



Forsyth County Procurement

Greg Bridges, NIGP-CPP, Procurement Agent III

February 20, 2023

ADDENDUM #1

LOI No. 23-12-5211

For: Equestrian Services at Polo Fields

This addendum supersedes and supplements all portions of the bidding documents and becomes part of the contract documents for the above-referenced project.

Where any item called for in the specifications or indicated on the drawings is supplemented hereby, the original requirements shall remain in effect.

Where any original item is amended, voided or superseded hereby, the provision of such item not so specifically amended, voided or superseded shall remain in effect.

Clarification on Bidder Questions and Attachment:

1. **Q: Would you let me know about the County's arrangement with the soccer group using the polo field? Assuming I could reach a joint use agreement for use of the polo field along with the soccer group using it I would like to submit a proposal for the barn and other areas.**

A: A copy of the Lease Agreement has been posted below as an Attachment. It is not the County's intent to have another vendor use the soccer field area while we have an agreement with UFA.

2. **Q: Will you be able to provide any details about the time the soccer group uses the field or other aspects about the agreement with them?**

A: It is not the County's intent to have another vendor use the soccer field area while we have an agreement with UFA.

Attachment: Lease Agreement with UFA.

LEASE AGREEMENT

This Lease Agreement (the "Lease") is made as of this 4th day of August, 2022, by and between FORSYTH COUNTY, GEORGIA, a political subdivision of the State of Georgia ("Landlord") and UNITED ATHLETICS, INC. d/b/a United Futbol Academy ("Tenant").

WHEREAS, Landlord owns certain real property located at the northeast corner of Post Road and Majors Road in Forsyth County (the "Property," as described in more detail herein);

WHEREAS, the Property is and has been used as an outdoors recreational facility; and

WHEREAS, Tenant desires to lease the Property for continued use as a recreational facility.

NOW THEREFORE, for and in consideration of the above-recited premises, the mutual obligations contained herein, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord leases to Tenant, and Tenant leases from Landlord the Property, subject to the following terms and conditions:

SECTION 1. DEFINITIONS: The following terms and definitions shall be applied uniformly throughout the Lease:

- A. The term "Property" shall refer to that certain real property owned by Landlord and comprised of approximately 25+/- acres located at the northeast corner of Post Road and Majors Road in Forsyth County, and more fully depicted in Exhibit A, attached hereto and incorporated herein by reference.
- B. The term "Commencement Date" shall refer to August 16, 2022.
- C. The term "Initial Lease Term" shall refer to the period commencing with the Commencement Date and ending on August 15, 2023.
- D. The term "Recreational Activities" shall refer to recreational and leisure events, either individual or team-based, including, without limitation, sporting events and any practice, training, or other preparation therefor.

SECTION 2. COMMENCEMENT AND POSSESSION: By its execution hereof, Tenant accepts the Property in its condition as of the Lease Commencement Date and acknowledges that the same is in good condition and repair. Notwithstanding any other provision contained herein to the contrary, other than as expressly set forth herein, Landlord shall not be required to make any improvements to the Property or provide any allowance for improvements by Tenant. Landlord agrees that Tenant, at its own expense, shall have the right from time to time to implement reasonable upgrades and make reasonable improvements to the Property, subject to the prior written consent of Landlord, which prior consent shall not be unreasonably withheld, provided that

Tenant is not authorized to make any upgrades or improvements that shall diminish the value of the Property. Specifically, Landlord agrees that Tenant may (but shall not be obligated to) make the following improvements to the Property:

- A. Provide temporary restrooms
- B. Provide portable lighting as needed for operations
- C. Provide trash receptacles, a dumpster and trash removal

SECTION 3. USE OF PROPERTY: Tenant's use of the Property shall be limited to Recreational Activities, as defined herein and for no other purposes. Said Recreational Activities shall be conducted only in accordance with the Hours of Operation, as defined in Section 7.F. herein.

