

**Jean Birmingham Council
Chambers, City Hall**
401 South Alamo
Marshall, TX 75670
903-935-4421



Members
Amy Ware, District 4 - Mayor
Risa Jordan-Anderson, District 1
Leo Morris, District 2
Dathaniel Campbell, District 3
Reba Godfrey, District 5
Amanda Abraham, District 6
Micah Fenton, District 7

PLEASE SILENCE ALL DEVICES
REGULAR CITY COUNCIL MEETING
July 25, 2024
6:00 PM

1. Call to Order and Roll Call

2. Invocation and Pledges

3. Presentations & Proclamations

A. Recognition of July 2024 Yard of the Month recipients. (Keep Marshall Beautiful)

4. Citizen Comments

Texas Government Code, Sec. 551.007 requires that a governmental body must allow each member of the public who desires to address the body regarding an item on the agenda the opportunity to do so before or during the body's consideration of the item. The "Citizens Comments" portion of the meeting meets the requirements of this law and is the public's opportunity to speak on any item on the agenda. Those who wish to speak are requested to fill out a public comment form and will have three (3) minutes to speak unless additional time has been requested.

5. Items to be Withdrawn From Consent Agenda

6. Consent Agenda

The items on the Consent Agenda require little or no deliberation by the Council. Approval of the Consent Agenda authorizes the City Manager or his designee to proceed with conclusion of each in accordance with staff recommendations, a copy of which is filed with the minutes of the meeting. A Councilmember may remove items from the Consent Agenda by making such request prior to a motion and vote on the Consent Agenda.

- A. Consider approval of the minutes from the July 11, 2024 Regular Council meeting. (City Secretary)
- B. Consider approval of a resolution authorizing the submittal of an application to the TWDB - Lead Service Line Replacement Program. (Public Works)
- C. Consider approval to authorize a task order for construction management services for West End Lift Station Project - SPI. (Public Works)
- D. Consider approval of needed appointments to TIRZ 1 Board of Directors, including a member to serve as Chair. (Economic Development & Strategic Initiatives)

7. Consideration of Items Withdrawn From the Consent Agenda

8. City Manager Reports and Requests for City Council Consideration

- A. Consider approval of the Lease and Operating Agreement at Spring St. Park. (Parks & Recreation)
- B. Consider approval of a contract for Operations at Airport Park. (Parks & Recreation)

9. Adjournment

Posted: July 22, 2024
5:00 PM
N. Smith

This meeting will be conducted in accordance with the Americans with Disabilities Act. Requests for sign interpretive services will be available with at least 72-hour notice prior to the meeting. To make arrangements for these services, please call the City Secretary's Office at 903-935-4446.



TO: City Council
DATE: July 25, 2024
ITEM #: 3.A
SUBJECT: Recognition of July 2024 Yard of the Month recipients. (Keep Marshall Beautiful)

Recommendation for Action: Recognize recipients of the July 2024 Yard of the Month award.

Executive Summary: The Keep Marshall Beautiful board selected residential and commercial property winners for the July 2024 Yard of the Month program. Representatives from the Keep Marshall Beautiful board presented both winners with a \$50 gift card to Lowe's.

Residential

Donald Scott (4102 Leland St.)
District 3 and District 7



Commercial

Holloway Carpet (607 Pinecrest Dr.)
District 2 and District 6



Budget Cost:

Staff Contact: Anna Lane, Director of Community & Neighborhood Services

Attachments: None



TO: City Council
DATE: July 25, 2024
ITEM #: 6.A
SUBJECT: Consider approval of the minutes from the July 11, 2024 Regular Council meeting. (City Secretary)

Recommendation for Action: Consider approval of the minutes from the July 11, 2024 Regular Council meeting.

Executive Summary: Minutes from the Regular meeting held on July 11, 2024.

Budget Cost: N/A

Staff Contact: Nikki Smith, City Secretary

Attachments: 1. 7-11-24 Minutes

**Jean Birmingham Council
Chambers, City Hall**
401 South Alamo
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Members
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Risa Jordan-Anderson, District 1
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Amanda Abraham, District 6
Micah Fenton, District 7

MINUTES
PLEASE SILENCE ALL DEVICES
REGULAR CITY COUNCIL MEETING
July 11, 2024
6:00 PM

1. Call to Order and Roll Call

Mayor Amy Ware called the Regular meeting to order in the Council Chambers, City Hall at 06:00 AM.

PRESENT:

Mayor and Council Members:

Mayor Amy Ware
Councilmember Leo Morris
Councilmember Reba Godfrey
Councilmember Amanda Abraham
Councilmember Micah Fenton
Councilmember Dathaniel Campbell
Councilmember Risa Jordan-Anderson

ADMINISTRATIVE STAFF PRESENT:

Terrell Smith, City Manager	Reggie Cooper, Fire Chief
Cliff Carruth, Police Chief	Dawn Jones, Finance Director
Eric Powell, Public Works Director	Scott Rectenwald, City Attorney
Anna Lane, Community Services Director	
Randy Pritchard, Support Services Director	
Nikki Smith, City Secretary/Payroll Accountant	
Marina Garcia-Heredia, Parks & Recreation Director	
Alex Agnor, Economic Development & Strategic Initiatives Director	

2. Invocation and Pledges

Mayor Ware

3. Presentations & Proclamations

- A. Presentation of the Employee of the Month - July. (Employee Engagement Committee)
Kristina Hamilton, Employee Engagement Committee, stated the process for selecting the Employee of the Month and presented the Employee of the Month for the month of July 2024 to Edward Irving, Parks & Recreation.

4. Citizen Comments

Texas Government Code, Sec. 551.007 requires that a governmental body must allow each member of the public who desires to address the body regarding an item on the agenda the opportunity to do so before or during the body's consideration of the item. The "Citizens Comments" portion of the meeting meets the requirements of this law and is the public's opportunity to speak on any item on the agenda. Those who wish to speak are requested to fill out a public comment form and will have three (3) minutes to speak unless additional time has been requested.

Angela Person, 2804 W. Pinecrest, spoke in opposition of Item 8a.
Kelsie Hopkins, 116 Sugar Creek Drive, spoke in opposition of Item 8a.
Kendrick Biggs, 10216 FM 2625 E., spoke in opposition of Item 8a.
Steven Hammond, 4404 Bridle Path, spoke in opposition of Item 8a.
Madison Wiggins, 246 Barrett Gibson, spoke in opposition of Item 8a.
Ronny Minatrea, 7109 State Hwy 43 N., spoke in opposition of Item 8a.
Jennifer Williams, 2826 Mary Mack Dr., spoke in opposition of Item 8a.
Elton Brock, 105 Ashwood Terrace, spoke in opposition of Item 8a.
Ryan Collier, 1006 Pocono St., spoke in opposition of Item 8a.

5. Items to be Withdrawn From Consent Agenda

Item F was withdrawn from the Consent Agenda.

6. Consent Agenda

The items on the Consent Agenda require little or no deliberation by the Council. Approval of the Consent Agenda authorizes the City Manager or his designee to proceed with conclusion of each in accordance with staff recommendations, a copy of which is filed with the minutes of the meeting. A Councilmember may remove items from the Consent Agenda by making such request prior to a motion and vote on the Consent Agenda.

Councilmember Abraham made a motion to approve the Consent Agenda.

Councilmember Morris seconded the motion, which passed by a vote of 7:0.

- A. Consider approval of the minutes from the June 27, 2024 Regular Council meeting. (City Secretary)
- B. Consider approval of a task order for Halff - Master Plan Development at City's Raw Water Intake Plant. (Public Works)
- C. Consider approval of awarding a contract for Sanford St Sewer Improvements. (Public Works)
- D. Consider approval of oil & gas lease agreement with RFE Touchdown North, LLC. (City Attorney)
- E. Consider approval and appointment to the City of Marshall's seats on the East Texas Council of Governments Board of Directors. (City Manager)

7. Consideration of Items Withdrawn From the Consent Agenda

- F. Consider approval of the proposal for Heartland Park & Recreation, LLC. for improvements to Bella Wyatt Park and signage for three parks for \$84,123.00 (Parks & Recreation)

Councilmember Godfrey stated her reasons for withdrawing this item.

Marina Garcia-Heredia, Parks & Recreation Director, provided information regarding the proposals with Heartland Park & Recreation, LLC. for improvements to Bella Wyatt Park at a cost of \$49,923 and signage for Bella Wyatt, Bath Miller and Lions parks at a cost of \$34,200. Marina Garcia-Heredia stated the total cost would be \$84,123.

