

FACILITY MANAGEMENT AGREEMENT

between

CITY OF BURLESON

and

SPORTS FACILITIES MANAGEMENT, LLC

Dated: October 6, 2025

FACILITY MANAGEMENT AGREEMENT

THIS FACILITY MANAGEMENT AGREEMENT (the "Agreement") is made and entered into this 6th day of October 2025 (the "Effective Date"), by and between the City of Burleson, Texas, a home-rule municipal corporation (the "Owner") and Sports Facilities Management, LLC, a Florida limited liability company (the "Manager"). Owner and Manager may be referred to herein collectively as the "Parties" or individually as a "Party."

RECITALS

WHEREAS, Owner owns the infrastructure, buildings, parking, lighting, sports playing surfaces, sports equipment, and all other hard assets associated with the athletic complex as the same exist now or may exist in the future including improvements related thereto specifically located at or near 500 Chisenhall Park Lane in Burleson, Texas, as the same exist now or may exist in the future, known as the "Chisenhall Fields Sports Complex" or any other name that may be identified in the future and approved by the Owner in its sole discretion ; and

WHEREAS, Chisenhall Fields Sports Complex includes fifteen (15) baseball/softball fields, a flag football field (collectively the "Sports Fields"), a parking lot (the "Parking Lot"), two (2) concession stands, restroom facilities, a pavilion, sidewalks, and related grounds (collectively "Park Amenities"), as described and depicted on Exhibit C, attached hereto and incorporated herein by reference for all purposes, (the Sports Fields, Parking Lot, and Park Amenities may be referred to herein collectively as the "Facility"); and

WHEREAS, Manager has expertise in providing management services for athletic complex facilities throughout the United States, and Manager is authorized to do business in the State of Texas; and

WHEREAS, pursuant to RFP 2025-001 (the "RFP") and the proposal submitted by the Manager in response to the RFP (the "Proposal"), the Owner selected owner to perform management services for the Facility, and the management services are professional services under Texas Gov't Code Ch. 2254; and

WHEREAS, Owner and Manager desire for Sports Facilities Management, LLC to open, operate, and manage the Facility subject to the terms and conditions set forth herein; and

WHEREAS, Owner is entering into this Agreement in the exercise of its governmental functions in the interest of the public health, safety, and welfare of the general public and the residents of the City of Burleson.

NOW THEREFORE, in consideration of the Recitals above, and the promises and covenants herein contained and other good and valuable consideration, the receipt of which is hereby acknowledged, Owner and Manager agree as follows:

ARTICLE 1 DEFINITIONS

1.1. **Definitions.** For purposes of this Agreement, the following terms have the meanings referred to in this Section:

Affiliate: A person or company that directly or indirectly, through one or more intermediaries,

controls or is controlled by, or is under common control with, a specified person or company.

Agreement: The "Agreement" shall mean collectively: (1) the RFP; (2) the Proposal; (3) this Facility Management Agreement; and (4) all exhibits attached hereto (each of which are incorporated herein as an integral part of this Agreement, collectively the "Exhibits"), all as amended, supplemented or restated from time to time. In the event of a conflict between the provisions, terms, or conditions of (1) through (4) above, this Facility Management Agreement shall control; thereafter, the order of precedence shall be the following: (i) any written amendments to the Facility Management Agreement, (ii) Exhibits, (iii) the Proposal, and (iv) the RFP. In the event the Owner and the Manager cannot resolve a conflict between the provisions, terms, or conditions of the Agreement, either party may request a decision from the City Council of the City of Burleson (the "City Council"), and the City Council's decision shall be final.

Annual Business Plan or Business Plan: shall have the meaning given to such term in Section 2 of Exhibit "A".

Capital Expenditures: All expenditures for building additions, alterations, repairs or improvements and for purchases of additional or replacement internet technology, audio, scoreboard, machinery, or equipment, where the cost of such expenditure is greater than Twenty Five Thousand Dollars (\$25,000) and the depreciable life of the applicable item is, according to generally accepted accounting principles, in excess of five (5) years.

City Council: means the city council of the City of Burleson, Texas.

City Manager: means the city manager of the City of Burleson, Texas.

Commencement Date: shall mean a date after the Effective Date that is agreed to by the Parties in writing as to when the Manager shall begin its management of the Facility pursuant to this Agreement.

Commercial Rights: Naming rights, pouring rights, advertising, sponsorships, the branding of food and beverage products for resale and memorial gifts at or with respect to the Facility.

Comparable Facility(ies): Means one or more multi-use sports and event centers in which regional, state and national tournaments and events are routinely held, and that are (i) comparable in size to and quality of the Facility, and (iii) are operated in similar size markets in Texas.

Early Termination Fee: The term "Early Termination Fee" shall have the meaning ascribed to such term in Section 4.3(a) of this Agreement.

Effective Date: "Effective Date" shall have the meaning ascribed to such term in the preamble of this Agreement.

Emergency Repair: The repair of a condition which, if not performed immediately, creates an imminent danger to persons or property and/or an unsafe condition at the Facility threatening persons or property.

Event of Force Majeure: An act of God, fire, earthquake, hurricane, flood, riot, civil commotion,

terrorist act, terrorist threat, storm, washout, wind, lightning, landslide, explosion, epidemic, inability to obtain materials or supplies, accident to machinery or equipment, any law, ordinance, rule, regulation, or order of any public or military authority stemming from the existence of economic or energy controls, hostilities or war, a labor dispute which results in a strike or work stoppage affecting the Facility or services described in this Agreement, or any other cause or occurrence outside the reasonable control of the party claiming an inability to perform, and which by the exercise of due diligence could not be reasonably prevented or overcome.

Existing Contracts: Service Contracts, Revenue Generating Contracts, and other agreements relating to the day-to-day operation of the Facilities existing as of the Effective Date.

Facility: The "Facility" shall have the meaning ascribed to such term in the Recitals to this Agreement.

FF&E: Furniture, fixtures and equipment currently owned by the Owner and located at the Facility, or to be procured for use at the Facilities.

General Manager: The employee of Manager acting as the full-time on-site general manager of the Facilities.

Laws: Means all applicable laws, statutes, rules, regulations and ordinances.

Management-Level Employees: The General Manager, Marketing Manager, Operations Manager, Membership Manager, Finance Manager, and Sports Programming Manager.

Manager: The term "Manager" shall have the meaning ascribed to such term in the preamble to this Agreement.

Operating Account: A separate interest-bearing account in the name of the Owner at a licensed bank, to be designated by the Owner, where Revenue is deposited and from which Operating Expenses are paid.

Operating Budget: A line-item budget for the Facility that includes a projection of Revenues and Operating Expenses, presented on a monthly and annual basis.

