Assistant Clerk

Buck Harris, Secretary

Approved as to Form:

David W. Ridenour, Town Attorney