

Memorandum of Agreement
Utilization of Soule Park County Park

**MEMORANDUM OF AGREEMENT BETWEEN THE COUNTY OF VENTURA AND
THE CITY OF OJAI FOR RECREATIONAL USE OF COUNTY OF VENTURA'S
SOULE PARK PROPERTY**

This Memorandum of Understanding (Agreement) for the Recreational Use of the County of Ventura's Soule Park by the City of Ojai is made on this [REDACTED] day of October 2022 by and between the COUNTY OF VENTURA, a subdivision of the State of California (hereinafter referred to as the "COUNTY"), and the CITY OF OJAI (hereinafter referred to as the "CITY"). Hereinafter, the COUNTY and CITY may be referred to individually as a "PARTY" and collectively as the "PARTIES."

WHEREAS, the COUNTY is the owner of a 223 acre park known as Soule Park (hereinafter referred to as the "PARK"), which is used for leisure purposes and located at 1301 Soule Park Road, Ojai, CA 93023; and

WHEREAS, the PARK contains existing open areas and recreational amenities, such as ballfields, open turf areas (fields), paddle tennis courts, an equestrian arena, and a dog park on the property controlled by the COUNTY; and

WHEREAS, the CITY desires to utilize such areas for recreational purposes and programs, and enable members of the public to access the park and its amenities without paying gate fees; and

WHEREAS, the CITY additionally desires to construct a recreational facility (i.e. pickleball or other) (defined below) at the PARK near the existing paddle tennis courts for use by the City's recreation programs and by members of the public; and

WHEREAS, the COUNTY desires to enter into an agreement with the CITY for the utilization of the Park for recreation purposes, and grant the CITY the right to construct and maintain a recreational court facility.

NOW, THEREFORE, in consideration of the premises and covenants contained herein, the PARTIES agree as follows:

1. **Purpose.** The purpose of this Agreement is to align the facilities and programming of the PARTIES to improve parks and recreational services to the public by improving PARK access by providing free means of entry and enabling the CITY to construct and maintain a recreational facility (such as pickleball or other) and to conduct additional recreational programs and activities at the PARK.
2. **Term.** This Agreement will remain in effect beginning upon the date of the last signature on the Agreement and terminating on December 31, 2024, unless amended or terminated as provided herein. The PARTIES shall have the authority to extend the term of this Agreement in writing, for a period

**Memorandum of Agreement
Utilization of Soule Park County Park**

suitable to both agencies. Extensions of time shall be memorialized by execution of a written amendment to this Agreement.

3. **City's Rights and Obligations.** To accomplish the purpose of this Agreement as described in Section 1, the CITY shall:
- (a) **Right to Pursue and Construct Facilities.** The CITY shall be granted the right to apply for and construct a recreational facility (i.e. pickleball, paddle ball, or other outdoor recreational amenity) at the PARK property, upon the submission of a construction and maintenance plan and any other applicable application materials deemed necessary to the COUNTY. The final design and location of any recreational facility is subject to the COUNTY's review and approval process. The recreational facility will consist of approximately 20,000 sq. ft. of space for potential multiple courts, a shade structure, and other amenities as designated and designed by the CITY. An addendum for this Agreement shall be created governing the specific construction, maintenance, and right of entry requirements for any new recreational facility or amenity.
 - (b) **Parking Fees.** The CITY shall pay the COUNTY an annual fee for community parking access at the PARK, no later than the first day of July every year ("Parking Fee"). The amount of the Parking Fee will be \$58,000 annually. The Parking Fee shall not increase without the mutual agreement of both PARTIES.
 - (c) **Insurance.** Before any entry by the CITY upon the PARK, the CITY must procure and maintain for the duration of this Agreement liability insurance or a program of self-funding for liability, or a combination of the two, to protect against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the CITY'S duties under this Agreement or use of the facilities that the CITY is obligated to construct and maintain. The City must procure General liability Insurance with limits of liability of at least one million dollars (\$1,000,000) per occurrence. Where compliance with this provision is provided through insurance, the insurance policy must include an endorsement naming the COUNTY as an additional insured. Such insurance must be primary as to additional insureds and must not be contributory with any insurance, self-insurance or joint self-insurance maintained by the COUNTY. Evidence of insurance coverage will be satisfied with submission of a certificate of insurance with a copy of the additional insured endorsement. Evidence of self-insurance will be satisfied by submission of correspondence from the CITY.