Operating Expenses: All expenses incurred by Manager in connection with its operation, promotion, maintenance and management of the Facilities, including but not limited to the following: (i) employee payroll, benefits (including payments to any national retirement benefit system), any payroll incentives approved in writing by Owner, employee termination costs or payments in lieu of termination, and related costs, (ii) cost of operating supplies and equipment, including general office supplies, (iii) advertising, marketing, group sales, and public relations costs, (iv) cleaning expenses, (v) data processing costs, (vi) dues, subscriptions and membership costs, (vii) the Fixed Management Fee, (viii) printing and stationary costs, (ix) postage and freight costs, (x) equipment rental costs, (xi) minor repairs, maintenance, and equipment servicing, not including expenses relating to construction, improvement, or significant repair and Capital Expenditures, (xii) security expenses, (xiii) telephone and communication charges, (xiv) reasonable travel expenses of Manager employees, (xv) cost of employee uniforms and identification, (xvi) exterminator and trash removal costs, if applicable (xvii) computer, software, hardware and training costs, (xviii) parking expenses, (xix) utility expenses, (xx) office expenses, (xxi) audit and accounting fees, (xxii) subject to the authorization and approval of the Owner in advance on the use of outside legal counsel, reasonable legal fees arising from

Manager's day-to-day operation of the Facility, but such fees shall not include under any circumstances any fees incurred by Manager in relation to: (1) a dispute, including litigation, between the Owner and Manager, or (2) fees arising from a dispute, including litigation, between Manager and any third party claimant, except that expenses relating to a claim by a third party claimant shall be an Operating Expense provided that the claim is not: (1) covered by insurance Manager is required to maintain hereunder, and (2) Manager is not negligent or otherwise at fault in causing such claim, (xxiii) all bond and insurance costs, including but not limited to personal property, general liability, professional liability and worker's compensation insurance, (xxiv) commissions and all other fees payable to third parties (*e.g.* commissions relating to food, beverage and merchandise concessions services and commercial rights sales and (xxv) Taxes. The term "Operating Expenses" does not include debt service on the Facility, Capital Expenditures or any Deferred Management Incentive Fees (all of which shall be the responsibility of the Owner).

Operating Year: Each twelve (12) month period during the Term, commencing on October 1 and ending on September 30, provided that the first Operating Year shall be a shortened year commencing on the Commencement Date and ending on September 30th of that year and the last Operating Year shall be a shortened year, ending upon the expiration of this Agreement.

Operations Manual: The document has been developed by Manager, which shall contain terms regarding the management, operation, and preventative maintenance of the Facility including detailed policies and procedures to be implemented in operating the Facility, as agreed upon by both the Owner and the Manager.

Owner: The term "Owner" shall have the meaning ascribed to such term in the preamble to this Agreement.

Park Amenities: shall have the meaning ascribed to such term in the Recitals to this Agreement.

Parking Lot: shall have the meaning ascribed to such term in the Recitals to this Agreement.

Party or Parties: shall have the meaning ascribed to such terms in the preamble of this Agreement.

Payroll Account: A separate account in the name of Manager at a licensed bank through which all Facility staff and other personnel employed by Manager (including related payroll taxes), or engaged by Manager as an independent contractor, are paid.

Pre-Opening: Time period prior to the Grand Opening and beginning of events, programs and activities operations, and during which the facility is being constructed and the business development, operational preparations, and organizational development is taking place.

Proposal: shall have the meaning ascribed to such term in the Recitals to this Agreement.

Regulatory Approvals: All applicable governmental or regulatory approvals, authorizations, consents, licenses or permits.

Revenue: All revenues generated by Manager's operation of the Facility, including but not limited to event ticket proceeds income, rental and license fee income, merchandise income, gross food and beverage income, gross income from any sale of Commercial Rights, gross service income, equipment rental fees, box office income, and miscellaneous operating income, but shall not include event ticket proceeds held by Manager

in trust for a third party and paid to such third party.

Revenue Generating Contracts: Vendor, concessions and merchandising agreements, user/rental agreements, booking commitments, licenses, and all other contracts or agreements generating revenue for the Facility and entered into in the ordinary course of operating the Facility.

RFP: shall have the meaning ascribed to such term in the Recitals to this Agreement.

Sports Fields: shall have the meaning ascribed to such term in the Recitals to this Agreement.

Service Contracts: Agreements for services to be provided in connection with the operation of the Facility, including without limitation agreements for consulting services, ticketing, web development and maintenance, computer support services, FF&E purchasing services, engineering services, electricity, steam, gas, fuel, general maintenance, HVAC maintenance, telephone, staffing personnel including guards, ushers and ticket-takers, extermination, elevators, stage equipment, fire control panel and other safety equipment, snow removal and other services which are deemed by Manager to be either necessary or useful in operating the Facility.

Taxes: Any and all governmental assessments, franchise fees, excises, license and permit fees, levies, charges and taxes, of every kind and nature whatsoever, which at any time during the Term may be assessed, levied, or imposed on, or become due and payable out of or in respect of, (i) activities conducted on behalf of the Owner at the Facility, including without limitation the sale of concessions, the sale of tickets, and the performance of events (such as any applicable sales and/or admissions taxes, use taxes, excise taxes, occupancy taxes, employment taxes, and withholding taxes), or (ii) any payments received from any holders of a leasehold interest or license in or to the Facility, from any guests, or from any others using or occupying all or any part of the Facility.

Term: The term "Term" shall have the meaning ascribed to such term in Section 4.1 of this Agreement.

ARTICLE 2 SCOPE OF SERVICES

2.1 Engagement.

(a) Owner hereby engages Manager during the Term to act as the sole and exclusive manager and operator of the Facility, including, but not limited to, day-to-day operation, management, administration, operation, use, scheduling, advertising, marketing, promotion, licensing, provision of concessions, maintenance, upkeep and minor ordinary repairs of the Facility, subject to Existing Contracts and as more fully described in this Agreement, and, in connection therewith, to perform the services described herein and in Exhibits A, B, and D attached hereto. Notwithstanding the above, Manager shall have no right or authority, express or implied, to commit or otherwise obligate Owner, Owner's funds, or to encumber the Facility in any manner whatsoever except to the extent specifically provided herein.

(b) Manager hereby accepts such engagement, and shall perform the services described herein, subject to the limitations expressly set forth in this Agreement.

2.2 **Limitations on Manager's Duties.** Manager's obligations under this Agreement are contingent upon and subject to the Owner making available, in a timely fashion, the funds budgeted for and/or reasonably required by Manager to carry out such obligations during the Term. Manager shall not be considered to be in breach or default of this Agreement and shall have no liability to the Owner or any other party, in the event Manager does not perform any of its obligations hereunder due to failure by the Owner to timely provide such funds.

2.3 **Manager's Standard of Care.** Manager acknowledges and agrees that by entering into this Agreement it accepts a fiduciary relationship of trust and confidence between Manager and Owner. In performing its obligations and providing the services set forth in this Agreement, Manager shall exercise a standard of care, skill, diligence, knowledge, judgment and quality of services so as to operate and maintain the Facility, commensurate with and at a standard consistent with Comparable Facilities, and meeting the Minimum Operation and Maintenance Standards, as set forth in the attached Exhibit D.

2.4 **Specific Manager Responsibilities.** Without limiting the generality of Section 2.1 above, and subject to all other provisions of this Agreement, Manager, itself or through its designated contractors or vendors, will perform the following services, and such other aspects of the operations of the Facility as may be agreed to by the parties:

2.4.1 Day-to-Day Operations. Manager shall manage and supervise all day-to-day operations of the Facility in accordance with the terms and conditions of this Agreement and the Annual Business Plan.

2.4.2 Staffing. Manager shall employ personnel and engage contractors necessary and sufficient to perform Manager's obligations under this Agreement in accordance with the terms of this Agreement and the Annual Business Plan.

2.4.3 City Policies and Park Rules. Manager shall implement Owner policies and city park rules, currently existing or as may be amended or adopted in the future by Owner, affecting the Facility and/or Manager's management of the Facility, as determined by Owner.

