

RESOLUTION 2005-159

**A RESOLUTION AUTHORIZING APPROVAL OF
A FACILITY USE AGREEMENT
BETWEEN THE AMERICAN YOUTH SOCCER ORGANIZATION
AND THE VILLAGE OF VERNON HILLS
AT THE VERNON HILLS ATHLETIC COMPLEX**

Whereas, the American Youth Soccer Organization, a California not-for-profit corporation, desires to hold its 2006 Tournament at the Vernon Hills Athletic Complex (VHAC) between the dates of July 12, 2006 and July 16, 2006; and

Whereas, the Village desires to provide its soccer fields as one of the venues for the AYSO tournament.

NOW THEREFORE BE IT RESOLVED BY THE VILLAGE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF VERNON HILLS, LAKE COUNTY ILLINOIS:

That the Village Manager is authorized to execute a Facility Use Agreement between the Village of Vernon Hills and the American Youth Soccer Organization at the VHAC.

Dated this 20th day of September 2005

Adopted by a roll call vote as follows:

AYES: 4-Hebda, Koch, Marquardt, Schultz

NAYS: 0-None

ABSENT AND NOT VOTING: 2-Schwartz, Williams

Roger L. Byrne, Village President

PASSED: 9/20/2005

APPROVED: 9/20/2005

ATTEST:

Holly Udesky, Village Clerk

FACILITIES USE AGREEMENT

This Facilities Use Agreement (“Agreement”) is entered into this 20th day of September, 2005 by and between The American Youth Soccer Organization, a California not-for-profit corporation (“AYSO”) located at 12501 S. Isis Avenue, Hawthorne, California 90250 and the Village of Vernon Hills (“VERNON HILLS”) located at 290 Evergreen Drive, Illinois 60061.

WITNESSETH:

WHEREAS, VERNON HILLS is in the business of maintaining and running The Vernon Hills Athletic Complex (the “Athletic Complex”) in Vernon Hills, Illinois, upon which there are soccer fields (“Soccer Fields”) which are suitable for use as a venue for soccer tournaments; and

WHEREAS, AYSO, as part of its national program of providing opportunities for youth to play soccer, organizes a National Youth Soccer Tournament (the “Tournament”) on a biennial basis; and

WHEREAS, AYSO has decided that its 2006 Tournament shall be held in Illinois, and specifically in the Libertyville and Vernon Hills, Illinois area between the dates of July 12, 2006 and July 16, 2006; and

WHEREAS, AYSO desires to use the Soccer Fields located in Vernon Hills, Illinois as one of its venues for the Tournament; and

WHEREAS, VERNON HILLS desires to provide its Soccer Fields as one of the venues for the Tournament;

NOW THEREFORE, and in consideration of the mutual promises and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, AYSO and VERNON HILLS agree as follows:

1. Prefatory Recitals: The above and foregoing prefatory recitals are hereby incorporated herein and made a part hereof as if fully set forth again in this paragraph 1.

2. Consideration. Use of Facility and Period of Use: The consideration to be paid to VERNON HILLS by AYSO shall be the sum of three thousand dollars (\$3,000), to be paid as set forth below in this Agreement. In consideration of payment of the sum of three thousand dollars (\$3,000) by AYSO as set forth below, VERNON HILLS agrees to give AYSO exclusive use of the soccer fields ("Soccer Fields") which are part of the Athletic Complex, as shown on Exhibit A attached hereto, beginning at 12:01 a.m. Wednesday, July 12, 2006 and ending at 12:01 a.m. Monday, July 17, 2006 (the "Tournament Period"). During that time AYSO shall use the Soccer Fields and ancillary portions (parking areas, etc.) of the Athletic Complex solely for the purpose of the Tournament and its allied activities. During this time no other tournaments shall be scheduled at the facility. The only other athletic uses allowed will be single games on

the baseball diamonds. Additionally, beginning at 12:01 am. on Sunday, July 9, 2006 (the "Initial Period"), VERNON HILLS shall give AYSO non-exclusive access to the Soccer Fields and ancillary portions of the Athletic Complex so that AYSO may begin physical preparations for the Tournament. During the Initial Period, AYSO shall have the right to bring to the Athletic Complex and erect such signage, tents, shelters and other temporary structures as shall be necessary for the administration and running of the Tournament, but VERNON HILLS shall have the right to continue using the soccer fields in the Athletic Complex provided that such use will not materially damage the soccer fields or otherwise violate VERNON HILLS' obligation to provide well maintained soccer fields as set forth in Paragraph 7 below. Beginning at 12:01 a.m. Monday, July 17, 2006 and ending at 12:01 a.m. Thursday, July 20, 2006 (the "Post Tournament Period"), VERNON HILLS shall grant to AYSO non-exclusive access to the Athletic Complex for the purpose of removal of such signage, tents, shelters or other temporary structures as have been erected for the Tournament, but VERNON HILLS shall have the right to resume use of the soccer fields in the Athletic Complex. VERNON HILLS further agrees that during the Initial Period, the Tournament Period, and the Post Tournament Period, AYSO shall have the right to erect signage relating to the Tournament, AYSO's sponsors and to AYSO as an organization without limitation in the Athletic Complex. Locations of all signage, tents, shelter and other temporary structures shall be approved by VERNON HILLS.