4. **County's Rights and Obligations.** To accomplish the purpose of this

**Memorandum of Agreement
Utilization of Soule Park County Park**

Agreement as described in Section 1, the COUNTY shall:

- (a) Public Right of Entry. In exchange for the CITY'S payment of Gate Fees, the COUNTY shall allow the public to enter the PARK free of charge for recreational purposes to use any existing recreational facilities at the PARK, subject to the COUNTY's enforcement of applicable fees related to special events authorized by the COUNTY and use restrictions; enforcement of applicable laws, ordinances, resolutions, and regulations; and scheduled and unscheduled closures. As used in this Agreement, "recreational purposes" include, but are not limited to, horseback riding, walking, hiking, jogging, bicycling, nature observation, and picnicking. "Recreational purposes" do not include camping, group reservations, or other group events. The COUNTY shall no longer collect Gate Fees or entrance fees from any PARK patrons for the term of this Agreement.
- (b) Right to Use PARK Facility. The CITY shall have the right to reserve the recreational facility, ballfields, open turf areas (fields), paddle tennis courts, equestrian arena, dog park, and other areas of the PARK from the COUNTY prior to the COUNTY'S offering of these areas for reservation or rental to the general public or any other party. These areas shall be rented at the board-approved rates unless 30 or more days of permits are requested per season (fall, winter, spring, and summer). When 30 or more days are requested per season, 50% of the board-approved rate will be applied for the field permit. The Agreement shall count 10 hours as a full day's use. Seasonal permit requests must be made 60 days prior to the start of the target season to retain first right to permits.
- (i) The following rates shall apply to the CITY's rental of PARK facilities:
- Park Facilities (Excepting Recreational Sports Courts)
 - Hourly - \$6.25/hr.
 - All day - \$27.50
 - Camps and tournaments – \$17.50/hr
 - Recreational Sports Courts
 - Hourly: \$6.25/h
 - All Day Rate: \$27.50
- (c) Programming. The CITY shall provide programming PARK facilities when it reserves PARK facilities from the COUNTY. Failure to do so, will not be considered a breach of this Agreement as long as the CITY allows the general public to continue to use such PARK

**Memorandum of Agreement
Utilization of Soule Park County Park**

facilities. The CITY may charge reasonable fees to members of the public for specialized programs, but must adhere to the terms of the Agreement.

- (d) Maintenance. The COUNTY shall, maintain the PARK and its amenities, with the exception of the any recreational facility when constructed, in proper condition and good repair.
- (e) Notice of Closures. The COUNTY must provide 30 days' written notice to the CITY of any instances of scheduled closures of the PARK. In case of emergency or other unscheduled closures of the PARK, the COUNTY must provide written notice of such closures to the CITY as soon as is reasonably possible after the closure. Any closures of the full PARK for a period exceeding 30 days will be considered a "Long Term Closure". A Long-Term Closure will result in a pro rata credit against the Parking Fee paid by the CITY at the time of the next payment date.
- (f) Public Outreach. The COUNTY and the CITY will promote access to the Park, including access to its amenities, using their social media platforms, along with adding information to the COUNTY and CITY webpages.

