

## **PARK LICENSE AND MANAGEMENT AGREEMENT**

THIS LICENSE AND MANAGEMENT AGREEMENT (Agreement) is made and entered into by and between Escambia County, a political subdivision of the State of Florida, whose address is 221 Palafox Place, Pensacola, Florida (County), and Molino Recreation Association (Organization) whose address is 2320 Crabtree Church Road, Molino, FL 32577 and Federal Tax Identification Number is 593142080.

### **WITNESSETH:**

**WHEREAS**, the County owns the property known as Don Sutton Park; and

**WHEREAS**, the Organization, a non-profit corporation organized under the laws of the State of Florida, was created to provide social and character development through recreational activities for citizens of Escambia County; and

**WHEREAS**, the County and the Organization desire that the Organization manage recreational activities at the Park for the use and benefit of the public; and

**WHEREAS**, the Organization has expressed interest to the Board of County Commissioners to use and manage the Park for the purpose of providing a location for members of its organization and citizens and groups in Escambia County to engage in recreational activities and pastimes; and

**WHEREAS**, the County is satisfied that a license to use, manage, and administer the Park would be in the County's best interests; and

**WHEREAS**, the Organization desires to assist the County in the continued operation of public recreational and athletic programs at the Park which are controlled by the County; and

**WHEREAS**, the County would benefit from the assistance of the Organization in operating the Park for recreational purposes; and

**WHEREAS**, this Agreement supersedes any prior agreements.

**NOW THEREFORE**, the Parties agree as follows:

**1. PARK USE AND MANAGEMENT.** The County licenses the Organization to use and manage the Park with relation to activities and programs that are sponsored by and under the Organization's direction. The Organization agrees the Park will remain available for use by other citizens and community organizations at all times for activities which do not interfere with the Organization's scheduled activities.

During the period of the Agreement and any renewal of the Agreement, the Organization will administer the Park's various athletic programs for the public's benefit

and will organize team athletic events in accordance with the terms in the Agreement. The Organization has priority in scheduling its athletic events and practices at the Park. Any member of the public, who qualifies under applicable Organization rules, may participate in the athletic events.

The Organization may grant preferences to programs designated for youth.

The Organization may charge a fee for participation in the Organization's athletic events, provided, however, that any fee charged cannot exceed anticipated expenses directly associated with the program, including appropriate allowances for participation in the programs by children without sufficient funds to pay the fees. The Organization shall provide the Deputy Director with documentation of its allowances for participation in the programs by children unable to otherwise pay the fees. Documentation shall include the number of children receiving financial assistance and the total amount of financial assistance given, per season. The fees are to be used solely for the purpose of covering expenses directly associated with the programs and activities of the Organization.

The Organization shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, and Title VI of the Civil Rights Act of 1964, as amended. The Organization shall not discriminate against any person because of race, color, sex, religion, handicap, age, or national origin, by refusing to furnish services provided by the Organization.

**2. TERM.** The term of this Agreement begins on the 31st day of March 2023 and ends on the 30th day of March 2024. The Agreement shall automatically renew for two successive renewal terms of one (1) year each, unless ninety (90) days prior to the end of any renewal term, either the Organization or the County gives written notice of intent not to renew.

**3. LICENSE FEE.** The Organization agrees to pay to the County a license fee in the amount of one dollar (\$1) per year, payable in advance of the initial Agreement begin date of March 31, 2023. For each year thereafter, the license fee shall be payable in advance of the initial Agreement beginning anniversary date (March 31).

**4. NOTICES.** Notices to the Parties under the Agreement must be addressed to and mailed or delivered to the following:

TO THE COUNTY:

Escambia County Parks and Recreation Department  
Attn: Michael Rhodes, Director  
1651 East Nine Mile Road  
Pensacola, Florida 32514

TO THE ORGANIZATION:

Molino Recreation Association  
2320 Crabtree Church Road  
Molino, FL 32577

Notices can be personally delivered or sent by U.S. mail. The date of delivery is the date of receipt of any notice. Each party may change its address by written notice given to the other.