3. Legal/Regulatory Compliance and Warranty of Use: VERNON HILLS expressly agrees that it shall be its sole duty, at its own cost, to obtain any and all

permits and comply with all laws and regulations of any kind such that during the Initial Period, the Tournament Period and the Post Tournament Period, the Athletic Complex shall be in full compliance with all applicable laws and regulations. VERNON HILLS further expressly warrants that, at the date of execution of this Agreement and at all times during the Initial Period, the Tournament Period, and the Post Tournament Period, the Athletic Complex and all its fields and facilities will be in compliance with all applicable laws and regulations such that there shall be no impediment to AYSO's ability to use the Athletic Complex as envisioned in this Agreement and that the facilities and Soccer Fields shall be useable by AYSO for the purposes of the Agreement. AYSO shall inspect the fields five (5) days prior to the tournament and determine that they are satisfactory, or in their judgment may cancel the Agreement. The Village shall not be liable for any inability to use the fields, whenever this may occur, which may be caused by weather conditions, including lack of rain, too much rain, or other naturally occurring situations.

4. Payment: AYSO shall pay to VERNON HILLS, upon execution of this Agreement the sum of one thousand five hundred dollars (\$1,500). The balance of the agreed upon consideration shall be made in one payment of one thousand five hundred dollars (\$1,500) which payment shall be made no later than the close of business on Friday, June 30, 2006. VERNON HILLS understands and agrees that it shall have no right to charge any participants, spectators or volunteers of the Tournament any fees including parking or admission fees.

5. Rules and Regulations: During the period of time that AYSO has either exclusive or non-exclusive use of the Soccer Fields and ancillary areas of the Athletic Complex it hereby agrees to be bound by and abide by the written Rules and Regulations of VERNON HILLS as set forth in Exhibit A attached to this Agreement. Additionally, AYSO agrees to take reasonable steps to advise all attendees at the Tournament of the terms of Exhibit A hereto.

6. Scheduling of Games and Provision of Match Officials: VERNON HILLS shall not be responsible for the scheduling of any games or assignment of any fields during the Tournament Period. It shall be the sole responsibility of AYSO to schedule games, to assign fields, and to provide qualified officials to oversee the matches during the Tournament Period. Exhibit B will show which fields VERNON HILLS will make available for the tournament. AYSO shall provide to VERNON HILLS, no later than 30 days prior to the tournament, a schedule of which fields they will require on what dates.

7. Field Equipment, Marking of Fields and Pitch Maintenance: VERNON HILLS shall be responsible for the fields, electrical service available for scoring and other uses, a location for a scoring trailer, spectator seating as may be available, and field identification. AYSO shall be responsible for providing all soccer equipment, including goals and corner flags. AYSO shall be responsible for field marking both prior to and during the tournament. VERNON HILLS shall not be responsible for field conditions which may be caused by weather conditions including drought or excess rain. VERNON HILLS shall be responsible for providing well-maintained soccer fields

at the commencement of the Tournament Period and shall use its best efforts to see that the fields continue to be properly maintained throughout the Tournament Period.

8. Weather: Regardless of other provisions of this Agreement VERNON HILLS shall retain the authority to close the fields in the Athletic Complex due to poor conditions caused by weather, if in its opinion irreparable damage will occur to fields if games are played upon them. VERNON HILLS agrees that this authority shall be used only after consultation with AYSO and only if the parties agree that extraordinary damage to the fields will result if games are continued. The Athletic Complex is equipped with a "ThorGuard" lightning detection system; if that system activates AYSO agrees to immediately vacate all fields and direct all tournament participants to their vehicles or other designated shelters until the "all clear" signal is sounded.

9. Insurance: AYSO shall provide a certificate of insurance demonstrating general liability coverage for players in amounts not less than two million dollars (\$2,000,000.00) per occurrence and six million dollars (\$6,000,000.00) in the aggregate, which insurance shall be in force during the period beginning at 12:01 a.m. Sunday, July 9, 2006 and ending at 12:01 a.m. Thursday, July 20, 2006. The certificate of insurance shall name VERNON HILLS and School District 103 as an additional insured under the terms of the policy.

10. Concessions: AYSO shall have the exclusive right to sell or offer for sale food and non-food items in the Athletic Complex during the Tournament Period. AYSO shall retain any and all funds generated from the sale of such items and shall be responsible for paying any costs incurred as a result of such sales, as well as obtaining

any necessary permits for the sale of items during the Tournament Period. AYSO shall have the right to maintain as many food and non-food concession sites as it desires during the Tournament Period and shall have the exclusive use of the concession stand currently in the Athletic Complex during the initial Period the Tournament Period and the Post Tournament Period. AYSO shall post a \$500.00 dollar deposit to guaranty the condition of the concession stand equipment. AYSO and Vernon Hills shall jointly inspect the equipment and agree on its condition prior to the Tournament. If the equipment and the concession stand is returned in the same condition at the end of the tournament period (including cleaning), the deposit will be returned.