2.4.4 Internal Policies and Procedures. Manager shall implement such additional internal policies and procedures necessary for the operation of the Facility, that are not in conflict with any terms of this Agreement, applicable laws, or any written Owner policies or city park rules currently existing or as may be adopted or amended by Owner during the Term.

2.4.5 Utilities. Arrange for the provision of all utility services for the Facility, including electricity, water, sewer, solid waste, telephone (cell and land lines) and internet services.

2.4.6 Permits and Licenses. Arrange for and maintain in force all licenses, permits, certificates, approvals, franchises, and other authorizations required to perform and provide its services to Owner in connection with the operation, use, maintenance and ordinary and routine repair of the Facility in the name of Manager, or in the name of a wholly owned subsidiary if allowed under the rules of the permitting entity.

2.4.7 Purchase Supplies and Contract for Services. Except as otherwise provided herein,

Manager shall purchase all supplies and enter into service contracts on behalf of and for the benefit of the Facility necessary for the efficient operation of the Facility. Manager shall at all times comply with all applicable laws regarding the procurement of goods and services and Owner's procurement policy and procedures in conjunction with the operation of the Facility.

2.4.8 Revenues and Expenses. Manager shall diligently collect and deposit monies into the proper accounts and shall disburse and pay, when due, expenses.

2.4.9 Financial and Administrative Services. Manager shall provide day-to-day financial and administrative services in support of its management activities pursuant to Annual Business Plan, including internal budgeting and accounting, purchasing, property management, personnel management, contracting outside services, record-keeping, collections, billing, and similar services.

2.4.10 Point of Sale System. Manager shall utilize a point of sale system that accurately records and tracks all revenue. Revenue information from point of sale system used must accommodate daily download and tracking of all revenues. Manager conducts a number of business operations at the Facility, and revenues shall be tracked separately by business operations.

2.4.11 Agreements. With the exception of Commercial Rights agreements, as provided herein, Manager shall administer, assure compliance with, negotiate, execute in the name of the Facility, all agreements that are required in the ordinary course of business of operating the Facility or as otherwise necessary for Manager to perform the services hereunder. Such agreements may include licenses, rental agreements, booking commitments, advertising agreements, concession agreements, supplier agreements, ticket sales contracts, and all other Service Contracts and agreements in connection with the maintenance, improvements, management, promotion and operation of the Facility. The terms and provisions of all such agreements shall comply with this Agreement, including Section 13.23.

2.4.12 Information. Manager shall keep Owner fully informed at all times with respect to conditions and circumstances affecting the operation of the Facility; including prevailing market and sales conditions and the status of competition.

2.4.13 Building and Equipment Maintenance. Manager shall be responsible for ordinary and routine corrective and preventative building and equipment maintenance and repair, and for purchasing (as part of the Operating Expenses) all supplies, parts, and equipment necessary to operate and maintain the Facility, for all buildings, structures, fixtures, and City owned equipment, which may now or hereafter exist on or in the Facility.

2.4.14 Warranty Administration. Manager shall manage building and equipment warranties and ensure that contractors comply with terms and delivery of warranty services. Notwithstanding anything to the contrary set forth herein, Manager shall not take any action (or fail to take any action) that would have the effect of voiding or otherwise abrogating any warranty impacting any improvements, equipment, or component, without the prior express approval of Owner. Manager shall maintain a list and copies of all warranties, maintenance, and operating manuals for goods, equipment, and machinery purchased or installed by Manager or Owner as

well as warranties delivered to Manager by Owner or Owner's contractor(s) and/or consultant(s) and shall use and enforce such warranties when maintaining, repairing, and/or replacing any such items. Further, Manager shall provide to the City Manager, and endeavor to subsequently keep up to date with the City Manager, a list and copies of all warranties, maintenance, and operating manuals for goods, equipment, and machinery purchased or installed by Manager or Owner as well as warranties delivered to Manager by Owner or Owner's contractor(s) and/or consultant(s). Manager shall notify Owner in writing in the event any warranty is accessed to maintain, repair, or replace any item. Unless otherwise approved by Owner, the annual business budget shall not reflect the maintenance, repair, or replacement cost of goods, equipment, or machinery covered under a warranty and Manager is not authorized to separately contract for services, maintenance, or repairs that are covered by a warranty.

2.4.15 Custodial and Cleaning Services. Manager shall provide or cause to be provided all routine cleaning and janitorial services at the Facility.

2.4.16 Pest Control. Manager shall direct all necessary pest control services, whether performed by Manager or a pest control service engaged by Manager as an Operating Expense.

2.4.17 Sanitation. Manager shall keep the Facility in a clean and sightly condition; free from accumulation of refuse or any offensive matter or substance constituting an unnecessary, unreasonable, or unlawful fire hazard, or any material detrimental to the public or environmental health.

2.4.18 Trash Removal. Manager shall direct removal of all trash from the Facility and agrees that it shall not permit any employee, service provider, or concessionaire to place refuse outside any Facility building, except in designated trash containers, approved by Owner. Manager shall maintain adequate number of Owner approved trash receptacles on the Facility and shall empty the containers daily.

2.4.19 Grounds. Manager shall maintain the landscaping of the Facility in accordance with the Maintenance and Operations Standards attached as Exhibit D.

2.4.20 Sidewalks. Manager shall maintain all sidewalks and pedestrian ramps within the boundaries of the Facility in a clean and safe condition. Manager shall direct the repair of any damaged or defective sidewalks or ramps.

2.4.21 Parking Lot Maintenance. Manager agrees to maintain the Parking Lot, as identified in Exhibit C, in a good and usable condition.

2.4.22 Safety. Manager shall immediately bring to Owner's attention any unsafe conditions at the Facility it discovers, or notify the City Manager of any potentially unsafe conditions, as well as any potentially unsafe practices occurring thereon. Manager shall contact an emergency medical response provider as soon as reasonably possible after becoming aware of any person on or at the Facility who is in need of medical attention because of illness or injury.

2.4.23 Incident Reports. Manager shall notify Owner as soon as practical of any threatened claim relating to the ownership, operation, and/or maintenance of the Facility for damages arising

out of incidents, accidents, property damage, or destruction occurring at the Facility, and shall submit within twenty-four hours to the City Manager an incident report describing any of Manager's knowledge on the alleged incident relating to the threatened claim.

2.4.24 Safety/Environmental Regulations. Manager shall take all reasonable actions to protect the safety of all Manager's employees, customers, and the general public. Manager shall comply with all safety and environmental regulations of federal, state, and local governmental agencies, and applicable federal occupational, health, and safety laws and regulations, as well as the American National Standards Institute Safety Standards. Manager shall make special effort to detect hazardous conditions and shall take prompt action where necessary to avoid accident, injury, or property damage. All spills, accidents, injuries, or claims or potential claims shall be reported promptly to the City Manager and appropriate emergency officials.

2.4.25 Security. Manager shall arrange for proper security at the Facility as a Facility Operating Expense.

2.4.26 Crowd Control. If necessary, Manager shall review and coordinate exterior crowd management and traffic control with appropriate local authorities.

2.4.27 Emergency Operations. Manager, in coordination with Owner, shall be responsible for maintaining and managing a building emergency action plan that addresses the various type of emergencies that may occur in or around the Facility.

2.4.28 Information Technology Support Services. Manager shall undertake all information technology functions and services for the Facility and onsite Manager employees and staff, and shall maintain such technology systems, websites, and social media in a manner consistent with a top tier sports and event center, and with Owner policies for websites and social media, where applicable.