- A. **Non-Exclusive Use of Property:** The Parties hereby acknowledge that Tenant's use and possession of the Property is exclusive, except that Landlord reserves the limited right to use, rent, lease, license or otherwise control the Property provided that it first provides Tenant with notice of same. Landlord shall be required to provide Tenant at least thirty (30) days prior written notice of the intended use, such notice to be made in accordance with the notice provisions contained herein.

SECTION 4. RENT: Commencing on the Commencement Date, Tenant shall pay to Landlord annual rent in the amount of \$80,000.00.

Rent shall be paid to Landlord in four equal installments on August 15; November 15; February 15; and May 15 of each year. A late charge of one percent (1%) per annum will be applied to any payment made after the due dates, as set forth herein. Tenant shall pay all rent to Landlord at Landlord's Mailing Address or as otherwise specified by Landlord. Rent required to be paid hereunder shall commence on and as of the Commencement Date.

SECTION 5. ASSIGNMENT AND SUBLEASE: Tenant shall not assign this Lease, or sublease all or any part of the Property, or permit the use of the Property by any party other than Tenant and its employees without the prior written consent of Landlord. This prohibition includes any act which has the effect of an assignment, or which occurs by operation of law, including any merger or consolidation of Tenant with any other party, or any sale or transfer of a controlling interest in Tenant.

SECTION 6. LANDLORD'S AUTHORITY AND OBLIGATIONS: Landlord shall have the following authority and obligations under the Lease:

- A. **Provision of Amenities:** Landlord shall have the following obligations with respect to the provision of amenities for the Property: Only that which is in existence as of the Commencement Date. Landlord shall have no obligation to finance or otherwise provide for any repairs, upgrades, or maintenance of the Property other than as described in Section 6(B), below.

B. Maintenance of Property:

(1) Landlord shall maintain the approximately 13+/- acre exterior area, including but not limited to existing Leyland cypress trees and overflow parking, as depicted in Exhibit "B", to a level at Landlord's sole discretion.

(2) Landlord shall provide seasonal aeration and topdressing of fields in the form, manner and amount in Landlord's sole discretion.

C. Liability: Landlord shall not be liable for any loss or damage to personal property which occurs during Tenant's use of the Property.

D. Cancellation Rights:

(1) Landlord shall have the authority to cancel any Recreational Activity if Landlord determines that the Property is not suited for said event due to any environmental or weather condition. Such determination shall be made in the sole discretion of the Landlord and may be made without any prior notice to Tenant.

(2) In the event that Tenant fails to abide by any provision of this Lease after reasonable notice of such failure, Landlord may require that the Tenant vacate the Property.

SECTION 7. TENANT'S AUTHORITY AND OBLIGATIONS: Tenant shall have the following authority and obligations under this Lease, and except for the requirement contained within Section 7(A) herein, Tenant may assign such authority and obligations under the Soccer Sublease:

A. Lighting/Electricity: Tenant shall set up accounts, pay and be responsible for any cost or expense incurred for the use of electricity at the Property, including lighting.

B. Management of Events: Tenant shall have the following obligations with respect to the use of the Property:

(1) ensure that players wear turf shoes during practice;

(2) provide portable toilet facilities in compliance with all federal, state and local regulations and in an amount at least sufficient to reasonably accommodate the largest actual participation and attendance on-site;

(3) marking the soccer playing area only as approved by Landlord;

(4) ensure that all fields are set back at least 100 feet from the property lines of any residents living adjacent to the Property;

(5) provide portable lighting as reasonably necessary for operations;

