

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

**FIRST AMENDED AND RESTATED
FIELD USAGE AGREEMENT, RICHARD BARRY PARK**

This First Amended and Restated Field Usage Agreement, Richard Barry Park (hereinafter "First Amendment"), is made this ____ day of _____, 2017, by and between the TOWN OF HUNTERSVILLE, a North Carolina municipal corporation (hereinafter "Town"), and CAROLINA RAPIDS SOCCER CLUB, a North Carolina non-profit corporation, formerly known as North Meck Soccer Club (hereinafter "Rapids").

W I T N E S S E T H:

WHEREAS, Town is the Lessee from Mecklenburg County of certain property located on Beatties Ford Road known as Richard Barry Park (hereafter "Barry Park"), and

WHEREAS, Town and Rapids entered into a Field Usage Agreement ("Agreement"), dated August 4, 2008, for the purpose of granting to Rapids certain field usage and other rights at Barry Park in exchange for certain consideration paid by Rapids; and

WHEREAS, The term of the Agreement was for a period beginning on August 4, 2008, and continuing for a period of 120 months, unless extended, or terminated by mutual agreement, or because of default by either party; and

WHEREAS, Town and Rapids wish to amend and restate the Agreement to extend the term of the Agreement and to address field rates and payments, fees, and other terms.

NOW, THEREFORE, for valuable consideration, Town and Rapids agree as follows:

1. Term. The term of this First Amendment shall begin on August 4, 2018, and end at 12:01 a.m., on August 3, 2028, unless terminated earlier pursuant to the terms of the Agreement. **The Town may terminate this agreement at the end of the first five years, if the Rapids do not have a min. of 600 Huntersville Residents playing within their organization in the spring season and in the fall season. The determination of a Huntersville resident is defined in the Town's Co-sponsorship Policy. In the event of such termination, the remainder of the Field Usage Fees and the Capital Reserve Fee shall abate and no longer be payable**
2. Field Usage Fees. Rapids shall pay to Town a total of \$310,000.00, for field usage fees at Barry Park for a ten (10) year period beginning December 1, 2018, and ending July 1, 2028. The bi-annual payments of \$15,500.00, shall be paid on or before December 1st and July 1st of each and every year (see Amortization of Field Usage Fees attached hereto as Exhibit A). The Field Usage Fees shall be placed into the General Park Capital Reserve Fund, and used for any Town park facility.

3. If the field usage rates change during the term of this First Amendment and the new rate times the field usage is more than \$31,000.00, the Rapids shall pay the higher amount to Town.
4. The field usage fees specified in paragraphs 2 and 3 are for Barry Park fields only. All field usage fees at other Town parks shall be treated as regular co-sponsor usage.
5. Capital Reserve Fee. Additionally, Rapids shall pay to Town a total of \$225,000.00, as a Capital Reserve Fee for Barry Park. This fee will be paid in the amount of \$20,000.00, annually, for years one through five (1-5), and then \$25,000.00, annually, for years six through ten (6-10). Payments shall be made on September 1st of each and every year beginning September 1, 2018, and the last payment shall be made on September 1, 2027.
6. Town shall create a new Capital Reserve Fund for the sole purpose and use of Barry Park, and all such monies paid by Rapids according to paragraph 5 above shall be placed into the Barry Park Capital Reserve Fund. The Capital Reserve Fund shall be used solely as a reinvestment into capital expenditures for Barry Park.
7. Event of Default. The happening of any of the following shall constitute an Event of Default on the part of Rapids during the term of this First Amendment: (a) failure to pay the Field Usage Fees or Capital Reserve Fee payments when due which remains uncured after thirty (30) days from the due date; and (b) any non-monetary violation of the Agreement and/or First Amendment after thirty (30) days notice to Rapids. Upon the occurrence of an Event of Default which remains uncured, Town shall have all remedies available, including the immediate termination of the Agreement and First Amendment; termination of Rapids rights of use of the fields; and maintaining an action to recover unpaid Field Usage Fees or Capital Reserve Fees, or other amounts due the Town.
8. The parties further agree that the Lake Norman Giants will continue to have priority of Field 5 during the fall season.
9. Town shall have rights to book up to five (5) outside tournaments, per year, at Barry Park.
10. All other provisions and agreements contained in the Agreement dated August 4, 2008, shall continue in full force and effect, subject to the above agreements.

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

TOWN OF HUNTERSVILLE

ATTEST:

By: _____
Gerald Vincent, Interim Town Manager

Janet Pierson, Town Clerk

(SEAL)

THIS INSTRUMENT HAS BEEN PREAUDITED IN THE
MANNER REQUIRED BY THE LOCAL GOVERNMENT
BUDGET AND FISCAL CONTROL ACT:

APPROVED AS TO FORM:

Jackie Huffman, Finance Director

Robert B. Blythe, Town Attorney

CAROLINA RAPIDS SOCCER CLUB

By: _____
Printed Name: _____

Its: _____
(Title)