2.4.29 Safeguarding of Information Systems. Manager shall apply basic safeguarding requirements and procedures designed to protect the Facility's information systems whenever the information systems store, process or transmit any information, not intended for public release, which is provided by or generated for Owner. This includes following all applicable City of Burleson Information Technology Policies and Procedures, including participation in the Security Awareness Training Policy, General Acceptable Use Policy, Red Flags Rule: Identity Theft Prevention Policy, Remote Access Policy, and Hardware (Upgrade) Replacement Policy. This requirement does not include information provided by the Owner to the public or simple transaction or information, such as that necessary to process payments. These requirements and procedures shall include, at a minimum, the security control requirements "reflective of actions of a prudent business person would employ" which are outlined in the Federal Acquisition Regulations FAR 52.204-21(b) and codified in the Code of Federal Regulations at 48 C.F.R. 52.204-21(b) (2016).

2.4.30 Box Office Operations. Owner shall direct box office operations and ticketing (to the extent not controlled by a promoter, performer, or licensee of an event).

2.4.31 Scheduling Events. Manager shall have the exclusive right to book and schedule

Events and shall maintain the booking calendar in accordance this Agreement. Manager and Owner shall identify dates that the Owner would like to reserve the Facility for Owner's events. Manager shall develop and maintain a schedule of events at the Facility in a manner to maximize the use of the Facility so as to provide maximum Revenue for the Facility and accessibility for the community to the Facility. In an effort to further the Owner's vision for the Facility as an asset to attract sports participants, spectators, and their families to the Owner and, in turn, to provide a positive economic impact on the Owner, Manager agrees to work collaboratively with the Owner to book tournaments and events that will maximize the economic impact on the City of Burleson. Manager also will work with the City Manager to schedule reasonable community usage of the Facility.

2.4.32 Event Setup. Manager shall be responsible for event set up and take down; event coordination and supervision.

2.4.33 Food and Beverage Operations. Manager shall direct all food and beverage operations at the Facility, including fixed/mobile concession stands, and all other services associated with food and beverage sales at the Facility in accordance with this Agreement.

2.4.34 Non-Consummable Concessions. SFM shall direct all non-consumable concession operations, and execute concession license agreements in accordance with this Agreement.

2.4.35 Promotion and Marketing. Manager shall promote and market the Facility in accordance with the requirements of this Agreement and the Annual Business Plan.

ARTICLE 3 COMPENSATION

3.1 **Management Fees.** In consideration of Manager's performance of its services hereunder, Owner shall pay Manager those payments as further set forth in Exhibit B attached hereto.

ARTICLE 4 TERM; TERMINATION

4.1 **Term.** The term of this Agreement (the "Term") shall begin on the Commencement Date and, unless sooner terminated pursuant to the provisions of Section 4.2 below, shall expire on the fifth (5th) anniversary of the Commencement Date (the "Initial Term"), at which time this Agreement may be extended for two (2) additional periods of five (5) years upon mutual written agreement signed by both Parties (each a "Renewal Term").

4.2 **Early Termination.** This Agreement may be terminated by Owner or Manager, with or without cause, at any time by providing the other party with written notice on or before the date such terminating party wishes to terminate this Agreement (the "Termination Date").

(a) For Owner's Convenience: Owner shall have the right to terminate this Agreement for any reason or no reason subject to section 4.3 below.

(b) For Manager's Convenience: Manager shall have the right to terminate this

Agreement for any reason or no reason upon twelve (12) months' notice to Owner.

(c) For Cause by Owner: Owner shall have the right to terminate this Agreement for Cause at any time. Upon termination by Owner for cause, Manager shall promptly vacate the Facility and no Early Termination Fee or other compensation, damages or lost profits related to early termination shall be due or payable to Manager. Cause for termination shall include, but not be limited to, Manager's failure to cure the breach of any material provision in this Agreement within twenty (20) days after receipt of written notice to cure from Owner detailing that breach; except that in the event that a cure is not objectively possible within twenty (20) days after that notice, Owner shall not be entitled to terminate for cause where Manager shall commence to cure the noticed breach as fully as possible within that twenty (20) day period and thereafter diligently and continuously pursue that cure to a successful completion within sixty (60) days after that notice.

(d) For Cause by Manager: Manager shall have the right to terminate this Agreement for Cause at any time. Upon termination for cause by Manager, Manager shall promptly vacate the Facility and take nothing of value from Owner. The property and assets of Owner are public property of the Owner of Burleson, Texas, and Manager expressly waives any possessory lien rights or right of set-off it might have against any of Owner's property or assets. Cause for termination shall include, but not be limited to, Owner's (i) repeated failure to timely pay into the Operating Account budgeted Owner contributions; (ii) Owner's failure to cure the breach of any material provision in this Agreement within twenty (20) days after receipt of written notice to cure from Manager detailing that breach; except that in the event that a cure is not objectively possible within twenty (20) days after that notice, Manager shall not be entitled to terminate for cause where Owner shall commence to cure the noticed breach as fully as possible within that twenty (20) day period and thereafter diligently and continuously pursue that cure to a successful completion within sixty (60) days after that notice.

4.3 **Effect of Early Termination.**

(a) Upon termination by the Owner for any reason other than for "cause" due to Manager's breach of any material provision herein, without cure by Manager following written notice from Owner detailing such breach of this Agreement, Owner shall pay to Manager a termination fee (the "Early Termination Fee") on the Termination Date that is equal to (a) the greater of: (i) the trailing six (6) months' fees due to Manager hereunder or (ii) six (6) times the average monthly payment due to Manager during the Term; plus (b) any incentive payments that the Manager has earned through the Termination Date.. In the event that Owner terminates this Agreement, Owner shall have the right to request that Manager vacate the property and cease all management activities related to the Facility, in which case Owner shall pay Manager the Termination Fee as set forth above.

Upon termination or expiration of this Agreement for any reason, (i) Manager shall promptly discontinue the performance of all services hereunder, (ii) the Owner shall promptly pay Manager all fees due Manager up to the date of termination or expiration (subject to proration if the Term ends other than at the end of the Operating Year), (iii) Manager shall make available to the Owner all data, electronic files, documents, procedures, reports, estimates, summaries, and other such information and materials with respect to the Facilities as may have been accumulated by Manager in performing its obligations hereunder, whether completed or in process, and (iv) without any further action on part of Manager or Owner, the Owner shall, or shall cause the successor Facility manager to, assume all obligations arising after the date of such termination

or expiration, under any Service Contracts, Revenue Generating Contracts, booking commitments and any other Facility agreements entered into by Manager in furtherance of its duties hereunder.

Notwithstanding the foregoing, Manager is under no duty to provide certain proprietary confidential materials or intellectual property to the Owner, including but not limited to national benchmarking formulas, key performance indicators reports, employee manuals, employee training materials, employee performance evaluations, financial forecasting formulas, Manager's internal databases or contact lists, Manager's operations manuals, and/or other intellectual property developed by and maintained by the Manager and which it may use in its regular course of business to provide services to clients similar to Owner. Any obligations of the parties that are specifically intended to survive expiration or termination of this Agreement shall survive expiration or termination hereof.

(b) Public Information Act. Notwithstanding any other provision to the contrary in this Agreement, all information, documents, and communications relating to this Agreement may be subject to the Texas Public Information Act and any opinion of the Texas Attorney General or a court of competent jurisdiction relating to the Texas Public Information Act. Upon the Owner's request, Manager agrees to provide the Owner access to contract documents, invoices, receipts, records, and reports to verify Manager's compliance with this Agreement. Manager may provide confidential and/or proprietary information to the Owner and, if so, the Owner will notify Manager and provide an opportunity for Manager to object to and/or seek protection from disclosure of such information before the Owner provides any such information to a party who is not a party to this Agreement.