- (6) make reasonable efforts to minimize lights shining on or near any residents living near or adjacent to the Property;
- (7) extinguish all lights in accordance with the Hours of Operation, as outlined herein;
- (8) ensure that no persons enter into, encroach upon, or approach polo stables, horses, animals, pastures and other non-athletic areas and items;
- (9) ensure that no vehicles (except for “gators,” golf carts, maintenance vehicles and emergency vehicles as necessary) travel upon the fields unless authorized by Landlord in writing;
- (10) ensure the good behavior and conduct of all persons allowed on the Property by Tenant;
- (11) ensure that no fireworks or firearms are present on the Property;
- (12) provide security, as appropriate;
- (13) provide parking attendants, if appropriate;
- (14) arrange for ambulance service, if appropriate;
- (15) properly lock or otherwise secure the Property, and remove all persons from the Property at the end of each day of use by Tenant;
- (16) provide trash receptacles sufficient to minimize daily litter accumulation, a trash dumpster to accommodate daily emptying of trash receptacles, and trash removal service on a reasonable schedule sufficient to prevent accumulation of litter outside of the dumpster; and
- (17) receive and address any complaints from any person regarding the use of the Property; and
- (18) ensure that all persons allowed on the Property by Tenant are respectful of the privacy of residents living adjacent to the Property.
- (19) empty all trash receptacles located on the premises and appropriately dispose the contents thereof at the completion of activities on the field every day;
- (20) shall inspect the perimeter of the fields and the property and shall pick up any loose trash at the completion of activities on the field every day;

- (21) ensure operations are consistent with Section 7(F) of the this Lease regarding hours of operation;
- (22) arrange soccer fields for use on the Property as shown in Exhibit C. Less than regulation sized fields shall not be allowed on the easternmost and southern most fields (field 3 and field 6 as shown in Exhibit C). The central fields may be used for less than regulation sizes, but not less than 40% of regulation full sized fields. Fields less than 40% of regulation size (“micro fields”) shall only permitted to be created in locations of field 1 and field 4 as shown in Exhibit C;
- (23) ensure no lighting shall be installed for the eastern-most the soccer fields (field 3 as shown in Exhibit C); and

C. Maintenance of Property: Tenant shall ensure that the entire Property is maintained in no worse condition as at the Commencement Date. Tenant shall be responsible for maintenance, including but not limited to, mowing and turf management of the approximately 12+/- acre soccer playing area as depicted in Exhibit “B”,

D. Liability: Tenant shall be responsible for any and all damage to the Property or any structure located on the Property, including the grand stands.

E. Insurance: Tenant shall maintain insurance substantially as described in Exhibit D, attached hereto and incorporated herein by reference, during the term of this Lease. Tenant shall provide a complete certified copy of the current insurance policy(ies) or a certified letter for the insurance company(ies) upon request by Landlord in order to verify compliance with the insurance requirements described herein.

F. Hours of Operation: Tenant agrees to use the Property only in accordance with the following hours of operation (the “Hours of Operation”):

- (1) Monday – Friday: The Property shall be open for use at 8:00 a.m., and closed at 9:30 p.m., except for Tenant and its staff. The Property shall be vacated, locked and secured, and all lights extinguished by 10:00 p.m.
- (2) Saturday: The Property shall be open for use at 8:00 a.m., and closed at 8:30 p.m., except for Tenant and its staff. The Property shall be vacated, locked and secured, and all lights extinguished by 9:00 p.m.
- (3) Sunday: The Property shall be open for use at 9:00 a.m., and closed at 7:30 p.m., except for Tenant and its staff. The Property shall be vacated, locked and secured, and all lights extinguished by 8:00 p.m.

- (4) Saturday-Sunday Tournaments: The Property shall be open for use at 7:00 a.m., and closed at 8:30 p.m., except for Tenant and its staff. The Property shall be vacated, locked and secured, and all lights extinguished by 9:00 p.m.
- (5) Camps: The Property shall be open for use at 8:00 a.m., and closed at 8:00 p.m., except for Tenant and its staff. The Property shall be vacated, locked and secured, and all lights extinguished by 8:30 p.m.

G. Utilities: Tenant shall apply for and make payment for any utility services at the Property, including, without limitation, lighting and electricity.