**5. ORGANIZATION DOCUMENTS.** Within sixty (60) days of execution of the Agreement, the Organization agrees to provide to the County a copy of its incorporating documents, all previous year reports, a list of its current Board of Directors, and a copy of its current bylaws. The Organization agrees to annually furnish to the County the following: Park License and Management Agreement, certificate of insurance, financial report, player roster, board member roster, coaches roster, activity report, documentation showing the number of children receiving financial assistance per season, documentation showing the total amount of financial assistance given per season, a monthly calendar of events, and the Organization's equipment inventory. The Organization agrees to furnish all reports after each season with the exception of non-resident fees, player and coaches roster spreadsheet which is to be submitted by the third week of the season. Failure to provide said documents to the County by March 1 of any year could result in the termination of this Agreement.

A meeting will be scheduled on an annual basis with the Parks and Recreation Director and Deputy Director and the Organization's president or designee to review all necessary documents referenced above.

**6. MEDIATION.** The County Administrator, or authorized designee, will assure the Organization's compliance with the terms of the Agreement. The County Administrator may elect to mediate disputes arising between members of the public and the Organization regarding the Organization's compliance with the Agreement. The Organization designates its Board of Directors, or a specifically appointed committee of the Board of Directors, to represent the Organization in disputes. The Organization's Board of Directors is responsible for carrying out all the objectives set forth in the Agreement.

**7. CONSTRUCTION OF IMPROVEMENTS.** The County agrees to preserve the Park exclusively for recreational purposes. The County further agrees that during the term of the Agreement, no physical change to the property or major construction work will be undertaken without prior consultation with the Board of Directors of the Organization.

If the Organization wants to undertake any construction work in the Park, prior approval must be obtained from the County, and the Organization shall ensure that all Federal, State, local laws, regulations, and ordinances are complied with, including but not limited to: (a) the Occupational Safety and Health Act of 1970, Construction Industry Standards (29 CFR §1926, et. seq.); (b) the Americans with Disabilities Act of 1990, as subsequently amended (42 U.S.C. 12101, et. seq.); (c) Escambia County Development Services Department review and approval; and (d) Escambia County Building Inspections Department review and approval. All improvements made by the Organization become the property of the County without charge upon completion.

**8. MAINTENANCE.** The Organization and the County agree that all necessary grounds and structure maintenance and general upkeep of the Park will be carried out year-round. In order to create a clear understanding of this scope of work, the following maintenance guidelines are agreed to by the Parties: (a) the Organization will maintain and clean the premises in a safe and orderly condition, normal wear and tear excepted, including, but not limited to, grounds maintenance, facility maintenance, and fence maintenance; (b) in the event it is determined that damage to facilities and equipment has occurred due to abuse or misuse by the Organization, the Organization shall be responsible for the repair and must return the facility and equipment to its pre-damaged condition; (c) the Organization is responsible for setting rules and guidelines to prevent against damage, e.g., no throwing or batting balls into the fence; (d) the Organization will promptly pay all water, gas, electric, telephone, sewage, garbage disposal, janitorial, safety equipment, and other utility bills related to the Park during the term of the Agreement; (e) the County will be responsible for mowing the athletic fields on a weekly basis during the months of March through November; otherwise, the Organization will be responsible for all athletic field maintenance, which may include necessary mowing of athletic fields and providing or applying herbicide, insecticide, or fertilizer to ensure proper turf maintenance; (f) the Organization is responsible for day-to-day maintenance including chalking, dragging, paint lining, adding clay, dirt or sand, and otherwise preparing fields for athletic play; (g) the County will be responsible for certain maintenance and repairs related to field lighting and scoreboards as well as irrigation infrastructure and electrical repairs; (h) the Organization is responsible to notify the County as soon as possible of any structural or maintenance issues occurring on the property.

ALL ORGANIZATIONS SHALL OBTAIN PRIOR WRITTEN APPROVAL FROM COUNTY BEFORE UNDERTAKING ANY ACTIVITY ON OR NEAR THE PREMISES THAT MAY ADVERSELY AFFECT ANY ADJACENT RESIDENTIAL OR COMMERCIAL PROPERTY.

**9. REVENUE/INCOME.** Revenue and income derived from the activities of the Organization are the exclusive property of the Organization but must be used by the Organization in furtherance of its activities at the Park in providing additional improvements for the Organization's programs. The Organization shall provide a full accounting of all revenue and expenses to the County annually and upon request. Such reports shall be filed on March 1 of every year. Failure to timely file such financial information may result in the termination of this Agreement. The County has the right to audit the financial information at any time at the County's expense.