11. Daily Clean Up: During the Tournament Period under this agreement, VERNON HILLS shall provide, at its own expense, sufficient trash receptacles to hold the trash generated by the Tournament and shall provide, also at its own expense, a trash collection service to collect the trash as VERNON HILLS shall deem necessary or upon the request of AYSO. AYSO shall provide all persons necessary to collect trash generated by the Tournament and shall see that trash in the Athletic Complex is collected and placed in receptacles in time for pick up each day. During the period of non-exclusive use provided for in this Agreement, AYSO shall clean up all trash it generates as a part of its activities and see that same is deposited in VERNON HILLS' receptacles on a daily basis.

12. Severability: The provisions of this Agreement are severable, and if any provision is held to be unenforceable or invalid in any respect, such provision shall be carried out and enforced only to the extent to which it shall be valid and enforceable,

and any such invalidity or unenforceability shall not affect any other provision of this Agreement, all of which shall be fully carried out and enforced as if such invalid or unenforceable provision had not been set forth herein.

13. Waiver: No act, conduct, or failure to act of AYSO or VERNON HILLS shall constitute a waiver or any term, condition, right or remedy under this Agreement, and to be valid, a waiver of any term, condition, right or remedy under this Agreement must be in writing and signed by the party against whom the waiver operates. A waiver of any term, condition, right or remedy on one occasion shall not constitute a waiver of such term, condition, right or remedy on any future occasion or of any other term, condition, right or remedy.

14. Final Writing and Agreement and Signature Warranty: This Agreement constitutes the complete and entire agreement of the parties concerning the subject matter hereof, and supersedes any and all other oral and written agreements between the parties concerning the subject matter. This Agreement may only be amended by a written instrument executed by an authorized officer or representative of both AYSO and VERNON HILLS. The signatories of this Agreement expressly warrant and represent they have full power and authority to sign this agreement on behalf of the parties hereto and to bind the parties hereto to the terms of this agreement.

15. Governing Law and Jurisdiction: This Agreement shall be governed by and construed in accordance with the laws and decisions of the State of Illinois, as applied to agreements entered into and to be fully performed within such state. AYSO and VERNON HILLS agree that the exclusive venue of any action arising hereunder

shall reside in the federal courts sitting in the Northern District of Illinois and/or the state courts sitting in Lake County Illinois, and AYSO and VERNON HILLS hereby consent to the personal jurisdiction of such courts.

16. AYSO Intellectual Property: Nothing herein shall authorize or permit VERNON HILLS or any other entity or individual to use any of AYSO's names, marks, logos or other intellectual property without the express prior written consent of AYSO which AYSO may or may not grant in its sole and absolute discretion.

17. Indemnification of AYSO: VERNON HILLS shall indemnify, defend and hold harmless AYSO and its volunteers, officers, directors, members, employees, agents and assigns from and against any claims, damages, liabilities, losses, judgments, actions, costs and/or expenses (including, without limitation, reasonable attorneys' fees and disbursements, including expert witness fees) (collectively, "Costs") arising from or connected with: (i) any material breach by VERNON HILLS of any provision hereof; (ii) the material inaccuracy of any representation or warranty made by VERNON HILLS herein; (iii) the negligent act or omission of VERNON HILLS; (iv) any alleged defects or conditions of the Athletic Complex and the soccer fields covered by this Agreement or the use thereof by any person; and/or (v) any breach by VERNON HILLS of any statutory or regulatory obligation. VERNON HILLS' indemnification obligation hereunder shall be limited to the extent such Costs arise from or are connected with one of the foregoing.

18. Indemnification of VERNON HILLS: AYSO shall indemnify, defend and hold harmless VERNON HILLS and School District 103 and its volunteers, officers,

directors, members, employees, agents and assigns from and against any claims, damages, liabilities, losses, judgments, actions, costs and/or expenses (including, without limitation, reasonable attorneys' fees and disbursements, including expert witness fees) (collectively, "Costs") arising from or connected with: (i) any material breach by AYSO of any provision hereof; (ii) the material inaccuracy of any representation or warranty made by AYSO herein; (iii) the negligent act or omission of AYSO; (iv) any alleged defects or conditions of the Athletic Complex and the soccer fields covered by this Agreement or the use thereof by any person; and/or (v) any breach by AYSO of any statutory or regulatory obligation. AYSO's indemnification obligation hereunder shall be limited to the extent such Costs arise from or are connected with one of the foregoing.

19. Cumulative Remedies: The Parties' remedies under this Agreement are cumulative, are not exclusive, and are in addition to any other rights and remedies the Parties may now have at law, in equity or otherwise.

(SIGNATURES APPEAR ON THE FOLLOWING PAGE)

IN WITNESS WHEREOF, AYSO and VERNON HILLS, by their respective, duly authorized officers or representatives, have entered into this agreement as of the date first written above.

**AMERICAN YOUTH SOCCER
ORGANIZATION**

VILLAGE OF VERNON HILLS

By: _____
Its: _____

By: _____
Its: _____