SECTION 8. OPPORTUNITY TO CURE: If Tenant shall (a) fail to pay any rent or other amounts payable under this Lease when due, (b) fail to perform any obligation contained herein, or (c) otherwise fail to comply with the terms contained herein, Landlord shall provide Tenant with written notice of the failure. Said notice shall provide Tenant with a period of ten (10) days to cure such failure. Said opportunity to cure does not apply to a failure by the Tenant to secure insurance, as required by Section 7(E).

SECTION 9. RENEWAL OF TERM: At the end of the Initial Lease Term, this Agreement shall terminate absolutely and without further obligation on the part of Landlord, provided that this Agreement shall automatically renew for another one (1) year term on August 16, 2023, absent written notice of non-renewal provided by Landlord to Tenant prior to the termination of the then current term. Notwithstanding any other terms contained in this paragraph to the contrary, this Agreement shall terminate absolutely on August 15, 2024, if not terminated earlier pursuant to the other terms of this Agreement. Upon any termination, both parties agree to an accounting and further agree to remit promptly any amounts due and owing as of that date.

SECTION 10. TERMINATION OF LEASE:

- A. Landlord shall have the right to terminate this Lease upon a default by Tenant hereunder and a failure by Tenant to cure same within the periods defined within Section 8 of this Lease.
- B. Upon termination, this Lease shall become null and void, and Landlord and Tenant shall have no further obligations to each other, other than Tenant's obligation to remove any improvements, as hereinafter provided, any obligations accrued and unsatisfied as of the date of such termination, and any indemnification obligation arising from acts or occurrences prior to the date of such termination.

SECTION 11. REMOVAL OF IMPROVEMENTS: Upon the termination of this Lease, Tenant shall have thirty (30) days to remove any improvements it installed during the term of this Lease. In addition, thirty (30) days after the termination of this Lease, Tenant is obligated to restore the Property to the same condition as the Property was at the Commencement Date, ordinary wear and tear excepted. If any installments or debris brought onto the Property by Tenant

is left on the Property by Tenant, Landlord shall provide Tenant with notice of same. Tenant shall have ten (10) days from receipt of said notice to remove the improvements or debris. If Tenant fails to do so, Landlord shall have the right to remove the improvements or debris, without notice to Tenant, and charge Tenant for all costs associated therewith. Tenant agrees to remit payment to Landlord for same immediately upon demand.

SECTION 12. INDEMNIFICATION: Tenant agrees to protect, defend, indemnify and hold Landlord harmless from and against any and all liabilities, claims, expenses, losses and damages, including, without limitation, reasonable attorneys' fees and disbursements, which may at any time be asserted against it by any person for claims arising or resulting in any way from (a) the use and/or occupancy of the Property by Tenant, its officers, agents, employees, contractors, licensees, invitees, guests and customers; (b) the use and/or occupancy of the Property by any of Tenant's Subtenants, their officers, agents, employees, contractors, licensees, invitees, guests and customers; (c) the acts or omissions of Tenant, its officers, agents, employees, contractors, licensees, invitees, guests and customers; or (d) the acts or omissions of any of Tenant's Subtenants, their officers, agents, employees, contractors, licensees, invitees, guests and customers. Upon notice from Landlord, Tenant shall defend the same, at Tenant's expense, by counsel reasonably satisfactory to Landlord. Tenant hereby assumes all risk of damage to property or injury to persons upon or about the Property unless caused by the acts or omissions of Landlord. Further, Tenant releases Landlord from all liability for any damage to property, and for injury to person or for loss of or damage to any property by theft or otherwise, unless caused by the acts or omissions of Landlord.