ARTICLE 5

OWNERSHIP; USE OF THE FACILITY

5.1 **Ownership of Facility, Data, Equipment and Materials.** The Owner will at all times retain ownership of the Facility, including but not limited to real estate, technical equipment, furniture, displays, fixtures and similar property, including improvements made during the Term, at the Facility. Any data, equipment or materials furnished by Owner to Manager or acquired by Manager as an Operating Expense shall remain the property of Owner and shall be returned to Owner when no longer needed by Manager to perform under this Agreement. Notwithstanding the above, Owner shall not have the right to use any third-party software licensed by Manager for general use by Manager at the Facility and other facilities managed by Manager, the licensing fee for which is proportionately allocated and charged to the Facility as an Operating Expense; such software may be retained by Manager upon expiration or termination hereof. Furthermore, Owner recognizes that the Operations Manual to be developed and used by Manager hereunder is an instrument of service paid for by the Owner and shall belong to the Owner at the end of the Term; Owner may use or maintain copies thereof upon the end of the Term at its own risk.

5.2 **Right of Use by Manager.** The Owner hereby gives Manager the right and license to use the Facility for the Term, and Manager accepts such right of use, for the purpose of performing the services herein specified, including the operation and maintenance of all physical and mechanical facilities necessary for, and related to, the operation, maintenance and management of the Facility. The Owner shall provide Manager with a sufficient amount of suitable office space in the Facility (exact office space to be mutually agreed by the parties) and with such office equipment as is reasonably necessary to enable Manager to perform its obligations under this Agreement. In addition, the Owner shall make available to Manager, at no cost, parking spaces adjacent to the Facility for all of Manager's full-time employees and for the Facility's

event staff.

5.3 **Right of Use of Staff by Manager.** Manager shall have the right to utilize its employees as needed to support manager's organization as a whole, including but not limited to reasonable travel within the Dallas-Fort Worth metropolitan area for training approved in advance by the Owner and temporary staffing coverage. Manager shall have the right to utilize the Facility to host events for its employees from time to time for the purpose of learning and development, at no cost to the Operating Budget other than that incurred by the staff who are regularly stationed at the Facility.

5.4 **Observance of Agreements.** The Owner agrees to pay, keep, observe and perform all payments, terms, covenants, conditions and obligations under any leases, bonds, debentures, loans and other financing and security agreements to which the Owner is bound in connection with its ownership of the Facility.

5.5 **Owner's Right of Possession.** This Agreement does not constitute a lease, and the right of possession of the Facility shall at all times remain with Owner. Owner and its authorized personnel shall have the right to enter the Facility at any time, without notice and for any official purpose; however, Owner will use reasonable efforts to avoid interfering with Manager's performance of its obligations under this Agreement, whenever Owner personnel are at the Facility. Manager shall have no property interest in or to the Facility and no estate in or to the Facility, other than the limited license set forth above.

5.6 **Rules and Regulations.** Owner reserves the right from time to time during the Term of this Agreement, to promulgate such reasonable rules and regulations concerning the use of the Facility, and any part or parts thereof, as Owner in its sole discretion, shall deem appropriate. Nothing contained in this Agreement shall be deemed or construed to stop, limit, or impair Owner from exercising or performing any regulatory, policing, legislative, governmental or other powers or functions of a Texas home-rule municipality.

ARTICLE 6 PERSONNEL

6.1 **Generally.** All Facility staff and other personnel shall be engaged or hired by Manager in its sole discretion, except that all Facility staff and other personnel shall submit to drug screening, background checks, right to work requirements, and other customary hiring practices of the Owner. Owner shall have the right to preapprove the employment of Management-Level Employees (as defined in Section 1.1 herein), and Management-Level Employees shall be employees, agents or independent contractors of Manager, and not of the Owner. Manager shall determine the number of employees needed to perform the services required by this Agreement, but subject to Owner's right to approve the Operating Budget. The Operating Budget shall define the number, function, qualifications, and compensation, including salary and benefits, of its employees and shall control the terms and conditions of employment (including without limitation termination thereof) relating to such employees. Manager agrees to use reasonable and prudent judgment in the selection and supervision of such personnel. Owner specifically agrees that Manager shall be entitled to pay its employees, as an Operating Expense, benefits, and any Owner-approved payroll incentives in accordance with Manager's then current employee manual, which may be modified by Manager from time to time in its sole discretion with prior written approval of the Owner.

6.2 **General Manager and Management-Level Employees.** Personnel engaged by Manager will include a full-time on-site General Manager and other Management-Level Employees. Hiring of the General Manager by Manager require the prior approval of the Owner, which approval shall not be unreasonably withheld or delayed; provided, however, in the event of a vacancy in the General Manager position, Manager may, upon notice to the Owner, temporarily fill such position with an interim General Manager for up to one hundred eighty (180) days without the necessity of obtaining the Owner's approval. The General Manager will have general supervisory responsibility for Manager and will be responsible for day-to-day operations of the Facility, supervision of employees, and management and coordination of all activities associated with events taking place at the Facility.

6.3 **Work Environment.** Employees will be required to work to the standards outlined in the most current version of Manager's employee handbook. Owner shall not require employees of Manager to vary from those employment standards either directly, or indirectly through impacting decisions, including, but not limited to not funding the correct staffing level, not providing safe work tools and a safe work environment, or an environment inconsistent with Manager's values.

6.4 **Post-Termination Employment.** In the event of termination, or in any case where Owner, and/or its affiliated agencies or entities, expresses an interest in hiring Manager's employee(s), Manager shall reserve the right to agree or deny such a request.

6.5 **Equal Employment Opportunity.** Manager shall be committed to the principle of Equal Employment Opportunity. Manager shall recruit, hire, train, and promote individuals that are qualified, and shall implement and administer all personnel policies and other employment actions without regard to race, color, religion, creed, age, sex, national origin or ancestry, marital status, status as a qualified handicapped or disabled individual, or any impermissible factor in accordance with applicable law.

6.6 **Background and Drug Screening (Harassment Policy).** Manager shall be committed to promoting a drugfree workplace. To this end, all employees on site must pass a drug screen and criminal and sexual predator background screening similar to that required of Owner employees. All independent contractors and volunteers on site must pass a criminal and sexual predator background screening. Manager shall have in place policies that prohibit any form of harassment in the workplace.

6.7 **Employee Identification and Uniform.** Manager's employees and other onsite personnel shall wear a Manager provided uniform, or in some way be recognizable as Manager staff at all times while working at the Facility. The logo, seal, or name of the Owner shall not be used without written permission of the Owner.

6.8 **Contact Information for Key Employees.** At all times, Manager shall provide the City Manager with the names and current telephone numbers (business, cell phone, and home number, if applicable) of all Management-Level Employees, including minimally, the General Manager, who can be called by the City Manager or his/her representatives at any time that a critical situation occurs during hours when Manager's normal work force is not present. Such employee will have full power and authority to take all actions on behalf of Manager required to address the emergency or said critical situation, including making an Emergency Repair.