Councilmember Godfrey made a motion to approve the proposal for Heartland Park & Recreation, LLC. for improvements to Bella Wyatt Park and signage for three parks for \$84,123.00. Councilmember Campbell seconded the motion, which passed by a vote of 7:0.

8. City Manager Reports and Requests for City Council Consideration

- A. Consider approval of a contract for Operations at Airport Park. (Parks & Recreation)
Marina Garcia-Heredia presented information regarding a five-year contract with Red Dirt Baseball Club for operations, maintenance and upkeep at Airport Park. Marina Garcia-Heredia provided detailed information regarding the contents of the proposed contract and what the benefits are for all involved.

David Upchurch, Red Dirt Baseball Club, provided information regarding the history of the company and partnerships with other facilities and cities.

Councilmembers asked questions and discussed.

Terrell Smith, City Manager, stated the facility is a public park and would be available to the citizens. The use of fields would be scheduled with Red Dirt Baseball.

Councilmember Godfrey made a motion to table approval of a contract for Operations at Airport Park. Councilmember Campbell seconded the motion, which passed with the following vote:

Ayes: Mayor Ware, Councilmembers Godfrey, Campbell and Jordan-Anderson

Nays: Councilmembers Morris, Abraham and Fenton

- B. Presentation of current status of the Wastewater Treatment Plant Master Plan. (Public Works)

Cory Owen, Public Works Assistant Director, provided the history, upgrades, projects and needs of the Wastewater Treatment Plant.

- C. Fiscal Year 2025 Budget Workshop. (Finance)

Dawn Jones, Finance Director, provided an overview of the status of revenues, expenses and priorities for Fiscal Year 24 as of June 30, 2024,

Kristina Hamilton, Finance Assistant Director, provided base expenditure and revenue assumptions and projections for Fiscal Year 25, including known increases for TMRS and TWC and a projected 20% increase in costs of health and dental insurance.

City Staff provided information regarding their supplemental budget requests for needs for their various departments.

Councilmembers asked questions and discussed.

9. Adjournment

Councilmember Godfrey made a motion for adjournment. Councilmember Abraham seconded the motion, which passed by a vote of 7:0.

APPROVED:

Mayor of the City Council
of the City of Marshall, Texas

ATTEST:

City Secretary



TO: City Council
DATE: July 25, 2024
ITEM #: 6.B
SUBJECT: Consider approval of a resolution authorizing the
submittal of an application to the TWDB - Lead
Service Line Replacement Program. (Public Works)

Recommendation for Action: This resolution will allow City staff along with its consultants to submit an application to the Texas Water Development Board (TWDB) requesting funding through the Drinking Water State Revolving Fund (DWSRF), Lead Service Line Replacement (LSLR) Program.

Executive Summary: The City of Marshall is seeking funds through the TWDB DWSRF, Lead Service Line Replacement (LSLR) Program to assist in the location and replacement of any lead or lead-lined galvanized water service lines within the City's distribution network in conformance with recent EPA rules. The Lead and Copper Rule Revisions (LCRR) amend the Lead and Copper Rule. All community and non-transient non-community public water systems are required to comply with the LCRR starting October 16, 2024. The U.S. Environmental Protection Agency (EPA) announced the proposed Lead and Copper Rule Improvements (LCRI) on November 30, 2023, and published the proposed LCRI in the Federal Registry on December 6, 2023. On this page, find information related to the rule including provisions for initial service line inventories and testing in schools and child care facilities. The City is currently developing the inventory of all known service lines through the water meter change out project which will provide the documents required for submittal of the inventory to TCEQ by the deadline of October 16, 2024.

Budget Cost: \$0

Staff Contact: Cory Owen, Assistant Director for Treatment Services.

Attachments:

1. TWDB-0201B
2. Application Affidavit v1
3. Certificate of Secretary v1
4. Resolution Authorizing Application for Financial Assistance v1

APPLICATION AFFIDAVIT

THE STATE OF TEXAS	§
COUNTIES OF HARRISON	§
CITY OF MARSHALL	§

BEFORE ME, the undersigned, a Notary Public in and for the State of Texas, on this day personally appeared Terrell Smith, City Manager of the City of Marshall, Texas, as the Authorized Representative of said City, who being by me duly sworn, upon oath says that:

1. The decision by the City of Marshall ("City") to request financial assistance from the Texas Water Development Board ("Board") was made in a public meeting held in accordance with the Open Meetings Act (Government Code, §551.001, et seq.) and after providing all such notice as required by such Act as is applicable to the City.

2. The information submitted in the application is true and correct according to my best knowledge and belief.

3. The City has no litigation or other proceedings pending or threatened against it that would materially adversely affect its financial condition or ability to issue debt.

4. Except as may be described in the City's application for financial assistance, the City has no pending, threatened, or outstanding judgments, orders, fines, penalties, taxes, assessment or other enforcement or compliance issue of any kind or nature by the Environmental Protection Agency ("EPA"), Texas Commission on Environmental Quality ("TCEQ"), Texas Comptroller, Texas Secretary of State, or any other federal, state or local government.

5. The City warrants compliance with the representations made in the application in the event that the Board provides the financial assistance.

6. The City is or will become in compliance with all of its material contracts.

7. The City will comply with all applicable federal laws, rules, and regulations as well as the laws of the State of Texas and the rules and regulations of the Board.

Terrell Smith, City Manager
City of Marshall, Texas

SWORN TO AND SUBSCRIBED BEFORE ME by Terrell Smith, City Manager of the City of Marshall, Texas, this ____ day of July, 2024.

Notary Public, State of Texas

(NOTARY SEAL)

CERTIFICATE FOR RESOLUTION

THE STATE OF TEXAS	§	
COUNTIES OF HARRISON	§	
CITY OF MARSHALL	§	

I, the undersigned secretary of said City, hereby certify as follows:

1. The City Commission of said City convened in REGULAR MEETING ON THE 25TH DAY OF JULY, 2024, at the designated meeting place, and the roll was called of the duly constituted officers and members of said City Council, to wit:

Amy Ware, Mayor
Risa Jordan-Anderson
Leo Morris
Dathaniel Campbell
Reba Godfrey
Amanda Abraham
Micah Fenton

and all of said persons were present, except _____, thus constituting a quorum. Whereupon, among other business, the following was transacted at said Meeting: a written

RESOLUTION AUTHORIZING APPLICATION FOR FINANCIAL ASSISTANCE FROM THE TEXAS WATER DEVELOPMENT BOARD FOR WATER SYSTEM IMPROVEMENTS; AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH

was duly introduced for the consideration of said City Council. It was then duly moved and seconded that said Resolution be adopted and, after due discussion, said motion, carrying with it the adoption of said Resolution, prevailed and carried by the following vote:

AYES: All members of the City Council shown present above voted "Aye," except as shown below:

NOES: _____

ABSTAIN: _____

2. That a true, full and correct copy of the aforesaid Resolution adopted at the Meeting described in the above and foregoing paragraph is attached to and follows this Certificate; that said Resolution has been duly recorded in said City Council's minutes of said Meeting; that the above and foregoing paragraph is a true, full and correct excerpt from said City Council's minutes of said Meeting pertaining to the adoption of said Resolution; that the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of said City Council as indicated therein; that each of the officers and members of said City Council was duly and sufficiently notified officially and personally, in advance, of the time, place and purpose of the aforesaid Meeting, and that said Resolution would be introduced and considered for adoption at said Meeting, and each of said officers and members consented, in advance, to the holding of said Meeting for such purpose, and that said Meeting was open to the public and public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code.

SIGNED this, the 25th day of July, 2024.

Nikki Smith, City Secretary

SIGNED this, the 25th day of July, 2024.

Mayor

Secretary



TO: City Council
DATE: July 25, 2024
ITEM #: 6.C
SUBJECT: Consider approval to authorize a task order for construction management services for West End Lift Station Project - SPI. (Public Works)

Recommendation for Action: Approval of an expenditure totaling over \$50,000

Executive Summary: The City had previously authorized Schaumburg and Polk (SPI) to perform the design of the Improvements to the West End Lift Station at a cost of \$44,100. Now that the City has entered into a construction contract for the Improvements to the West End Lift Station, we are in need of Construction Management Services to be provided by SPI at a cost of \$17,000. Given the fact that this is a continuation of the overall project and the two costs added together are greater than \$50,000, City policy requires approval by City Council for the total expenditure.

Budget Cost: \$17,000 (ARPA Funds)

Staff Contact: Cory Owen, Assistant Director for Treatment Services

Attachments: 1. SPI - West End Lift Station

SHORT FORM OF AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES

THIS IS AN AGREEMENT effective as of May 12, 2022
("Effective Date") between

City of Marshall, Texas ("Owner")

and

Schaumburg & Polk, Inc. ("Engineer").

Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as follows:

West Side Lift Station ("Project").

Engineer's Services under this Agreement are generally identified as follows:

Engineer's services are described in the attached three-page, "Specific Scope of Work" document dated April 2022. This proposal is Exhibit "A" to this Agreement and becomes a binding part of this Agreement.

Owner and Engineer further agree as follows:

1.01 *Basic Agreement and Period of Service*

- A. Engineer shall provide, or cause to be provided, the services set forth in this Agreement. If authorized by Owner, or if required because of changes in the Project, Engineer shall furnish services in addition to those set forth above. Owner shall pay Engineer for its services as set forth in Paragraphs 7.01 and 7.02.
- B. Engineer shall complete its services within a reasonable time, or within the following specific time period: 12 months
- C. If the Project includes construction-related professional services, then Engineer's time for completion of services is conditioned on the time for Owner and its contractors to complete construction not exceeding 4 months. If the actual time to complete construction exceeds the number of months indicated, then Engineer's period of service and its total compensation shall be appropriately adjusted.

2.01 *Payment Procedures*

- A. *Invoices*: Engineer shall prepare invoices in accordance with its standard invoicing practices and submit the invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt. If Owner fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice, then the amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement until Engineer has been paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension. Payments will be credited first to interest and then to principal.

3.01 *Termination*

- A. The obligation to continue performance under this Agreement may be terminated:

1. For cause,

- a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party. Failure to pay Engineer for its services is a substantial failure to perform and a basis for termination.

b. By Engineer:

- 1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
- 2) upon seven days written notice if the Engineer's services for the Project are delayed for more than 90 days for reasons beyond Engineer's control.

Engineer shall have no liability to Owner on account of a termination by Engineer under Paragraph 3.01.A.1.b.

- c. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under Paragraph 3.01.A.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of notice; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. For convenience, by Owner effective upon Engineer's receipt of written notice from Owner.
- B. The terminating party under Paragraph 3.01.A may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.
- C. In the event of any termination under Paragraph 3.01, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all reimbursable expenses incurred through the effective date of termination.

4.01 *Successors, Assigns, and Beneficiaries*

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 4.01.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise, nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any contractor, subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.

5.01 *General Considerations*

- A. If this project utilizes funds distributed from the American Rescue Plan Act (ARPA), then all requirements presented in "Exhibit B" of this contract must be met by all parties.
- B. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer's services. Subject to the foregoing standard of care, Engineer and its consultants may use or rely upon design elements and

information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.

- C. Engineer shall not at any time supervise, direct, control, or have authority over any contractor's work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, or the safety precautions and programs incident thereto, for security or safety at the Project site, nor for any failure of a contractor to comply with laws and regulations applicable to such contractor's furnishing and performing of its work.
- D. This Agreement is to be governed by the law of the state or jurisdiction in which the Project is located.
- E. Engineer neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform its work in accordance with the contract between Owner and such contractor. Engineer is not responsible for variations between actual construction bids or costs and Engineer's opinions or estimates regarding construction costs.
- F. Engineer shall not be responsible for the acts or omissions of any contractor, subcontractor, or supplier, or of any of their agents or employees or of any other persons (except Engineer's own employees) at the Project site or otherwise furnishing or performing any construction work; or for any decision made regarding the construction contract requirements, or any application, interpretation, or clarification of the construction contract other than those made by Engineer.
- G. The general conditions for any construction contract documents prepared hereunder are to be the "Standard General Conditions of the Construction Contract" as prepared by the Engineers Joint Contract Documents Committee (EJCDC C-700, 2007 Edition) unless the parties agree otherwise.
- H. All documents prepared or furnished by Engineer are instruments of service, and Engineer retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed. Owner shall have a limited license to use the documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by Engineer of full payment for all services relating to preparation of the documents and subject to the following limitations: (1) Owner acknowledges that such documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and consultants; (3) Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or

resulting from any use, reuse, or modification of the documents without written verification, completion, or adaptation by Engineer; and (4) such limited license to Owner shall not create any rights in third parties.

- I. To the fullest extent permitted by law, Owner and Engineer (1) waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project, and (2) agree that Engineer's total liability to Owner under this Agreement shall be limited to \$50,000 or the total amount of compensation received by Engineer, whichever is greater.
- J. The parties acknowledge that Engineer's scope of services does not include any services related to a Hazardous Environmental Condition (the presence of asbestos, PCBs, petroleum, hazardous substances or waste as defined by the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq., or radioactive materials). If Engineer or any other party encounters a Hazardous Environmental Condition, Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until Owner: (1) retains appropriate specialist consultants or contractors to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (2) warrants that the Site is in full compliance with applicable Laws and Regulations.
- K. Owner and Engineer agree to negotiate each dispute between them in good faith during the 30 days after notice of dispute. If negotiations are unsuccessful in resolving the dispute, then the dispute shall be mediated. If mediation is unsuccessful, then the parties may exercise their rights at law.

6.01 *Total Agreement*

- A. This Agreement (including any expressly incorporated attachments), constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

7.01 *Basis of Payment—Lump Sum*

- A. Using the procedures set forth in Paragraph 2.01, Owner shall pay Engineer as follows:
 - 1. A Lump Sum amount of Sixty-One Thousand Seven Hundred Dollars (\$61,700.00)
- B. The portion of the compensation amount billed monthly for Engineer's services will be based upon Engineer's estimate of the percentage of the total services actually completed during the billing period.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

OWNER:

By: Terrell Smith T.S.

Title: City Manager

Date Signed: 05-12-2022

Address for giving notices:

ENGINEER:

By: Jeremy Buechter, P.E.

Title: Executive Vice-President

Date Signed: 04/11/2022

Engineer License or Firm's Certificate
Number: F-000520

State of: Texas

Address for giving notices:

Schaumburg & Polk, Inc.
320 S. Broadway Ave, Suite 200
Tyler, TX 75702

**City of Marshall
West Side Lift Station
Specific Scope of Work - Exhibit A
April 2022**

Items of work specified below shall be included as Exhibit A to the Form of Agreement between Owner and Engineer for Professional Services.

General

The project consists of design and permitting for upgrades to the existing West End lift station. The intent of the project is to rehabilitate the existing lift station including a new standby generator.

Study and Report

- A. Meet with City to determine specific requirements of project.
- B. Review results of 2020 lift station evaluation and confirm applicability.
- C. Review of potential private property crossings that may require access easements.
- D. Provide recommendations for final configuration of lift station including up any alternate configurations that may be recommended.
- E. Capacity, material, and sizing recommendations for the proposed lift station.
- F. Consider bypass pumping or transfer of flow methods to keep sewerline in operation during construction.
- G. Consider TCEQ, TxDOT and other regulatory requirements that may impact final alignment, and other components of construction, and include any required recommendations.
- H. Discuss environmental considerations and any impacts on location of sewerline and installation methods.
- I. Prepare updated construction cost opinion.
- J. Submit letter of report to Owner including all options, associated costs, mapping, and possible acquisition.
- K. Revise letter in accordance with City's review.

2. Preliminary Design

- A. Field data collection for design, including selected site and areas of upgrade.
- B. Initial utility locations and coordination with franchise utilities.
- C. Schematic design of lift station upgrades in conformance with recommendations and options selected in Preliminary Design phase.
- D. Coordinate schematic design with any required regulatory agencies.
- E. Provide schematic layouts for any required property acquisition based on aerial mapping, lot layouts, and alignment.
- F. Conduct geotechnical investigations anticipated as one boring at the site for soil characterization and groundwater investigation.
- G. Prepare updated preliminary cost opinions and review with City.

3. Final Design

- A. Prepare final signed and sealed plans and specifications for lift station upgrades.
- B. Level B SUE (subsurface utility engineering) to further define and locate potential utility conflicts.
- C. Recommend to Owner any further utility location effort in any areas of risk of conflict.
- D. Include consideration of alternate bids as recommended by Engineer or requested by City.
- E. Coordinate with City's SCADA provider to include a bid allowance for control upgrades to the site.
- F. Submit final plans and specs to TCEQ and any other required regulatory review, and respond to questions or comments.
- G. Coordinate final submission to TxDOT if required for appropriate permitting of installation.
- H. Review final plans and specifications with City and revise as necessary to address any comments or questions.

4. Bidding

- A. Provide contract documents and assist City in bidding project.
- B. Distribute advertisements directly to contractors to help advertise project.
- C. Advertise in online planrooms
- D. Print and distribute Plans and Specs to responsive contractors.
- E. Conduct bid opening, evaluate and tabulate bids, and recommend award to City.