**10. EQUIPMENT.** A complete inventory of an Organization's equipment and any personal property that is stored at the Park must be provided annually to the County by the Organization. Such inventory shall be filed on March 1 of every year. Failure to timely file such inventory may result in the termination of this Agreement. All equipment or other personal property owned by the Organization which has been placed or maintained in the Park by the Organization is at the sole risk of the Organization. The Organization may remove its equipment and personal property from the Park any time prior to or within sixty (60) days of the termination of the Agreement. Any Organization equipment or personal

property not removed from the Park within sixty (60) days after termination of the Agreement becomes the property of the County without recourse.

**11. CONCESSIONS.** The Organization may maintain a concession activity for food and drink at the Park as long as the Organization complies with all applicable County ordinances and local and state health regulations. No alcoholic beverages are allowed. The County will not engage in any competing concession activities without the prior approval of the Organization either through its own agents or by the granting of concession privileges to any other person or entity. Income derived from concession activities remain the exclusive property of the Organization and must be used by the Organization to further its activities at the Park and in providing additional improvements for the Organization's programs. The Organization is responsible for all repairs, maintenance, and certification of all concession equipment owned either by the Organization or by its contracted concessioners. The Organization is responsible for the annual maintenance and certification of any ventilated hood systems and fire extinguishers.

**12. SIGNS.** Signs used for team or Organization sponsor advertising remain the separate property of the Organization and all the income derived from their display must be used to further Organization activities. All sponsorship signs, pursuant to the ordinances of Escambia County, must be uniform in size and shape with general display locations fronting inwards or facing a playing field. No sign can serve as an external advertisement facing outwards toward roadways or other public facilities, and no sign is allowed on the Park's perimeter fencing.

**13. COACHES AND BACKGROUND CHECKS.** The Organization will perform necessary background checks on all coaches as required by law. The Organization agrees to have the Coaches certified annually through such organizations as National Alliance for Youth Sports or National Center for Safety Initiatives or their appropriate league affiliation at the Organization's expense. The Organization agrees to provide to the County a coaches roster spreadsheet which includes a check box for certification and background checks by the date of the first competitive game of the season. In addition, at the County's request, the Organization shall provide copies of all coaches' background checks which shall remain confidential.

**14. BOARD MEETINGS.** The Organization agrees to notify the County in advance of all scheduled meetings. The Organization agrees to supply a list of board members with phone numbers, email addresses, and physical addresses to the County annually. The Organization is to notify the County of any changes to the membership of the board during the term of the Agreement. The Organization agrees to provide monthly board meeting minutes to the County. It is the responsibility of the Organization to ensure the public and all participating players and their parents or guardians are notified of the dates, times, and locations of all of the Organization's Board Meetings and the meetings are open to the public and all participating players and their parents or guardians.

**15. SUCCESSORS AND ASSIGNS.** Without prior written consent of the County, neither the Organization, nor its successors in interest by operation of law or otherwise, are permitted to assign the Agreement or to permit the occupancy of the Park or any part of the Park, by anyone other than the Organization. In the event the Organization wishes to assign the Agreement or to permit the occupancy of the Park for any recreational camp, clinic, church event, tournament, or other similar event, prior to scheduling the event, the Organization must notify the County and provide sufficient proof of insurance which names both the entity to which the Organization wishes to assign the Agreement or permit the use of the Park and the County as an additional insured.

Any unauthorized use of the park by a third-party may result in termination of the Agreement. Any consent by the County to any act of assignment or occupancy by a third-party will be held to apply only to the specific transaction authorized. In any event, no assignment or occupancy by a third-party will relieve the Organization of its obligations under the Agreement.

**16. SCHEDULES.** The Organization agrees to provide the County with all league game and practice schedules. The Organization agrees to provide a thirty (30) day notice of the season start date. The Organization agrees to notify the County thirty (30) days in advance of any special events and fundraisers. The Organization agrees to provide at the time of submission of the signed lease Agreement a proposed annual calendar showing sign updates, start date of practices, start date of games, and the dates of any special events. It is the responsibility of the Organization to ensure the County is on written notice of the dates and times for all activities occurring at the Park. Failure to provide the County with a current schedule and to further notify the County of any changes occurring to the schedule may result in termination of the Agreement.

**17. TERMINATION.** The Agreement may be terminated by the County after thirty (30) days notice to the Organization for cause or without cause and for convenience. Cause includes but is not limited to the Park not being used, utilized, or managed by the Organization in accordance with the provisions of the Agreement, or the Organization ceases operation, dissolves, or no longer provides the required services under the terms of the Agreement.