SECTION 13. ENVIRONMENTAL OBLIGATIONS: Tenant shall hold Landlord harmless from and indemnify Landlord against any damage, loss, expense, response costs or liability, including consultant fees and attorneys' fees, resulting from hazardous substances generated, stored, disposed of or transported to, on or under the Property by Tenant or its employees, agents or contractors, at Tenant's direction or as a result of Tenant's use of the Property. For purposes of this Lease, "hazardous substances" shall mean (i) any substance which contains gasoline, diesel fuel or other petroleum hydrocarbons, (ii) any substance which is flammable, radioactive, corrosive or carcinogenic, (iii) any substance the presence of which on the Property causes or threatens to cause a nuisance or health hazard affecting human health, the environment, the property or property adjacent thereto, or (iv) any substance the presence of which on the property requires investigation or remediation under any hazardous substance law, as the same may hereafter be amended. "Hazardous Substance Law" means the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Sec. 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6901 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. Sec. 1801 et seq.; the Clean Water Act, 33 U.S.C. Sec. 1251 et seq.; the Clean Air Act, 42 U.S.C. Sec. 7401 et seq.; the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. Sec. 136 et seq.; the Toxic Substances Control Act, 15 U.S.C. Sec. 2601 et seq.; the Emergency Planning and Community Right to Know Act (SARA Title III) 42 U.S.C. Sec. 11001 et seq.; and any applicable state law or regulation.

SECTION 14. CONDEMNATION: If the whole of the Property, or such portion thereof as will make the Property unusable for the purposes allowed herein, is condemned by any legally constituted public authority, then this Lease, and the term hereby granted, shall cease from the

time when possession thereof is taken by the public authority, and rental shall be accounted for as between Landlord and Tenant as of that date. Any lesser condemnation shall in no way affect the respective rights and obligations of Landlord and Tenant hereunder. However, nothing in this paragraph shall be construed to limit or adversely affect Tenant's right to an award of compensation from any condemnation proceeding for the taking of Tenant's leasehold interest hereunder or for the taking of Tenant's improvements, fixtures, equipment, and personal property.

SECTION 15. TAXES: Tenant shall be responsible for making any necessary returns for and paying any and all property taxes separately levied or assessed against any improvements constructed and owned by Tenant on the Property. Tenant shall reimburse Landlord, as additional rent, for any increase in ad valorem taxes levied or assessed against the Property during the term of this Lease to the extent such increase can be clearly demonstrated as being caused by Tenant's improvements. Notwithstanding the foregoing, Tenant shall not be obligated to pay any real property taxes which are assessed against Landlord, as said amount is contemplated within the rental amount.

SECTION 16. NOTICES AND REMITTANCE OF PAYMENT: All notices hereunder must be in writing and shall be deemed validly given on the date when deposited in the United States mail, by certified mail, return receipt requested. All such notices and any remittance of payment of rent or other payment obligation hereunder shall be addressed as follows:

IF TO LANDLORD: County Manager
110 East Main Street
Cumming, Georgia 30040

copy to:

Jarrard & Davis, LLP
222 Webb Street
Cumming, Georgia 30040

IF TO TENANT: United Athletics, Inc.
P. O. Box 1168
Cumming, Georgia 30028

copy to:

Phill Bettis, Esq.
1815 Lockeway Drive, Suite 106
Alpharetta, Georgia 30003

The parties may substitute recipient's names and addresses by giving notice as provided hereunder. Rejection or refusal to accept delivery of any notice, or the inability to deliver any notice because of a changed address of which no notice was given, shall be deemed to be receipt of any such notice.

SECTION 17. WAIVER: No failure of Landlord to exercise any power given Landlord hereunder, or to insist upon strict compliance by Tenant with its obligations hereunder, and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of Landlord's right to demand exact compliance with the same hereof.

SECTION 18. BINDING EFFECT: This Lease shall extend to and bind the heirs, personal representatives, successors and assigns of Landlord and Tenant and shall constitute covenants running with the land.

SECTION 19. MISCELLANEOUS: This Lease cannot be modified except by a written modification executed by Landlord and Tenant in the same manner as this Lease is executed. The headings, captions and numbers in this Lease are solely for convenience and shall not be considered in construing or interpreting any provision in this Lease. Wherever appropriate in this Lease, personal pronouns shall be deemed to include other genders and the singular to include the plural, if applicable. This Lease contains all agreements, promises and understandings between the Landlord and Tenant, and no verbal or oral agreements, promises, statements, assertions or representations by Landlord or Tenant or any employees, agents, contractors or other representations of either, shall be binding upon Landlord or Tenant. This Lease may be executed in several counterparts, each of which shall constitute an original and all of which shall constitute the same agreement.

