

JOINT USE INTERLOCAL AGREEMENT
Between
THE CITY OF CLEARWATER,
And
THE TOWN OF BELLEAIR

This Joint Use Interlocal Agreement (“Agreement”) made and entered into this _____ day of _____, 2014, by and between the City of Clearwater, Florida, a municipal corporation of the State of Florida, hereinafter referred to as “Clearwater”, and the Town of Belleair, Florida, a municipal corporation of the State of Florida, hereinafter referred to as “Belleair,” (each being referred to individually herein as “Party”, and collectively as the “Parties”).

WITNESSETH:

WHEREAS, in addition and supplemental to their other powers, Belleair and Clearwater, pursuant to Chapter 163, Part I, Florida Statutes, as amended, commonly known as the “Florida Interlocal Cooperation Act of 1969”, are authorized and empowered to cooperate with each other on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of government organization that will best accord with geographic, economic, population, and other factors influencing the needs and development of local communities; and

WHEREAS, Clearwater has certain existing athletic facilities upon which it conducts little league baseball programs, hereinafter referred to as "Facilities"; and

WHEREAS, Belleair would like for its residents to have the option of participating in such programs, particularly, Clearwater Little League, Inc., hereinafter referred to as "CLL"; and

WHEREAS, it is mutually beneficial for the parties to allow for the joint use of the facilities and participation in the CLL.

NOW THEREFORE, in consideration of the mutual covenants set forth herein, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

1. Consideration. In consideration for the participation in CLL and the use of the Facilities as described hereunder, Belleair shall contribute a total of Twenty Five Thousand and xx/100 Dollars (\$25,000.00) during the Term, payable in five (5) annual installments of Five Thousand and xx/100 Dollars (\$5,000.00) each, to be paid annually over the first five (5) years of the Agreement. The first payment will be made on the Effective Date of the Agreement and each subsequent payment will be due annually on the anniversary of the Effective Date.
2. Term. The term of this Agreement shall be for a period of twenty (20) years, commencing on the Effective Date, and remaining in effect for twenty (20) years thereafter, unless notice is given by the terminating Party to the other Party, with at least ninety (90) days written notice, that the Agreement shall be terminated, or as otherwise terminated as provided for in this Agreement.
3. Maintenance. Clearwater agrees to provide irrigation, mowing, sod, control of insects, fertilization, maintaining the parking area, restrooms and other buildings and otherwise maintain the Facilities at Clearwater's expense. Utility costs associated with the Facilities shall be part of the maintenance costs.
4. Taxes. Clearwater shall be responsible for all real and personal property taxes as may be assessed against the Facilities during the term of this Agreement.
5. Conducting Programs and Use of Facilities. Clearwater shall retain full control in conducting its programs and overseeing its Facilities. Clearwater agrees to make the programs and Facilities available for use by Belleair residents participating in CLL programs during the term of this Agreement in the same manner and at the same rates charged to City of Clearwater residents, including, but not limited to, rates for recreation cards and program application fees. Use by Belleair residents shall be through existing or future Clearwater Authorized Programs and co-sponsored organizations. For purposes of this Agreement, Clearwater Authorized Programs shall mean programs run for the benefit of

Clearwater residents or any co-sponsored programs Clearwater conducts in accordance with its recreation program.