The Agreement may be terminated by the Organization at any time in case of material breach of the Agreement by the County provided the Organization shall first give to the County written notice of the breach and thirty (30) days within which to remedy the breach. Any notice under this section mailed or delivered by the County to the Board of Directors of the Organization will be deemed as the official notice of the County.

**18. RECORDS.** The Parties acknowledge this Agreement and any related financial records, and its reports, plans, correspondence, and other documents may be subject to disclosure to members of the public pursuant to Chapter 119, Florida Statutes, as amended. In the event either party fails to abide by the provisions of Chapter 119, Florida Statutes, the other party may terminate the Agreement without prejudice to any right or

remedy after giving seven (7) days written notice and the failure of the offending party to allow access to such documents during the seven (7) day period.

**19. ENTIRE AGREEMENT.** The Agreement contains the entire Agreement of the Parties and no representations, inducements, promises, or agreements between the Parties not contained in the Agreement will be of any force and effect. Any amendments, modifications, additions, or alterations of the Agreement must be in writing executed with the same formalities as the Agreement.

**20. HEADINGS.** Headings and subtitles used throughout this Agreement are for the purpose of convenience only, and no heading or subtitle shall modify or be used to interpret the text of any section.

**21. SURVIVAL.** All other provisions which, by their inherent character, sense, and context, are intended to survive termination of this Agreement shall survive it.

**22. INSURANCE.** During the period mutually agreed upon between the County and the Organization, the Organization shall procure and maintain:

- a. Commercial general liability insurance policy with minimum limits of coverage in the amount of One Million Dollars (\$1,000,000), per occurrence/aggregate, including coverage parts of bodily injury, personal injury and death, broad form property damage, blanket contractual liability covering the contract, independent contractors, premises/operations, products and completed operations, and fire legal liability. Sports participation cannot be excluded. The Organization must also require any other organization using the Park for organized events to have "special event" liability insurance.
- b. Auto liability insurance policy with One Million Dollars (\$1,000,000); minimum combined single limits per occurrence for bodily injury, property damage, and death, arising out of ownership or use of any vehicles to include owned, non-owned and hired vehicles. Auto liability may be endorsed under the commercial general liability policy.

The Organization shall procure and maintain required insurance coverages documented on Certificates of Insurance, which show policies with insurers with a Secure A.M. Best rating and financial rating guide. Except for Worker's Compensation and Professional Liability, Escambia County shall be an additional insured under these policies. Required insurance shall be documented in certificates of insurance that reflects Escambia County as certificate holder. The insurance coverages and limits required must be evidenced by properly executed certificates of insurance submitted to— the Deputy Director, Parks and Recreation Division, 1651 E. Nine Mile Road, Pensacola, Florida 32514.

Certificates of insurance will be satisfactory to the County with all succeeding coverages and carriers to be consecutive to prior coverages. Certificates of Insurance

must expressly evidence that the Organization's policies have been endorsed to give Escambia County at least thirty (30) days advance notice before any cancellation or reduction in insurance coverage takes effect. All liability coverage shall be through carriers licensed to do business in the State of Florida.

No provision of the Agreement can be construed, or in any way is intended to be construed, as a waiver of Escambia County's sovereign immunity or any other limitation of liability of Escambia County. Escambia County is self-insured for liabilities in excess of the amounts provided under Section 768.28, Florida Statutes, as amended.

The Organization agrees not to violate, or knowingly or negligently permit or allow to be violated, any condition of any insurance policies required by the Agreement. All insurance coverage of the Organization must be primary to any insurance or self-insurance carried by Escambia County applicable to this Agreement. The acceptance by Escambia County of any Certificate of Insurance does not constitute approval or agreement by Escambia County that the insurance requirements have been satisfied or that the insurance policy shown on the Certificate of Insurance is in compliance with the Agreement.

**23. HOLD HARMLESS.** The Organization shall indemnify and hold harmless Escambia County, its subsidiaries or affiliates, elected and appointed officials, employees, volunteers, representatives and, agents from any and all claims, suits, actions, damages, penalties, interest, attorney and paralegal fees, liability and expenses in connection with the loss of life, bodily or personal injury, environmental impairment, property damage, including loss of use of the property, zoning or similar issues, directly or indirectly caused by, resulting from, arising out of or occurring in connection with the Organization's negligent performance of the Agreement. The Organization's obligation is not limited by or in any way to any insurance coverage or by any provision in or exclusion or omission from any policy of insurance.