ARTICLE 7 PROCEDURE FOR HANDLING INCOME

7.1 **Operating Account.** Except as otherwise agreed to by the parties in writing all Revenue derived from operation of the Facility shall be deposited by Manager into the Operating Account as soon as practicable upon receipt (but not less often than once each business day). The specific procedures (and authorized individuals) for making deposits to and withdrawals from such account shall be set forth in the Operations Manual, but the parties specifically agree that the General Manager shall have authority to sign checks and make withdrawals from such account in an amount not to exceed Five Thousand Dollars (\$5,000), on a weekly basis, subject to the limitation contained in this Agreement, without needing to obtain the co-signature of a Owner employee or representative. The Owner will have access and visibility to all accounts owned by the Facility, and may audit the same as provided in Section 7.2.

7.2 **Right to Audit.** The Owner shall have the right to audit, upon reasonable notice and at the Owner's own expense, records of the Manager with respect to this Agreement. Upon written request by the Owner, the Manager shall give the Owner or its agent, access to those certain records controlled by, or in the direct or indirect possession of, the Manager (other than records subject to legitimate claims of attorney-client privilege) with respect to this Agreement, and shall permit the Owner to review such records in connection with conducting a reasonable audit of the Operating Account and other financial records of the Manager. The Manager shall make these records available to the Owner electronically or at a location that is reasonably convenient for the Owner. The Owner and the Manager shall reasonably cooperate with the auditors (internal or external), and shall retain and maintain all such records for at least two (2) years from the date of termination of this Agreement. All audits must be diligently conducted and once begun, no records pertaining to such audit shall be destroyed.

ARTICLE 8 FUNDING

8.1 **Source of Funding.** Manager shall pay all items of expense for the operation, maintenance, supervision and management of the Facility from the funds in the Operating Account, which Manager may access periodically for this purpose. The Operating Account shall be funded with amounts generated by operation of the Facility (as described in Article 7 above), or otherwise made available by the Owner. To ensure sufficient funds are available in the Operating Account, Owner will deposit in the Operating Account, on or before the Effective Date, the budgeted or otherwise approved expenses for the month beginning on the Effective Date. The Owner shall thereafter, on or before the first (1st) day of each succeeding quarter following the Effective Date, deposit (or allow to remain) in the Operating Account the budgeted or otherwise approved expenses for each such quarter. Manager shall have no liability to the Owner or any third-party in the event Manager is unable to perform its obligations hereunder, or under any third-party contract entered into pursuant to the terms hereof, due to the fact that sufficient funds are not made available to Manager to pay such expenses in a timely manner.

8.2 **Advancement of Funds.** Under no circumstances shall Manager be required to pay for or advance any of its own funds to pay for any Operating Expenses. In the event that, notwithstanding the foregoing, Manager agrees in writing with the Owner's approval to advance its own funds to pay Operating Expenses, Owner shall promptly reimburse Manager for the full amount of such advanced funds. Owner will also fund an amount to be included in the budget, that will be accounted for as Owner's asset, to be used as operating funds and working capital. The "working capital" will be the baseline account balance for the Operating Account and Owner will contribute funds as needed to maintain that minimum of amount in the Operating Account.

ARTICLE 9
FACILITY CONTRACTS; TRANSACTIONS WITH AFFILIATES

9.1 **Existing Contracts.** The Owner shall provide to Manager, on or before the Effective Date, full and complete copies of all Existing Contracts. Manager shall administer and use reasonable commercial efforts to assure compliance with such Existing Contracts to the extent provided to Manager.

9.2 **Execution of Contracts.** Manager shall have the right to enter into Service Contracts, Revenue Generating Contracts and other contracts related to the operation of the Facility, as agent on behalf of the Owner. Any such material agreements shall contain standard indemnification and insurance obligations on the part of each vendor, licensee or service provider, as is customary for the type of services or obligations being provided or performed by such parties.

9.3 **Transactions with Affiliates.** In connection with its obligations hereunder relating to the purchase or procurement of services for the Facility (including without limitation food and beverage services, ticketing services and Commercial Rights sales), Manager may purchase or procure such services, or otherwise transact business with, an Affiliate of Manager, provided that the prices charged and services rendered by such Affiliate are competitive with those obtainable from any unrelated parties rendering comparable services. Manager shall, if requested by Owner, provide reasonable evidence establishing the competitive nature of such prices and services, including if appropriate, competitive bids from other persons seeking to render such services at the Facility, in accordance with the Owner's purchasing policies.

9.4 **Compliance with Laws/Procurement Policies.** Manager shall at all times comply with the Owner's procurement policy and procedures, as may be amended during the Term, and all applicable laws regarding the procurement of goods and services in conjunction with the operation of the Facility.

9.5 **Commercial Rights Agreements.** Notwithstanding anything in this Agreement to the contrary, Owner and Manager shall both approve any agreements concerning Commercial Rights. The Parties may set forth acceptable guidelines for such agreements in the Annual Business Plan or similar document. Manager understands and agrees that to maintain flexibility for hosting events and maximize revenue, it is the City's desire that the Facility be a family-oriented facility. To that end, the Parties agree that there shall be no Commercial Rights agreements that promote sexual products, gambling, tobacco, CBD/THC, marijuana, and/or vaping products.

ARTICLE 10
AGREEMENT MONITORING AND GENERAL MANAGER

10.1 **Contract Administrator.** Each party shall appoint a contract administrator who shall monitor such party's compliance with the terms of this Agreement. Manager's contract administrator shall be its General Manager at the Facility, unless Manager notifies Owner of a substitute contract administrator in writing. Owner shall notify Manager of the name of its contract administrator within thirty (30) days of execution hereof. Any and all references in this Agreement requiring Manager or Owner participation or approval shall mean the participation or approval of such party's contract administrator.

ARTICLE 11

INSURANCE

11.1 **Owner's Types of Coverage and Policies.** Owner is a Texas home-rule municipality and will keep and maintain insurance coverage in accordance with the laws of the State of Texas.

11.2. **Manager's Types of Coverage; Certificates of Insurance.** Manager agrees to obtain insurance coverage in the following manner and amount: Manager shall within thirty (30) days after the Effective Date furnish to the Owner certificates of all of the insurance as well as certificates of renewal no later than ten (10) days prior to the expiration of each policy. Such insurance policies (as reflected by current certificates) held by Manager shall provide that the "City of Burleson, Texas" is listed as Additional Insured on the Manager's policy. Manager will provide reasonable notice to Owner upon receipt of any intention by Insurer to cancel, not renew or make any adverse change in coverage. All certificates, cancellation, nonrenewal or adverse change notices shall be mailed to the respective addresses listed in the definition of Additional Insured, or at such other address as an Additional Insured shall give Manager written notice. New Certificates of Insurance are to be provided to the Additional Insureds at least fifteen (15) days after coverage renewals. If requested by the Owner, Manager shall furnish complete copies of insurance policies, forms and endorsements. Manager's insurance coverage shall be provided by companies admitted to do business in Texas and rated A-:VI or better by AM Best Insurance Rating. Manager may maintain reasonable and customary deductibles, subject to approval by Owner. Manager shall agree to be fully and solely responsible for any costs or expenses as a result of a coverage deductible, coinsurance penalty, or self-insured retention.

11.3 **Manager's Policies.** Manager shall be responsible for obtaining and administering insurance in connection with the Facility as follows:

(a) **General Liability.** Manager shall procure and maintain as a Facility Operating Expense a general liability policy (including contractual liability insurance, including an umbrella policy, and including hired, non-owned auto coverage, cyber liability, wrongful death, dismemberment, and abuse and molestation coverage) which insures Manager and which includes Owner as an additional named insured, with a general liability policy (including contractual liability insurance) with a combined single limit of \$1,000,000 per occurrence and a general annual aggregate limit of \$6,000,000. All such insurance shall be on an occurrence basis.