SECTION 20. GOVERNING LAW: This Lease shall be governed by and construed in accordance with the laws of the State of Georgia. Any legal action shall be pursued in the Superior Court of Forsyth County, Georgia.

IN WITNESS WHEREOF, the parties have executed or caused this Lease Agreement to be executed by authorized officials in duplicate on the day and year first noted above.

FORSYTH COUNTY, GEORGIA

By: Alfred John
Its: Chairman, Board of Commissioners

UNITED ATHLETICS, INC.
d/b/a UNITED FUTBOL ACADEMY

By: Don Schultz
Its: PRESIDENT

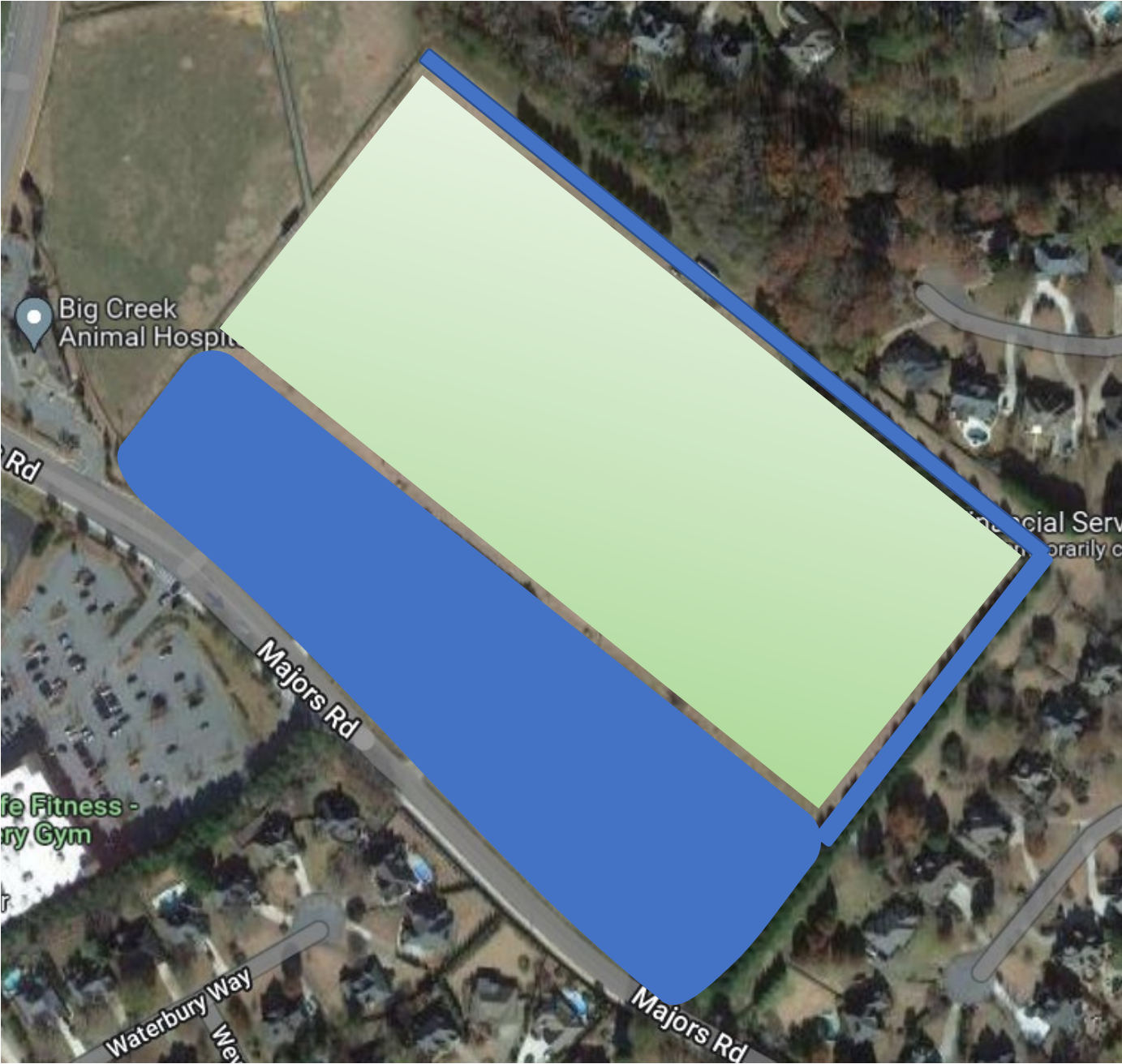
Attest: S. Leo Malecki
Its: treasurer

[AFFIX CORPORATE SEAL]

Polo Fields Athletic Area – Exhibit A



Polo Fields Athletic Area – Exhibit B



Exterior Area



Soccer Playing Area – 12 acres

GAME FIELD LAYOUT - EXHIBIT C

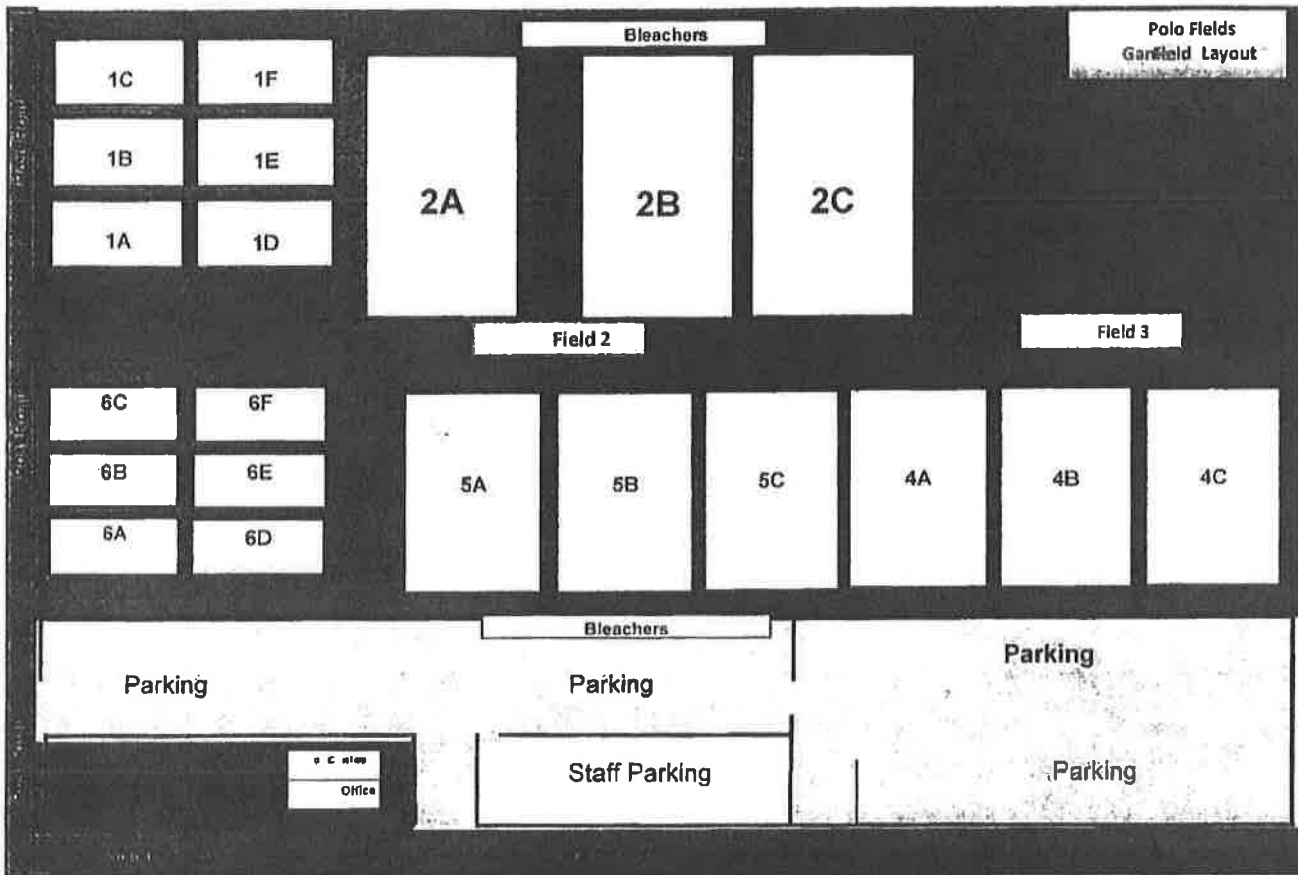
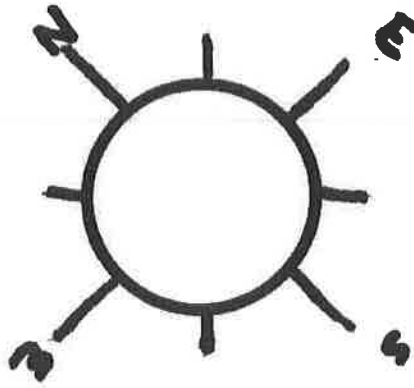