**24. DAMAGE OR DESTRUCTION BY CASUALTY.** If by fire or other casualty the Park is totally damaged or destroyed, either party has the option of terminating the Agreement by serving written notice upon the other within thirty (30) days from the date of the casualty or a lesser number of days as the Parties may mutually agree.

**25. COMPLIANCE WITH LAWS AND PROCEDURES.** The Parties agree to comply with all applicable laws, guidelines, rules, regulations, and requirements, whether federal, state, or local, applicable to the Organization and its use of the Park and those for the correction, prevention, and abatement of nuisance, unsafe conditions, or other grievances arising from or pertaining to the use or occupancy of the Park.

**26. SEVERABILITY.** If any term or condition of the Agreement or the application of the Agreement to any person or circumstance is, to any extent, invalid or unenforceable, the remainder of the Agreement is not affected and each term and condition of the Agreement is to be valid and enforceable as permitted by law.



**27. GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and the Parties stipulate venue shall be in the County of Escambia.

**28. INTERPRETATION.** For purposes of this Agreement, the singular includes the plural and the plural shall include the singular. References to statutes or regulations include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation referred to. Words not otherwise defined that have well-known technical or industry meanings are used in accordance with such recognized meanings. References to persons include their respective permitted successors and assigns and, in the case of governmental persons, persons succeeding to their respective functions and capacities.

- (a) If either party discovers any material discrepancy, deficiency, ambiguity, error, or omission in this Agreement, or is otherwise in doubt as to the meaning of any provision of this Agreement, it shall immediately notify the other party and request clarification of its interpretation of this Agreement.
- (b) This Agreement shall not be more strictly construed against either party hereto by reason of the fact that one party may have drafted or prepared any or all the terms and provisions hereof.

**29. FURTHER DOCUMENTS.** The Parties shall execute and deliver all documents and perform further actions that may reasonably be necessary to effectuate the provisions of this Agreement.

**30. NO WAIVER.** The failure of a party to insist upon the strict performance of the terms and conditions hereof shall not constitute or be construed as a waiver or relinquishment of any other provision or of either Party's right to thereafter enforce the same in accordance with this Agreement.

**31. EFFECTIVE DATE.** Submission of the Agreement to the County does not constitute an offer. The Agreement becomes effective upon the execution and delivery by both the Organization and the County. The County and the Organization acknowledge they have not relied upon any statement, representation, prior or contemporaneous written or oral promises, agreements, or warranties, except as expressed in the Agreement.

If the Organization, with the County's consent, uses the Park or any part of the Park prior to the beginning of the Agreement term, all provisions of the Agreement will be in full force and effect beginning at the time of the initial use.

**32. RELATIONSHIP OF PARTIES.** Nothing contained in the Agreement can be deemed by the Parties or by any third-party to create the relationship of principal and agent, partnership, joint venture or similar relationship between the County and the Organization.

**33. ACKNOWLEDGEMENT.** The Agreement cannot be more strictly construed against either party because one party may have drafted or prepared any or all of the terms and provisions of the Agreement. It is acknowledged that each of the Parties has been represented by legal counsel and each of the legal counsel has contributed substantially to the content of the Agreement.

**[SIGNATURE PAGE TO FOLLOW]**

**IN WITNESS WHEREOF**, the Parties hereto have made and executed this Agreement on the respective dates under each signature:

**SIGNED AND DELIVERED BY:**

**COUNTY:**  
**ESCAMBIA COUNTY, FLORIDA**, a political subdivision of the State of Florida acting by and through its authorized Board of County Commissioners.

**By:** \_\_\_\_\_  
Lumon J. May, CHAIRMAN

**ATTEST: PAM CHILDERS**  
Clerk of the Circuit Court

**By:** \_\_\_\_\_  
Deputy Clerk

(SEAL)

**ORGANIZATION:**  
\_\_\_\_\_, a nonprofit corporation authorized to do business in the State of Florida.

**By:** \_\_\_\_\_  
President or Designee

\_\_\_\_\_  
Witness  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Witness  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Title

Or

Approved as to form and legal sufficiency.

By: /s/ Christi J. Hankins

Title: Assistant County Attorney

Date: 3/15/23

\_\_\_\_\_  
Corporate Secretary  
Print Name: \_\_\_\_\_