5. Indemnification.

- (a) The CITY must indemnify, defend, and hold harmless the COUNTY and its officers, employees, representatives, and agents from any and all liability, claims, demands, causes of action, and expenses or losses of any kind, arising out of or in any way connected with:
 - (i) the CITY's construction or maintenance of the recreational facility;
- (b) The COUNTY must indemnify, defend, and hold harmless the CITY, and its officers, employees, representatives, and agents from any and all liability, claims, demands, causes of action, and expenses or losses of any kind, arising out of or in any way connected to the PARK, but not related to the construction or maintenance of the recreational sports facility.

6. Settlement of Disputes

- (a) The PARTIES will attempt in good faith to resolve any dispute or claim arising out of or in relation to this Agreement through negotiations between a representative of each of the PARTIES with authority to settle the relevant dispute.

**Memorandum of Agreement
Utilization of Soule Park County Park**

7. **Notices.** All notices, demands, requests, consents, approvals, or communications from one of the PARTIES to another must be personally delivered or sent by United States mail, certified and postage prepaid, return receipt requested, or sent by e-mail, provided receipt is acknowledged, as follows, or at and to such other address and persons as either PARTY may from time to time specify to the other PARTY in writing:

To COUNTY:

County of Ventura

800 S. Victoria Ave L#1010 Ventura, CA 93009

Attn: J. Colter Chisum, Parks Department Deputy Director

Colter.Chisum@ventura.org

To CITY:

City of Ojai

401 S. Ventura Street

Ojai, CA 93023

Attn: James Vega, City Manager

James.Vega@ojai.ca.gov

Notice by U.S. Mail shall be deemed given five (5) days after deposit in the mail.

8. **Governing Law.** This Agreement and the rights and obligations of the PARTIES must be governed by and construed according to the laws of the State of California. All disputes arising out of this Agreement must be contested in County of Ventura Superior Court.
9. **Liberal Construction.** Any general rule of construction to the contrary notwithstanding, this Agreement must be liberally construed in favor of and to effect the purpose of this Agreement. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Agreement that would render the provision valid must be favored over any interpretation that would render it invalid.
10. **Severability.** If a court of competent jurisdiction voids or invalidates on its face any provision of this Agreement, such action does not affect the remainder of this Agreement. If a court of competent jurisdiction voids or invalidates the application of any provision of this Agreement to a person or circumstance, such action does not affect the application of the provision to other persons or circumstances.
11. **Entire Agreement.** This instrument, together with any attached exhibits and documents referred to in it, sets forth the entire agreement of the PARTIES with respect to its subject matter and supersedes all prior discussions, negotiations, understandings, or agreements relating to the subject matter of this Agreement. No alteration or variation of this instrument is valid or

**Memorandum of Agreement
Utilization of Soule Park County Park**

binding unless contained in an amendment in accordance with the provisions in this Agreement.

12. **Amendment.** The PARTIES may amend this Agreement only by mutual written agreement. Any such amendment must be consistent with the purpose of the Agreement.
13. **Termination.** This Agreement, and the rights and obligations of the PARTIES, may be terminated by either party on one (1) month written notice, except that liability for acts or omissions occurring before such termination shall survive the termination.
14. **Successors and Assigns.** The covenants, terms, conditions, and restrictions of this Agreement are binding upon, and inure to the benefit of, the PARTIES and their respective personal representatives, heirs, successors, and assigns.
15. **Headings.** The headings in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and have no effect upon its construction or interpretation.
16. **Counterparts.** The PARTIES may execute this instrument in two or more counterparts, which must, in the aggregate, be signed by all PARTIES, and each counterpart shall be deemed an original instrument as against any party who has signed it.

IN WITNESS WHEREOF, each Party represents and warrants that its undersigned signatories have the authority to and do hereby execute this Agreement as follows:

“County”

“City”

By: _____
J. Colter Chisum, Deputy Parks Director

By: _____
James Vega, City Manager

Date: _____

Date: _____

Approved as to form:

By: _____
(NAME HERE), County Counsel

By: _____
Matthew T. Summers, City Attorney

**Memorandum of Agreement
Utilization of Soule Park County Park**

Date: _____

Date: _____

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