5. Construction

- A. Conduct a Pre-Construction Conference prior to commencement of Work at the Site.
- B. Receive, review, and determine the acceptability of any and all schedules that Contractor is required to submit to Engineer, including Progress Schedule, Schedule of Submittals, and Schedule of Values.
- C. As appropriate, establish baselines and benchmarks for locating the Work which in Engineer's judgment are necessary to enable Contractor to proceed.
- D. Make visits to the Site at intervals appropriate to the various stages of construction, as Engineer deems necessary, to observe the progress and quality of the Contractor's executed Work. Scope is based on averaging 4 hrs per week for an 8-week construction phase
- E. Issue necessary clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of the Contractor's work.
- F. Recommend and prepare Change Orders and Work Change Directives to Owner, as appropriate.
- G. Review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit.
- H. Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor.
- I. Require such special inspections or tests of Contractor's work as deemed reasonably necessary, and receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Contract Documents.
- J. Process pay applications from Contractor.

- K. In company with Owner and Contractor, conduct an inspection to determine if the Work is substantially complete. If Engineer considers the Work substantially complete, Engineer shall deliver a certificate of Substantial Completion to Owner and Contractor.
- L. Conduct a final inspection to determine if the completed Work of Contractor is acceptable so that Engineer may recommend, in writing, final payment to Contractor.
- M. Engineer shall assemble and provide a final set of as-built drawings based on Contractors field plan set, Engineer's working plan set, and the Resident Representatives field set of plans. These plans will be provided to the Owner in both paper and digital format.

PROJECT DELIVERABLES

- 1. 30% Design Phase Plans, Specifications, Budgets
- 2. 60% Design Phase Plans, Specifications, Budgets
- 3. Final Signed and Sealed Plans and Specifications.
- 4. Contract Documents
- 5. Bidding Documents and Contracts
- 6. Recommendation of Award and Bid Assessments
- 7. Construction Record Drawings – including digital files.

RESPONSIBILITIES OF OWNER

- 1. The Owner is responsible for any and all fees required for any permits and any bid advertising costs (newspaper fees etc.).
- 2. This proposal excludes boundary survey or other services for land acquisition, other than schematics as specifically stated above.
- 3. This proposal excludes all actual costs of property or easement acquisition.
- 4. Cost to prepare or direct cost for, an USACE individual permit is not included in this proposal (not anticipated).

END OF 3-PAGE EXHIBIT A

EXHIBIT B
City of Marshall
West Side Lift Station
April, 2022

Title VI of the Civil Rights Act of 1964

The sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.

Section 109 of the Housing and Community Development Act of 1974

No person in the United States shall on the ground of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

Age Discrimination Act of 1975.

The Contractor shall comply with the Age Discrimination Act of 1975 which provides that no person in the United States shall on the basis of age be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Americans with Disabilities Act

Contractor shall not discriminate against a qualified individual with a disability and shall comply with the Americans with Disabilities Act, P.L. 101-336, 42 U.S.C. 12101 et seq. and any properly promulgated rules and regulations related thereto.

Conflicts of interest.

- (a) Governing Body. No member of the governing body of the City and no other officer, employee, or agent of the City, who exercises any functions or responsibilities in connection with administration, construction, engineering, or implementation of award between the Department of Treasury and the City, shall have any personal financial interest, direct or indirect, in the Contractor or this Contract; and the Firm shall take appropriate steps to assure compliance.
- (b) Other Local Public Officials. No other public official, who exercises any functions or responsibilities in connection with the planning and carrying out of administration, construction, engineering or implementation of the ARPA award between the Department of Treasury and the City, shall have any personal financial interest, direct or indirect, in the Contractor or this Contract; and the Contractor shall take appropriate steps to assure compliance.

- (a) The Contractor and Employees. The Contractor warrants and represents that it has no conflict of interest associated with the ARPA award between the Department of Treasury and the City or this Contract. The Contractor further warrants and represents that it shall not acquire an interest, direct or indirect, in any geographic area that may benefit from the ARPA award between the Department of Treasury and the City or in any business, entity, organization or person that may benefit from the award. The Contractor further agrees that it will not employ an individual with a conflict of interest as described herein.

Access to Records

The U.S. Department of Treasury, Inspectors General, the Comptroller General of the United States, and the Texas Division of Emergency Management and the City, or any of their authorized representatives, shall have access to any documents, papers, or other records of the Contractor which are pertinent to the ARPA award, in order to make audits, examinations, excerpts, and transcripts and to closeout the City's ARPA contract with the Department of Treasury.

Retainage of Records

Grantees or subgrantees must retain all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.

Termination for Cause [for Contracts > \$10K]

If the Contractor fails to fulfill in a timely and proper manner its obligations under this Agreement, or if the Contractor violates any of the covenants, conditions, agreements, or stipulations of this Agreement, the City shall have the right to terminate this Agreement by giving written notice to the Contractor of such termination and specifying the effective date thereof, which shall be at least five days before the effective date of such termination. In the event of termination for cause, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Contractor pursuant to this Agreement shall, at the option of the City, be turned over to the City and become the property of the City. In the event of termination for cause, the Contractor shall be entitled to receive reasonable compensation for any necessary services actually and satisfactorily performed prior to the date of termination.

Notwithstanding the above, the Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of contract by the Contractor, and the City may set-off the damages it incurred as a result of the Contractor's breach of contract from any amounts it might otherwise owe the Contractor.

Termination for Convenience of the City/County [for Contracts > \$10K]

City may at any time and for any reason terminate Contractor's services and work at City's convenience upon providing written notice to the Contractor specifying the extent of termination and the effective date. Upon receipt of such notice, Contractor shall, unless the notice directs otherwise, immediately discontinue the work and placing of orders for materials, facilities and supplies in connection with the performance of this Agreement.



TO: City Council
DATE: July 25, 2024
ITEM #: 6.D
SUBJECT: Consider approval of needed appointments to TIRZ 1 Board of Directors including a member to serve as Chair. (Economic Development & Strategic Initiatives)

Recommendation for Action: Consider approval of needed appointments to TIRZ 1 Board of Directors including a member to serve as Chair.

Executive Summary: Please see attached Staff Report.

Budget Cost:

Staff Contact:

Attachments: 1. Staff Report-7.25.24-TIRZ Board Appointments

Staff Report

Appointments to TIRZ 1 Board of Directors (Item 6.D)	
City Council Meeting: July 25, 2024	Department: Economic Development & Strategic Initiatives

RECOMMENDATION

Consider approval of needed appointments to TIRZ 1 Board of Directors, including a member to serve as Chair, as detailed in the table below.

Place	Board Member	Term	
1	Council Member Risa Jordan-Anderson	8/1/2024	8/1/2026
3	Council Member Dathaniel Campbell	8/1/2024	8/1/2026
4, Chair*	Mayor Amy Ware	8/1/2024	8/1/2025
5	Council Member Reba Godfrey	8/1/2024	8/1/2026
7	Council Member Micah Fenton	8/1/2024	8/1/2026

*Chair serves one-year term.

ANALYSIS

The TIRZ 1 Board of Directors (the "Board") consists of seven (7) members and were set to be the members of the City Council as of the date of the adoption of the creating ordinance, as approved on May 27, 2021. At the expiration of the terms, the City Council may continue to appoint members of the City Council to the Board or may appoint an individual to the Board who is not a City Council Member. To be eligible for appointment to the Board, an individual must meet certain requirements pursuant to Chapter 311.

Board members serve two-years terms which shall be staggered. Each year, the City Council shall appoint a member to serve as the Chair of the Board for a one-year term. Council Member Leo Morris and Mayor Pro-Tem Amanda Abraham serve on the Board in Places 2 and 6 with terms expiring on August 1, 2025.

The Board may elect a Vice Chair to preside in the absence of the Chair and other officers as determined by the Board. Mayor Pro Tem Amanda Abraham currently serves as Vice Chair.

FINANCIAL IMPACT

None.

STAFF CONTACT(S)

Alex Anne Agnor
 Director of Economic Development & Strategic Initiatives
 903-935-4526
agnor.alex@marshalltexas.net



TO: City Council
DATE: July 25, 2024
ITEM #: 8.A
SUBJECT: Consider approval of the Lease and Operating Agreement at Spring St. Park. (Parks & Recreation)

Recommendation for Action: Approval of the Lease and Operating Agreement to be awarded to Wiley University.

Executive Summary: The Lease and Operating Agreement will initially be for a 5-year term starting from the date of execution. It can be extended for an additional 5-year term at the end of the initial term unless one party notifies the other party, no later than 90 days before the end of the term, of its intention not to renew the Agreement.