(b) **Professional Liability.** Manager shall procure and maintain, as a Facility Operating Expense, a professional liability policy.

(c) **Workers Compensation.** Manager shall procure and maintain as a Facility Operating Expense worker's compensation insurance required under applicable Texas state law.

(d) **Liquor Liability.** If liquor (including beer or wine) is served/sold at the Facility during the Term of this Agreement or any extension, Manager shall maintain liquor liability coverage with limits of liability of not less than 5,000,000 per occurrence. Owner shall be listed as an additional insured for bodily injury and property damage arising from the acts or omissions of Manager or its employees, representatives, agents, or subcontractors in the performance of this Agreement.

(e) **Crime.** During the Term of this Agreement or any extension, Manager shall maintain Crime Insurance, providing at least the following coverage in at least the amounts set forth below for each coverage: (a) Employee Dishonesty - \$500,000; (b) Depositor's Forgery - \$500,000; (c) Money & Securities - \$500,000 (each, "Inside" and "Outside"); (d) Computer Theft - \$500,000; (e) Wire Transfer Fraud

- \$500,000; and (f) Money orders and counterfeit currency - \$500,000; provided, however, that if such coverage are provided on a " blanket" limit basis, a blanket limit of \$500,000 shall be considered to be sufficient to comply with this provision. The policy shall include an endorsement providing that any "employee" of Manager shall not be deemed to also be an "employee" of Owner for purposes of the coverage afforded under the Employee Dishonesty coverage part. Owner shall be both a Loss Payee (as its interests may appear) and an Additional Insured under such policy, which policy shall be written to apply to the Crime exposures arising under or in connection with this Agreement, and not to any other unrelated Crime exposures incurred by Manager or Owner under any other similar agreements or otherwise.

ARTICLE 12

COVENANTS AND REPRESENTATIONS

12.1 **Owner's Covenants and Representations.** Owner makes the following covenants and representations to Manager, which covenants, and representations shall, unless otherwise stated herein, survive the execution and delivery of this Agreement:

(a) **Owner's Status.** Owner is a home-rule municipal corporation duly organized, validly existing, and in good standing under the laws of the State of Texas with full power and authority to enter into this Agreement and execute all documents required hereunder.

(b) **Authorization.** The making, execution, delivery, and performance of this Agreement by Owner has been duly authorized and approved by requisite action and this Agreement has been duly executed and delivered by Owner and constitutes a valid and binding obligation of Owner, enforceable in accordance with its terms and applicable laws.

(c) **Effect of Agreement.** To Owner's best knowledge, without duty of inquiry, neither the execution and delivery of this Agreement by Owner nor Owner's performance of any obligation hereunder: (i) will constitute a violation of any law, ruling, regulation, or order to which Owner is subject; or (ii) shall constitute a default of any term or provision or shall cause an acceleration of the performance required under any other agreement or document (A) to which Owner is a party or is otherwise bound, or (B) to which the Facility or any part thereof is subject.

(d) **Ownership Rights.** Owner shall obtain and retain the property interests in the Facility necessary to enable Manager to perform its duties pursuant to this Agreement peaceably and quietly. Owner represents and warrants that Manager's performance of the services required by this Agreement shall not violate the property rights or interests of any other Person.

(e) **Documentation.** If necessary to carry out the intent of this Agreement, Owner agrees to execute and provide to Manager, on or after the Effective Date, any and all other instruments, documents, conveyances, assignments, and agreements which Manager may reasonably request in connection with the operation of the Facility.

12.2 **Manager's Covenants and Representations.** Manager makes the following covenants and representations to Owner, which covenants, and representations shall, unless otherwise stated herein, survive the execution and delivery of this Agreement:

(a) **Corporate Status.** Manager is a limited liability company duly organized, validly

existing, and in good standing under the laws of the State of Florida and authorized to transact business throughout the United States, and the State of Texas, with full corporate power to enter into this Agreement and execute all documents required hereunder.

(b) Authorization. The making, execution, delivery, and performance of this Agreement by Manager has been duly authorized and approved by all requisite action of the board of directors of Manager, and this Agreement has been duly executed and delivered by Manager and constitutes a valid and binding obligation of Manager, enforceable in accordance with its terms and applicable laws.

(c) Effect of Agreement. To Manager's best knowledge, without duty of inquiry, neither the execution and delivery of this Agreement by Manager nor Manager's performance of any obligation hereunder (i) will constitute a violation of any law, ruling, regulation, or order to which Manager is subject; or (ii) shall constitute a default of any term or provision or shall cause an acceleration of the performance required under any other agreement or document to which Manager is a party or is otherwise bound.

12.3 Indemnification.

(a) Indemnification by Manager. **MANAGER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE OWNER AND ITS OFFICIALS, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS AGAINST ANY CLAIMS, CAUSES OF ACTION, COSTS, EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) LIABILITIES, OR DAMAGES (COLLECTIVELY, "LOSSES") SUFFERED BY THOSE PARTIES, ARISING OUT OF OR IN CONNECTION WITH ANY (I) GROSSLY NEGLIGENT ACT OR OMISSION, OR WILLFUL MISCONDUCT, ON THE PART OF MANAGER OR ANY OF ITS EMPLOYEES OR AGENTS IN THE PERFORMANCE OF ITS OBLIGATIONS UNDER THIS AGREEMENT; OR (II) BREACH BY MANAGER OF ANY OF ITS REPRESENTATIONS, COVENANTS OR AGREEMENTS MADE HEREIN.**

(b) Indemnification by Owner. To the extent allowed by Texas law and without waiving any legislative authority, police power, or governmental authority of the Owner, the Owner agrees to defend, indemnify and hold harmless the Manager and its managers, directors, officers, employees, agents, successors and assigns against any claims, causes of action, costs, expenses (including reasonable attorneys' fees) liabilities, or damages (collectively, "Losses") suffered by those parties, arising out of or in connection with any (i) grossly negligent act or omission, or willful misconduct, on the part of Owner or any of its employees or agents in the performance of its obligations under this Agreement; or (ii) breach by Owner of any of its representations, covenants or agreements made herein. The indemnity and defense obligations provided in this Agreement shall not be construed as obligating the Owner to appropriate or budget public funds, nor shall it be construed as obligating the Owner to create a sinking fund to satisfy any obligation hereunder.

(c) Conditions to Indemnification. With respect to each separate matter brought by any third-party against which a party hereto ("Indemnatee") is indemnified by the other party ("Indemnitor") under this Section, the Indemnitor shall be responsible, at its sole cost and expense, for controlling, litigating, defending and/or otherwise attempting to resolve any proceeding, claim, or cause of action underlying such matter, except that (a) the Indemnatee may, at its option, participate in such defense or resolution at its expense and through counsel of its choice; (b) the Indemnatee may, at its option, assume control of such defense or resolution if the Indemnitor does not promptly and diligently pursue such defense or resolution, provided that the Indemnitor shall continue to be obligated to indemnify the Indemnatee hereunder in connection therewith; and (c) neither Indemnitor nor Indemnatee shall agree to any settlement without the other party's prior written consent (which shall be subject to approval by the City Council of the City of Burleson, and which shall not be unreasonably withheld or delayed). In any event, Indemnitor and Indemnatee shall in good faith cooperate

with each other and their respective counsel with respect to all such actions or proceedings, at the Indemnitor's sole expense. With respect to each and every matter with respect to which any indemnification may be sought hereunder, upon receiving notice pertaining to such matter, Indemnatee shall promptly (and in no event more than ten (10) days after any third-party litigation is commenced asserting such claim) give reasonably detailed written notice to the Indemnitor of the nature of such matter and the amount demanded or claimed in connection therewith.