EXHIBIT D

A. The following coverages are required:

1. Statutory Worker's Compensation Insurance

a. Employees Liability:

Bodily Injury by Accident	-	\$100,000.00 each accident
Bodily Injury by Disease	-	\$ 100,000.00 policy limit
Bodily Injury by Disease	-	\$ 500,000.00 each employee

2. Commercial General Liability Insurance

a. \$1,000,000 limit of liability per occurrence for bodily injury and property damage

b. The following additional coverages must apply:

- 1986 (or later) ISO Commercial General liability form
- Dedicated limits per project or location (CG 25 03 or CG 25 04)
- Additional insured endorsement (form b CG 20 10 with a modification for completed operations or a separate endorsement covering completed operations)
- Blanket Contractual liability
- Broad Property Damage
- Severability of Interest
- Underground explosion and collapse coverage
- Personal injury (deleting both contractual and employee exclusions)

3. Auto Liability Insurance

a. \$1,000,000.00 limit of liability per occurrence for bodily injury and property damage

b. Comprehensive form covering all owned, non-owned, leased, hired, and borrowed vehicles.

c. Additional insured endorsement

d. Contractual Liability

4. Umbrella Liability Insurance \$1,000,000.00 limit of liability

B. The following coverages must be included

1. Additional insured endorsement
2. Concurrency of effective dates with primary
3. Blanket contractual liability
4. Drop down feature
5. Care, Custody, and Control – Follow form primary
6. Aggregates apply where applicable in primary
7. Umbrella policy must be as broad as the primary policy

C. Forsyth County Board of Commissioners (and any applicable authority) shall be included as additional insured on the General Liability, Auto Liability and Umbrella Liability policies.

D. Any cancellation must provide 10 days' notice for nonpayment and 30 days' notice of cancellation.

E. Certificate Holder should read:

Forsyth County Board of Commissioners
ATTN: Procurement Department
514 West Maple Street, Suite 104
Cumming, GA 30040

- F. Each of the insurance companies writing policies required herein, except those for Workers Compensation if required, must have A.M. Best rating of A-5 or higher. Certain Worker's Comp funds may be acceptable by the approval of the Risk Management Division. European makers including those based in London and domestic surplus lines markets that operate on a non-admitted basis are exempt from this requirement provided that the contractor's broker/agent can provide financial data to establish that a market is equal to or exceeds the financial strengths associated with the A.M. Best's rating of A-5 or better.

- G. Each of the insurance companies writing policies required herein must be licensed to do business by the Georgia Department of Insurance.