Budget Cost: n/a

Staff Contact: Marina Garcia-Heredia, Parks Director

Attachments: 1. Wiley Lease Agreement (FINAL)



LEASE & OPERATING AGREEMENT SPRING STREET PARK COMPLEX

This Agreement is made on this 25th day of July 2024 by and between the City of Marshall Texas, whose address is 401 S. Alamo Boulevard., Marshall, TX 75662 (“City”), and Wiley University, an educational nonprofit organization, whose address is 711 Wiley Avenue, Marshall, Texas 75662 (“Operator”). As used herein, “Party” refers to either City or Operator, and “Parties” refers to City and Operator collectively.

WHEREAS the City owns the Spring Street Park located at 700 Spring St, Marshall, Harrison County, Texas. (“Facility”). *See* Exhibit “A” attached hereto.

WHEREAS the Operator is an educational nonprofit organization that organizes and operates an athletics department, a softball program, and related activities.

WHEREAS the Parties wish to enter into this Agreement, which confirms the Party's agreements and responsibilities.

NOW THEREFORE, the Parties hereby agree as follows:

I. AGREEMENT

The City grants to Operator, Operator’s members, guests and invitees the non-exclusive right, privilege and permission to enter on the property described in Exhibit “A” attached hereto for the purpose of utilizing the Facility for Wiley University’s club and varsity sport to compete in softball competition in the Gulf Coast Athletic Conference.

II. TERM

This Operating Agreement will be for a term of 5 years from the date of execution and may be renewed for an additional 5-year term at the end of the term unless either party gives to the other party, no later than 90 days before the end of the term, notification that it intends not to renew this Agreement. Additionally, at the end of the renewal term if extended, Operator will have the right to negotiate terms for the renewal of this agreement. If such terms are agreeable to the City and Operator, the agreement’s terms may be amended and renewed for additional terms as desired by the parties. PROVIDED THAT, City has the right to cancel this Agreement at any time upon 30 days written notice to Operator.

III. RESPONSIBILITIES OF OPERATOR



During the term of this Agreement and any renewals thereof, Operator agrees to the following:

1. To keep the Facility in a clean, orderly, and operational order, according to the City's expectations and satisfaction. This includes but is not limited to the following:
 - a. Keep the Facility in a neat and orderly fashion, including cleaning, trash pickup, porter service, cutting, fertilizing, and mowing the grass on the Facility, chalking fields, and to do all things necessary or incidental, to enable the Operator and Operator's partner organizations, and invitees to play softball.
 - b. Maintain the Facility, buildings, fence, parking and scoreboards in good working order.
 - c. Mow all of the Facility including the parking area and all other areas outside of the perimeter fence.
2. Operate and maintain the Facility in clean and running order and comply with all applicable codes and food safety regulations at all times.
3. When Wiley University softball season is not in play, provide for any Facility improvements to remain in compliance with all regulations related to collegiate softball play.
4. Secure the Facility and provide City with a key to any locks on any of its gates or other buildings.
5. Maintain insurance on the Facility under its umbrella policy. Operator will also maintain liability insurance in an amount of no less than \$1,000,000.00 insuring Operator from and against any and all liabilities in connection with its activities on the Facility. Operator will name the City as an additional insured on each such policy and will provide City with a Certificate of Insurance and providing that the insurance policy may not be canceled or non-renewed without 60 days' notice to City.
6. Provide to City such proof as City may request that Operator is and has maintained its status as a Texas non-profit corporation duly authorized to transact business and its status with the Federal Internal Revenue Service as a 501(c)3 or other tax-deductible entity.
7. Not erect or cause, or permit to be erected on the Facility any buildings or structures, permanent or temporary, such as, but not limited to, stadiums, shelters, sheds, stands, or other improvements or alterations, including removal of trees or shrubs without the express written



consent of City.

8. Will be responsible for repair or replacement of any portion of the Facility damaged or altered by the Operator or as a result of the use of the Facility by the Operator or Operator's partner organizations, members, guests, renters and invitees

9. Will at the end of the term of this Agreement remove any temporary improvements or any improvements that are at the end of their useful life, restoring the Facility to good working order.

10. In the event that the Operator desires to install artificial turf at the facility, Operator will provide City with such plans and specifications necessary to complete the improvements prior to installation. Additionally, Operator will name City as a beneficiary on any warranties or assign the warranties to City. At the end of the term or this Agreement and/or any extensions, Operator will at the City's discretion remove the artificial turf and restore the playing surface to a sports grade Bermuda grass playing surface. Should City decide that the artificial turf shall not be removed, it will become the sole property of City.

11. To indemnify and hold harmless City and the Facility from all costs, losses, damages, liabilities, expenses, penalties, and fines whatsoever that may arise from or be claimed against City or the Facility by any person or persons for any injury to person or property or damage of whatever kind or character arising from the use or occupancy of the Facility by Operator; from any neglect or fault of Operator or the agents and the employees of Operator in using and occupying the Facility; or from any failure by Operator to comply and conform with all laws, statutes, ordinances, and regulations of any governmental body or subdivision now or hereafter in force. If any lawsuit or proceeding shall be brought against City or the Facility on account of any alleged violations or failure to comply and conform or on account of any damage, omission, neglect, or use of the Facility by Operator, the agents and employees of Operator, or any other person on the Facility, Operator agrees that Operator or any other person on the Facility will defend it, pay whatever judgments may be recovered against City or against the Facility on account of it, and pay for all attorneys' fees in connection with it, including attorneys' fees on appeal.

12. Operator shall indemnify, defend, and hold City harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses which arise during or after the Term of this Agreement, and any extension thereof, as a result of the presence of Hazardous Material (as hereinafter defined) caused by or resulting from activities at the Facility after the commencement of this Agreement. The foregoing indemnification includes, without limitation, costs incurred in connection with any investigation of site conditions or any clean-up, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision having jurisdiction due to the presence of Hazardous Material in the soil or groundwater on or under the Facility. "Hazardous Material" shall mean any (a) petroleum product, (b) hazardous substance



as defined by Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq., and (c) any other chemical, substance, or waste that is listed, regulated, or designated as toxic or hazardous (or words of similar meaning and regulatory effect), or with respect to which remediation or removal obligations may be imposed, under any Environmental Law or any such law that may be in effect in the future.

All property kept, stored, or maintained within the Facility by OPERATOR shall be at OPERATOR'S sole risk.

13. CITY shall not be liable for any damages or losses to person or property caused by other persons, theft, burglary, assault, vandalism or other crimes. CITY shall not be liable for personal injury or damage or loss of OPERATOR'S personal property (tools, equipment, etc.) from theft, vandalism, fire, water, rain, hail, smoke, explosions, sonic booms or other causes whatsoever, unless the same is due to the negligence of CITY or CITY'S representative.

14. SIGNS OR BANNERS - OPERATOR shall have the right to erect a sign or banners on the Facility only when first approved by CITY, in CITY'S sole discretion, and only if it conforms to all applicable laws, ordinances, regulations and other requirements. All such signs or banners shall be erected and thereafter maintained at OPERATOR'S sole cost, expense and risk and shall be removed upon the termination of this Agreement in workmanlike manner with all damage and holes occasioned by such removal repaired and filled, respectively. In the event OPERATOR fails to remove all such signs in the above time period, CITY shall be authorized to remove such signs on OPERATOR'S behalf and at OPERATOR'S sole expense. OPERATOR agrees to indemnify and hold CITY harmless from and against any and all costs, expenses, claims and other liabilities of any type arising out of the erection of the sign or removal of the sign. All sign or banner installations and removals by OPERATOR shall be made in such manner as to avoid injury to or defacement of the Facility improvements.

IV. RESPONSIBILITIES OF CITY

City agrees to, during the term of this Agreement and any renewals thereof to:

1. Pay for all utilities, including water, garbage, and electrical service to the Facility.
2. Investigate the possibility of the City providing public wifi to the Facility.
3. Maintain insurance on the Facility's structures for replacement in case of fire, natural disaster or other damage which is not the fault of Operator.
4. Oversee all major repairs or improvements on the Facility and will be responsible



for the cost of any structural repairs, except those resulting from the normal operations of the Facility or from Operator's negligence or neglect.

5. Oversee warranties having to do with the lights and other improvements to the Facility.

6. Assist Operator with fundraising activities and/or application for grants for improvements to the Facility.

7. Coordinate the development of a Capital Improvement Plan with the Operator including identifying opportunities for funding at the discretion of the City.

8. If the City has the staff and equipment capable of providing said service, City will provide field aeration up to 4 times per year. The service will be scheduled by Operator in coordination with the City's designee. Operator will be responsible for marking fields and liable for any damages incidental to the City's provision of this service.