6. Restrictions on Use. Belleair's use hereunder is not transferable. Use of the Facilities by private parties or organizations or by business enterprises for profit, other than Clearwater authorized programs is prohibited without prior written consent of Clearwater. The Parties mutually agree to make no unlawful, improper, or offensive use of the Facilities and to abide by applicable law. In addition, the Parties, and all their respective invitees will abide by all policies of Clearwater, including those which prohibit the consumption of tobacco products or alcohol beverages on the Facilities property. If at any time, Clearwater, in its sole discretion, determines that a use of the Facilities or the surrounding areas by Belleair will cause a threat to the safety of the public, or damage to the Facilities if use is permitted to continue, the specific use that causes the disruption, interference or threat may be terminated immediately without notice.
7. Supervision of Programs. The supervision of CLL programs shall remain the responsibility of Clearwater.
8. Hold Harmless. To the extent permitted by law and subject to the Florida Statutory limits on the waiver of sovereign immunity, the Parties agree that each will hold the other harmless for the negligent acts of their employees, servants, agents, permittees or program participants, or for any unsafe conditions that exist as a result of the negligent operation by the Parties within the Facilities. The Parties each agree to be responsible for loss or damage to the Facilities while used in programs, normal wear and tear excepted. Notwithstanding anything contained herein to the contrary, this indemnification provision shall not be construed as a waiver of any immunity to which either Party is entitled or the extent of any limitation of liability to pursuant to § 768.28, Florida Statutes. Furthermore, this provision is not intended to nor shall be interpreted as limiting or in any way affecting any defense either Party may have under § 768.28, Florida Statutes, or as consent to be sued by third parties. This provision shall survive expiration or termination of this Agreement.

9. Assignment. This Agreement may not be assigned. Any attempt to assign this Agreement, in whole or in part, or any benefits hereunder, shall render this Agreement null and void in its entirety, excepting provisions expressly intended to survive expiration or termination.
10. Termination. Clearwater, in its sole discretion, may terminate this Agreement in the event the Clearwater City Council determines at a duly constituted City Council meeting that the Property is needed for other municipal purposes or upon a determination that funds to support the Facilities or programs are no longer available, and Clearwater serves Belleair with ninety (90) days written notice of same. This Agreement may be terminated immediately by either Party for cause, upon written notice to the defaulting Party of a default of any of the terms and conditions of this Agreement, if said default is not cured within ninety (90) days of such notice. If Clearwater terminates this Agreement for municipal purpose or non-appropriation of funds, Clearwater will make its best efforts to provide Belleair residents with substitute facilities and programs, equal in size and scope, as determined at Clearwater's sole discretion, or Clearwater may reimburse Belleair at the following rate for each year remaining in the original term of the Agreement without further obligation:

<u>Years</u>	<u>Reimbursement</u>
0 - 1	90% of contribution to date
1 - 2	80% of contribution to date
2 - 3	70% of contribution to date
3 - 4	60% of contribution to date
4 - 5	50% of contribution to date
5 - 6	40% of contribution
6 - 7	30% of contribution
7 - 8	20% of contribution
8 - 9	10% of contribution
9 - 10	0% of contribution

11. Unforeseen Questions. Clearwater and Belleair agree that in the event of unforeseen questions arising out of use of the Facilities or otherwise arising under this Agreement, the Parties will first make a good faith effort to resolve such questions in writing between the Belleair City Manager and the Clearwater City Manager, or their respective designees for resolution of such questions concerning this Agreement, unless otherwise

required to be reviewed by either or both of the respective City Council/Commission of the Parties as provided for in their City Codes or other applicable law.

12. Headings. The headings of this Agreement are for convenience and reference only and in no way define, limit, or describe the scope of intent of this Agreement or any part hereof, or in any way affect the same, or construe, any provision hereof.
13. Notices. Any notice required or permitted to be given by the provisions of this Agreement shall be conclusively deemed to have been received by a party hereto on the date it is hand delivered to such party at the address indicated below (or at such other address as such party shall specify to the other party in writing), or if sent by registered or certified mail (postage prepaid), when actually received or on the fifth (5th) business day after the day on which such notice is mailed and properly addressed, whichever is earlier.

To Belleair:

To the Clearwater:

City of Clearwater
112 S. Osceola Ave.
P.O. Box 4748
Clearwater, Florida 33756-4748
Attn: Kevin Dunbar
Director of Parks & Recreation

Either party may change its above noted address by giving written notice to the other party in accordance with the requirements of this Section.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals this _____ day of _____, 2014.

TOWN OF BELLEAIR, FLORIDA

By: _____

Countersigned:

CITY OF CLEARWATER, FLORIDA

George N. Cretekos
Mayor

By: _____
William B. Horne II
City Manager

Approved as to form:

Attest:

Laura Lipowski Mahony
Assistant City Attorney

Rosemarie Call
City Clerk

DRAFT