V. NON-EXCLUSIVE RIGHT

This Agreement is non-exclusive and City retains the right to use the entire Facility for its own purposes, but agrees to coordinate with Operator to ensure that there is no interference with Operator's activities on the Facility.

VI. QUIET ENJOYMENT

This Agreement contains no covenant of quiet enjoyment.

VII. ASSIGNMENT

This Agreement may not be assigned by Operator to any third party, without City's prior consent. City recognizes that Operator may choose to partner with one or more other parties in order to provide the services described in this agreement. To the extent that such partnerships have been approved by City, those partner organizations may request the opportunity to assume the responsibilities of Operator and cure any instances of default under the Agreement. The assumption of the Operator role and Assignment of this agreement will be at the sole discretion of the City which will not be unreasonably withheld.

VIII. NAMING AND SIGNAGE

City retains all naming rights to the Facility. Operator shall have no ability to assign naming rights or erect any signs recognizing sponsors of Operator except that it may sell annual sponsorships that must be approved by City prior to the affixation of any signs on the Facility.



IX. CONSIDERATION

In consideration of the privileges provided to the Operator as per the provisions of this Agreement, it is agreed that the Operator shall pay an annual fee to the City for the privileges provided. The annual fee shall be \$1. The Operator agrees to make the payment in a timely manner. This provision shall remain in effect for the duration of the Agreement unless otherwise agreed upon in writing by both parties.

X. NON-DISCRIMINATION

Operator agrees as to all of the activities carried out by it on the Facility, it shall fully comply with all federal and Texas civil rights and equal employment laws, and specifically agrees that it will not discriminate against any person on the basis of race, color, national origin, sex, or by reason of being disabled.

XI. COMPLIANCE

During and after the term of this Agreement, Operator shall provide City with all of Operator's records and books to verify its compliance with its obligations in this Agreement and, especially, the information contained in its quarterly and annual reports.

XII. PAYMENTS AND NOTICES.

Notices to City shall be mailed or delivered to the address set forth on the first page of this Agreement, unless City advises Operator differently in writing. Notices to Operator may be mailed or delivered to the Facility, and proof of mailing or posting of those notices to the Facility will be deemed the equivalent of personal service on Operator. All notices to either party shall be sent by certified or registered mail, return receipt requested.

XIII. TEXAS LAW

This Agreement will be governed by the laws of the state of Texas, as to both interpretations and performance. Venue for any lawsuits arising from this Agreement shall be in the appropriate court of Harrison County, Texas.

XIV. ENTIRE AGREEMENT

This Agreement sets forth all the promises, agreements, conditions, and understandings between City and Operator relative to the Facility. There are no other promises, agreements, conditions, or understandings, either oral or written, between them. No subsequent alteration, amendment, change, or addition to this Agreement will be binding on City or Operator unless in writing and signed by them and made a part of this Agreement by direct reference.



EACH PARTY ACKNOWLEDGES THAT, IN EXECUTING THIS AGREEMENT, SUCH A PARTY HAS HAD THE OPPORTUNITY TO SEEK THE ADVICE OF INDEPENDENT LEGAL COUNSEL AND HAS READ AND UNDERSTOOD ALL OF THE TERMS AND PROVISIONS OF THIS AGREEMENT. THIS AGREEMENT SHALL NOT BE CONSTRUED AGAINST ANY PARTY BY REASON OF DRAFTING OR PREPARATION HEREOF.

The undersigned acknowledge and agree to the above terms and conditions:

City of Marshall

By: _____
Terrell Smith, City Manager

Operator – Wiley University

By: _____
Herman Felt

Exhibit “A”

Spring St. Park – “Facility”

City of
MARSHALL
T E X A S
Spring St. Park
700 Spring St.
Marshall, TX 75672





TO: City Council
DATE: July 25, 2024
ITEM #: 8.B
SUBJECT: Consider approval of a contract for Operations at Airport Park. (Parks & Recreation)

Recommendation for Action: Approval of Operating Agreement to be awarded to Red Dirt Baseball

Executive Summary: The Operating Agreement will initially be for a 5-year term starting from the date of execution. It can be extended for an additional 5-year term at the end of the initial term, unless one party notifies the other party, no later than 90 days before the end of the term, of its intention not to renew the Agreement.

Budget Cost: n/a

Staff Contact: Marina Garcia-Heredia, Parks Director

Attachments: 1. Airport Park Operating Agreement (FINAL)



OPERATING AGREEMENT AIRPORT PARK

This Operating Agreement (“Agreement”) is made on this ____ day of July, 2024 (“Effective Date”) by and between the City of Marshall Texas, whose address is 401 S Alamo Boulevard, Marshall, TX 75662 (“City”), and Red Dirt Baseball Club, a Texas non-profit corporation, whose address is 615 Bean Ave. Kilgore, TX 75662 (“Operator”). As used herein, “Party” refers to either City or Operator, and “Parties” refers to City and Operator collectively.

WHEREAS the City owns the Airport Park located at 110 Warren Drive, Marshall, Harrison County, Texas. (“Facility”). *See* Exhibit “A” attached hereto.

WHEREAS Operator is a Texas non-profit corporation which has received its IRS 501(c)(3) designation from the United States Internal Revenue Service.

WHEREAS Operator is organized for the purpose of organizing and operating a baseball/softball program or programs and related activities.

WHEREAS the Parties wish to enter into this Agreement which confirms the Parties agreements and responsibilities.

NOW, THEREFORE, the Parties hereby agree as follows:

I. PURPOSE

The City recognizes that certain organizations exist within the community whose purposes are to serve and enhance recreational opportunities for a specific purpose and group. These organizations are separate and independent from the City and provide for their own leadership, organizational, and operational structure. Although the stated missions of the organizations may not fully overlap, public investment in public recreational facilities and programs creates a mutually beneficial environment in which to provide quality recreation for all the individuals served by the parties, as well as the general public.

The City recognizes that at times it is in the best interest of the community that the City work with outside organizations in coordinating, integrating, and consolidating the planning and provision of recreational facilities and programs when basic functions are compatible, and a public benefit may be derived. Through working relationships with outside organizations and joint efforts, each party can contribute to greater public service without relinquishing their separate identities or any of their individual responsibilities.

To this end, the City is willing to establish a working relationship and cooperative agreement with Operator in order to provide youth baseball and softball opportunities in Marshall. With this Agreement, the Parties will define their respective working relationship, mutual expectations, and individual responsibilities. Standards outlined herein ensure that the Parties’



concept of joint planning, use, and maintenance is followed to the maximum extent possible while retaining the essential freedom of discretion, decision, and action in planning, developing, and maintaining recreational programs.

II. AGREEMENT

The City grants to Operator, Operator's members, guests and invitees, the non-exclusive right, privilege and permission to enter the premises of the Facility for the purpose of playing baseball/softball, organizing baseball/softball leagues and tournaments and overseeing the operations of the Facility, as described above.

III. TERM AND TERMINATION

This Agreement will be for an initial term of five (5) years from the Effective Date ("Term"). Either Party may elect to renew the Agreement for five (5) additional terms of (1) year each, by providing written notice to the other Party at least ninety (90) days prior to the expiration of the then-current term. Any renewal shall be subject to the Parties mutually agreeing upon revised terms at least thirty (30) days prior to the renewal date. If such terms are agreeable to the Parties, the Agreement's terms may be amended as desired by the Parties. At the City's discretion, the City has the right to cancel this Agreement, with or without cause, at any time upon thirty (30) days written notice to Operator.

IV. RESPONSIBILITIES OF OPERATOR

During the term of this Agreement and any renewals thereof, Operator agrees to the following:

1. To keep the Facility in a clean, orderly and operational order, according to the City's expectation and satisfaction. This includes but is not limited to the following:
 - a. cleaning, trash pickup, and porter service;
 - b. cutting, fertilizing, and mowing the grass at the Facility, including the parking area and all other areas outside of the perimeter fence, chalking fields, and turf maintenance;
 - c. maintaining the Facility, buildings, fence, parking and scoreboards in good working order;
 - d. facilitating mast light lightbulb replacement by City; and
 - e. any and all other things necessary or incidental, to enable Marshall citizens, Operator and Operator's partner organizations, members, guests, renters and invitees to play and practice baseball and softball.
2. To operate, maintain and ensure the food and beverage services provided at the Facility always comply with all applicable codes and food safety regulations. No sale of food and



beverages at a concession stand on or adjacent to the Facility shall be allowed until authorized by the City Health Department.

3. To use reasonable and best efforts to schedule a minimum of six (6) tournaments at the Facility annually.

4. To facilitate scheduling of the Facility for all events including practices, games and tournaments.

5. To provide an online calendar of scheduled events available to the public.

6. To establish a schedule of rates (at least annually) for the public use of the Facility which must be comparable and reasonable in relation to rates charged by similar type facilities around the locale. Such rates must be approved in writing by the City Council.

7. To provide MYBA and MYSA with the following:

a. To give priority access and use to MYBA and MYSA during their following season of play.

i. MYBA season of play: Monday-Friday from February 1st through May 30th for league practices and games; and Monday-Thursday during June and July for Allstar practices. Field times during the season will be from 4:30 pm – 9:30 pm. MYBA will have access to Field Nos. 1 – 5, 10 and the T-ball Field.

ii. MYSA season of play from Monday-Friday from February 1st through 1st week of June for league practices and games; and Monday-Wednesday during May and June for Allstar practices. Field times during the season will be from 4:30 pm – 9:30 pm. MYSA will have access to Field Nos. 6 - 9 and the T-ball Field.

iii. MYBA and MYSA will provide their season play schedule to the City and Operator by September 1st for the following calendar year.

b. Conditions for the fields to be in game ready condition for use by the MYBA and MYSA during their season of play, including all weeknight practices, games and all makeup practices and/or games.

c. Three (3) tournaments a year for each the MYBA and MYSA in which Operator will have the Facility in game ready condition. Two (2) tournaments during the spring season and one (1) in the fall.

d. MYBA and MYSA shall be provided use of Facility, as described in this section, without charge to the MYBA and MYSA. Concession proceeds from MYBA and MYSA activities will remain with the Operator, and all other revenues from



such activities (e.g. tournament gate fees, tournament field rental fees, sponsorship fees) will be collected and retained by MYBA and MYSA.

- e. Additional tournaments or practice time may be negotiated at or below the approved City rates at the sole discretion of the City.
- f. MYBA and MYSA shall be allowed non-permanent advertisements, approved by the City in advance, to be displayed facing toward the interior of the subject field.

8. To fully capitalize on the Facility's intended use both locally and regionally, while protecting the City's investment in the sustainability of the Facility.

9. To respond to all Facility inquiries received from the general public and interested parties and do so in a manner that reflects positively on the City of Marshall.

10. It is required that the playgrounds, parking lot, and walking area be open to the public for usage during all hours of operation. Subject to availability, the fields are required to be open for public use during all hours of operation. The Operator shall secure the Facility after normal operating hours and ensure all gates are locked.

11. To always maintain insurance on the Facility under Operator's umbrella policy. Operator will also maintain liability insurance in an amount of no less than \$1,000,000.00 insuring Operator from and against any and all liabilities in connection with its activities at Facility. Operator will name the City as an additional insured on each such policy and will provide the City with a Certificate of Insurance.

12. To provide the City each year with biannual and annual reports that shall contain a detailed accounting of all income and expenditures for each period; all maintenance activities including a listing of all chemical applications and turf maintenance activities; all tournament, practice and game activity; proof of compliance with all applicable codes and health safety regulations; a listing of any and all improvements; a listing of any outstanding repair or maintenance obligations of the City; any other relevant information related to the condition or operations of the Facility; and any other information that may be requested by the City. The biannual report is due no later than the 30th day of the month following.

13. In addition, as part of the Annual report, Operator must provide the City with an annualized year-end report including a list of all of Operator's activities, league teams and players, and tournaments which will also include the total number of participants in each activity. The Annual report will specifically detail the Operator's maintenance, expenses and income from any and all sources. The Annual report must also list any incidences of fraud or misdoing by any of Operator's officers, employees, or volunteers. A copy of the Operator's most recent IRS 990 will be supplied with the annual report. Annual reports are due by February 1st of each year. The City may audit Operator's financial records at any such time as the City deems necessary and Operator agrees to fully cooperate and assist with any such audit.



14. On request of the City, to make all financial records available for inspection and audit by the City. Records of the Operator relative to the performance of this Agreement shall be open to the public.

15. To maintain its status as a Texas non-profit corporation duly authorized to transact business and its status with the Federal Internal Revenue Service as a 501(c)3 or other tax-deductible entity throughout the term of this Agreement.

16. To refrain from placing or affixing any buildings, structures, whether permanent or temporary, including but not limited to, bleachers, shelters, sheds, fences, or other improvements or alterations; and to refrain from the removal of trees or shrubs at or on the Facility, without the express written consent of the City.

17. To be responsible for the repair or replacement of any portion of the Facility damaged or altered by the Operator or as a result of the use of the Facility by the Operator or Operator's partner organizations, members, guests, renters and invitees.

18. At the end of the term of this Agreement and/or any extensions, at City's request, to remove any temporary improvements or any improvements that are at the end of their useful life, restoring the Facility to good working order.

19. In the event that the Operator desires to install artificial turf on one or more of the fields, Operator will provide the City with such plans and specifications necessary to complete the improvements and must obtain written consent of the City prior to installation. Additionally, Operator will name the City as a beneficiary on any warranties or assign the warranties to the City. At the end of the term of this Agreement and/or any extensions, Operator will at the City's discretion, remove the artificial turf and restore the playing surface to a sports grade Bermuda grass playing surface. Should the City decide that the artificial turf shall not be removed, it will become the sole property of the City.

20. OPERATOR HEREBY RELEASES AND INDEMNIFIES THE CITY, FROM ALL CLAIMS, DEMANDS, ASSERTIONS, CAUSES OF ACTION, DIRECTLY OR INDIRECTLY ARISING OUT OF THIS AGREEMENT, OR THE PERFORMANCE OF OPERATOR'S OR CITY'S OBLIGATIONS UNDER THIS AGREEMENT, THAT ARE ASSERTED AND THAT MAY BE ASSERTED BY ANY SUBROGEE, INSURANCE COMPANY, PARTY, PERSON, OR ENTITY, INCLUDING BUT NOT LIMITED TO ALL CLAIMS FOR CONTRIBUTION OR INDEMNITY, JUDGMENTS, DAMAGES, INJURIES OF ANY TYPE OR NATURE, RECOVERIES, AND REASONABLE ATTORNEYS' FEES, COSTS AND EXPENSES INCURRED IN THE DEFENSE OF ANY SUCH CLAIMS, WHETHER KNOWN OR UNKNOWN, LIQUIDATED OR CONTINGENT NOW EXISTING OR HEREFTER ARISING IN ANY MANNER CONNECTED WITH THE CLAIMS AND CAUSES OF ACTION BEING RELEASED AS SET FORTH IN THIS AGREEMENT. IT IS THE EXPRESS INTENT OF THE PARTIES TO THIS AGREEMENT THAT THE INDEMNITY PROVIDED FOR IN THIS AGREEMENT IS AN INDEMNITY EXTENDED BY THE OPERATOR TO INDEMNIFY AND PROTECT THE CITY FROM THE CONSEQUENCES OF



THE CITY'S OWN NEGLIGENCE, WHETHER THAT NEGLIGENCE IS THE SOLE OR CONTRIBUTORY CAUSE OF THE RESULTING INJURY, DEATH OR DAMAGE.

21. Operator further agrees to defend at its own expense and on behalf of the City and in the name of the City any claim or litigation brought in connection with any injury, death or damage. The Operator has been notified by this language that it should have this agreement reviewed by counsel of its own choice if it so desires, prior to executing the same.

22. Operator shall indemnify, defend and hold the City harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses which arise during or after the Term of this Agreement, and any extension thereof, as a result of the presence of Hazardous Material (as hereinafter defined) caused by or resulting from activities at the Facility after the commencement of this Agreement. The foregoing indemnification includes, without limitation, costs incurred in connection with any investigation of site conditions or any clean-up, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision having jurisdiction due to the presence of Hazardous Material in the soil or groundwater on or under the Facility. "Hazardous Material" shall mean any (a) petroleum product, (b) hazardous substance as defined by Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq., and (c) any other chemical, substance, or waste that is listed, regulated, or designated as toxic or hazardous (or words of similar meaning and regulatory effect), or with respect to which remediation or removal obligations may be imposed, under any Environmental Law or any such law that may be in effect in the future.

23. Operator must ensure that no alcoholic beverages, tobacco, and/or illegal drugs are consumed on the premises of the Facility at any time, as required by all applicable City ordinances and codes.

24. Operator must ensure that no weapons of any kind are permitted at the Facility.

25. Operator must ensure no vehicles are allowed on any areas other than in designated parking areas, except that maintenance vehicles are allowed on fields when necessary.

26. Operator shall have the right to place signs or banners inside the fields if it has first received written approval by the City as to the appearance and location. Any signs or banners must conform to all applicable laws, ordinances, regulations and other requirements. The appearance and wording of any such signs and banners must positively reflect on the City of Marshall. All such signs or banners shall be placed and thereafter maintained at Operator's sole cost, expense and risk and shall be removed upon the termination of this Agreement with all damage and holes to be repaired and filled. In the event Operator fails to remove all such signs, City shall be authorized to remove them at Operator's sole expense. Operator agrees to indemnify and hold City harmless from and against any and all costs, expenses, claims and other liabilities of any type arising out of the placement or removal of the signage. All sign or banner installations and removals by Operator shall be made in such manner as to avoid injury to or defacement of the Facility improvements.



27. Operator shall notify the City of any significant damage, vandalism, needed repairs, or safety issues at the Facility no later than 24 hours after Operator identifies the damage, vandalism, repair, or safety issue.

28. Operator understands and acknowledges that entering into this Agreement does not constitute an endorsement by the City of Operator's organization, financial stability, or the quality of its programs. Operator shall not represent that it or any of its agents or employees are agents or employees of the City.

29. Operator understands and acknowledges that all property kept, stored, or maintained within the Facility by Operator shall be at Operator's sole risk. City shall not be liable for any damages or losses to person or property caused by other persons, theft, burglary, assault, vandalism or other crimes. City shall not be liable for personal injury or damage or loss of Operator's personal property (*e.g.* tools, equipment, etc.) from theft, vandalism, fire, water, rain, hail, smoke, explosions, sonic booms or other causes whatsoever, unless the same is due to the negligence of City or City's representative.

30. Operator shall have a criminal history background report for anyone hired or allowed to volunteer to perform services in accordance with this Agreement. The Operator shall provide advanced notification to the City if the individual has been convicted of a felony. The notification must include a general description of the conduct resulting in the conviction of a felony. The City may terminate this Agreement immediately if the City determines that Operator has failed to give notice as required by this paragraph.

31. By executing this Agreement, Operator verifies that, pursuant to Texas Government Code, Chapter 2252, Section 2252.152, and Section 2252.153, it does not appear on the Comptroller of the State of Texas listing of companies which do business with Iran, Sudan, or any Foreign Terrorist Organization, as identified under Section 806.051, Section 807.051 or Section 2253.253, listing of companies.

32. Operator shall obligate any contractor, subcontractor, or employee that Operator uses to discharge its duties and responsibilities under this agreement to comply with all covenants and conditions that it undertakes in this Agreement and will immediately remove from the Facility any person or entity that either Operator or the City identifies as being in breach of the covenants and conditions contained in this Agreement.

V. RESPONSIBILITIES OF CITY

During the term of this Agreement and any renewals thereof, City agrees to the following:

1. Pay for all utilities, including water, garbage, and electrical service to the Facility.
2. The City shall provide Operator with locks and keys to the Facility.
3. Investigate the possibility of providing public Wi-Fi access to the Facility.
4. Maintain insurance on the Facility's structures for replacement in case of fire, natural disaster or other damage which is not the fault of Operator.



5. Oversee all major repairs or improvements on the Facility and be responsible for the cost of any structural repairs, except for those resulting from the normal operations of the Facility or from Operator's negligence or neglect.
6. Oversee any warranty claims or repairs to the Facility.
7. Assist Operator with City approved fundraising activities and/or application for grants for improvements to the Facility.

VI. NAMING AND SIGNAGE

City retains all naming rights to the Facility. Operator shall have no ability to assign naming rights to any fields, fixtures or structures or to place or affix any signage without the City's prior written approval.

City may allow advertisements approved by it in advance to be displayed facing toward the interior of the subject field. No permanent banners and/or signage may be installed without prior written approval of the City.

VII. MONETARY CONSIDERATION

In consideration of the above privileges and use of the Facility as contained herein and other good and valuable considerations, it is agreed that the Operator shall pay an annual fee to the City. The annual fee shall be calculated based on a stair-stepped structure, starting at 6% of the Operator's total gross revenue and increasing by 1% each year thereafter during the Term. The Operator agrees to make the annual fee payment by February 1st, and the City agrees to provide a detailed accounting to support the fee calculation. This provision shall remain in effect for the duration of the Agreement unless otherwise agreed upon in writing by both Parties.

The annual fees for any renewal terms will be negotiated by the Parties at or above 10% of the Operator's total gross revenue. In the event of an Impossibility of Performance, as described below, the Parties agree to re-negotiate, in writing, the annual fees for any renewal terms.

VIII. IMPOSSIBILITY OF PERFORMANCE (FORCE MAJEURE)

No Party shall be liable or responsible to the other Party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations to make previously owed payments to the City hereunder) when and to the extent such failure or delay is caused by or results from acts beyond either Party's reasonable control, including, without limitation, flood, fire, tornado, act of war, order of legal authority, act of God, or other unavoidable cause not attributable to the fault or negligence of either Party. In the event of an occurrence under this Section, both Parties will be excused from any further performance or observance of the requirements so affected for as long as such circumstances prevail, and the Operator continues to use commercially reasonable efforts to recommence performance or observance whenever and to whatever extent possible without delay. The Operator shall immediately notify the City Manager by telephone (to be confirmed in writing within one (1) calendar day of the inception of such occurrence) and describe at a



reasonable level of detail the circumstances causing the non-performance or delay in performance.

IX. COMPLIANCE AND RIGHT TO AUDIT

During and after the term of this Agreement, Operator shall provide City with all of Operator's records and books to verify its compliance with its obligations contained in this Agreement, including but not limited to, the information contained in its Biannual and Annual Reports. The City may audit Operator's financial records at any such time as the City deems necessary and Operator agrees to fully cooperate and assist with any such audit.

X. NON-EXCLUSIVE RIGHT

This Agreement is non-exclusive, and City retains the right to use the entire Facility for its own purposes but agrees to coordinate with Operator to ensure that there is no interference with Operator's activities at the Facility.

City may suspend or limit the use of the Facility if necessary to protect public health and safety. The City will notify the Operator at least two (2) days in advance of any necessary suspension/limitation unless the suspension/limitation is due to an emergency situation, in which case the City will notify the Operator as soon as possible, but not later than four (4) days after the emergency suspension/limitation is imposed.

XI. ASSIGNMENT

This Agreement may not be assigned by Operator to any third party, without City's prior written consent. City recognizes that Operator may choose to partner with one or more other parties in order to provide the services described in this Agreement. To the extent that such partnerships have been approved in writing by the City, those partner organizations may request the opportunity to assume the responsibilities of Operator and cure any instances of default under the Agreement. The assumption of the Operator role and assignment of this Agreement will be at the sole discretion of City.

XII. NON-DISCRIMINATION

For all activities carried out by Operator at the Facility, Operator agrees to fully comply with all Federal and Texas civil rights and equal employment laws, and specifically agrees that it will not discriminate against any person on the basis of race, color, national origin, sex, creed, religion or disability or by reason of being disabled.

XIII. PAYMENTS AND NOTICES

All payments and notices to City shall be mailed or hand delivered to the address set forth on the first page of this Agreement, unless City advises Operator differently in writing. Notices to Operator may be mailed or hand delivered to the Facility. All payments or notices to either Party shall be sent by certified or registered mail, return receipt requested.



XIV. GOVERNING LAW

This Agreement will be governed by the laws of the State of Texas, as to both interpretations and performance. Venue for any disputes arising out of this Agreement shall be brought in the appropriate court of Harrison County, Texas.

XV. ENTIRE AGREEMENT

This Agreement sets forth all the promises, agreements, conditions, and understandings between City and Operator relative to the Facility. No subsequent alteration, amendment, change, or addition to this Agreement will be binding on City or Operator unless in writing and signed by Parties and made a part of this Agreement by direct reference.



EACH PARTY ACKNOWLEDGES THAT, IN EXECUTING THIS AGREEMENT, SUCH A PARTY HAS HAD THE OPPORTUNITY TO SEEK THE ADVICE OF INDEPENDENT LEGAL COUNSEL AND HAS READ AND UNDERSTOOD ALL OF THE TERMS AND PROVISIONS OF THIS AGREEMENT. THIS AGREEMENT SHALL NOT BE CONSTRUED AGAINST ANY PARTY BY REASON OF DRAFTING OR PREPARATION HEREOF.

The undersigned acknowledge and agree to the above terms and conditions:

CITY OF MARSHALL

By: _____
Terrell Smith, City Manager

Date: _____

RED DIRT BASEBALL

By: _____
David Upchurch, President

Date: _____

By: _____
Nico Moran, Vice President

Date: _____

Exhibit “A”

Airport Park – “Facility”