(d) Survival. The obligations of the parties contained in this Section shall survive the termination or expiration of this Agreement.

ARTICLE 13 MISCELLANEOUS

13.1 **Relationship**. Manager and Owner shall **not** be construed as joint venturers or general partners of each other, and neither shall have the power to bind or obligate the other party except as set forth in this Agreement. Manager understands and agrees that the relationship to Owner is that of independent contractor, and that it will not represent to anyone that its relationship to Owner is other than that of independent contractor. Nothing herein shall deprive or otherwise affect the right of either party to own, invest in, manage or operate property, or to conduct business activities, which are competitive with the business of the Facility. Manager shall always represent the Facility fairly and deal with Owner on an equitable basis.

Manager has the right to use and store the database and contact information of the customers of the Facility, and shall be responsible for keeping the same secure and shall promptly notify the Owner of any breach of customer information. Manager will provide from time-to-time images and other marketing material that it owns and holds the license to for use by the Facility. Owner agrees not to use those images and that material in any manner outside of the operation of the Facility while Manager is engaged to operate it. Manager has the right to use images and marks from the Facility for its own marketing and promotions material in perpetuity, without restriction.

13.2 **Representations**. Owner represents and warrants: (i) that Owner has full power and authority to enter this Agreement; (ii) that to the best of Owner's knowledge, the property on which the Facility is located is zoned for the intended use; (iii) that all permits for the operation of the Facility have or will be secured and are or will be current; (iv) that the Facility and its operation do not violate any applicable statutes, laws, ordinances, rules, regulations, orders, or the like (including, but not limited to, those pertaining to hazardous or toxic substances); and (v) that to the best of Owner's knowledge, no unsafe condition exists.

13.3 **Assignment**. This Agreement shall not be assigned by either party without the express written consent of the non-assigning party. Any such assignment made without proper consent shall be deemed void.

13.4 **Benefits and Obligations**. The covenants and agreements herein contained shall inure to the benefit of, and be binding upon the parties hereto and their respective heirs, executors, successors, and assigns.

13.5 **Fees for Legal Advice**. Subject to the authorization and approval of the Owner in advance on the use of outside legal counsel, Owner shall pay reasonable expenses incurred by Manager in obtaining legal advice regarding compliance with any law affecting the Facility or any activities related to it.

13.6 **Fees for Other Professional Services.** Subject to the authorization and approval of the Owner in advance, Owner shall pay reasonable expenses incurred by Manager in obtaining financial advice, tax and audit advice, code compliance and engineering advice, regarding compliance with any law affecting the Facility or any activities related to it.

13.7 **Building Compliance.** Manager does not assume and is given no responsibility for compliance of the Facility or any equipment therein with the requirements of any building codes or with any statute, ordinance, law, or regulation of any governmental body or of any public authority or official thereof having jurisdiction, except to notify Owner promptly, or forward to Owner promptly, any complaints, warnings, notices, or summonses received by Manager relating to such matters. Owner represents that to the best of Owner's knowledge, the Facility and all such equipment contained therein comply with all such requirements, and Owner authorized Manager to disclose the ownership of the Facility to any such officials and agrees to indemnify and hold Manager, its representatives, servants, and employees, harmless of and from all loss, cost, expense, and liability whatsoever which may be imposed by reason of any present or future violation or alleged violation of such laws, ordinances, statutes, or regulations.

13.8 **Notices.** All notices provided for in this Agreement shall be in writing and served by registered or certified mail, return receipt requested, postage prepaid, at the following addresses until such time as written notice of a change of address is given to the other party:

If to Owner:

City of Burleson, TX
Attention: City Manager
141 W Renfro St.
Burleson, TX 76028

with a copy to:

E. Allen Taylor, Jr., City Attorney
Taylor, Olson, Adkins, Sralla & Elam, LLP
6000 Western Place, Suite 200
Fort Worth, TX 76107

If to Manager:

Sports Facilities Management, LLC
Attention: Jason Clement, Manager
17755 US Hwy 19 N. #300
Clearwater, FL 33764
Email: jclement@sportsfacilities.com

with a copy to:

Bruce Rector
General Counsel
Sports Facilities Management, LLC
17755 US Hwy 19 N. #300
Clearwater, FL 33764
Email: brector@sportsfacilities.com

13.9 **Interest on Unpaid Sums.** Any sums due Manager under any provision of this Agreement, and not paid by Owner within forty-five (45) days after such sums have become due, shall bear interest at the rate of one and one-half percent (1.5%) per month.

13.10 **Owner Responsible for Payments.** Upon termination or expiration of or withdrawal from this Agreement, Manager may assign its rights under any Existing Contract to Owner shall assume the obligations of any contract or outstanding bill executed by Manager under this Agreement for and on behalf of Owner and responsibility for payment of all unpaid bills shall become the responsibility of Owner, provided, however, that any debt, liability, or lien obligations of Manager for its own benefit shall never be assigned or otherwise transferred to Owner.

13.11 **Headlines.** All headings and subheadings employed within this Agreement and in the accompanying schedules and exhibits are inserted only for convenience and ease of reference and are not to be considered in the construction or interpretation of any provision of this Agreement.

13.12 **Force Majeure.** Any time periods required for performance by any Party under this Agreement shall be extended by an Event of Force Majeure.

13.13 **Entire Agreement.** This Agreement, including any specified attachments, constitutes the entire agreement between Owner and Manager with respect to the management and operation of the Facility and supersedes and replaces any and all previous management agreements entered into or/and negotiated between Owner and Manager relating to the Facility covered by this Agreement. No change to this Agreement shall be valid unless made by supplemental written agreement executed and approved by Owner and Manager. Except as otherwise provided herein, any and all amendments, additions, or deletions to this Agreement shall be null and void unless approved by Owner and Manager in writing. Each party to this Agreement hereby acknowledges and agrees that the other party has made no warranties, representations, covenants, or agreements, express or implied, to such party, other than those expressly set forth herein, and that each party, in entering into and executing this Agreement, has relied upon no warranties, representations, covenants, or agreements, express or implied, to such party, other than those expressly set forth herein.

13.14 **Rights Cumulative; No Waiver.** No right or remedy herein conferred upon or reserved to either of the parties to this Agreement is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given under this Agreement or now or hereafter legally existing upon the occurrence of an event of default under this Agreement. The failure of either party to this Agreement to insist at any time upon the strict observance or performance of any of the provisions of this Agreement, or to exercise any right or remedy or be construed as a waiver or relinquishment of such right or remedy with respect to subsequent defaults. Every right and remedy given by this Agreement to the parties may be exercised from "time to time" and as often as may be deemed expedient by those parties.

13.15 **Applicable Law.** The execution, interpretation, and performance of this Agreement shall in all respects be controlled and governed by the laws of the State of Texas, without regard for conflict of laws principles. Exclusive venue in any civil action or legal proceeding arising out of or relating to this Agreement shall be in the courts of record of the State of Texas, Johnson County, or the United States District Court, located in Fort Worth, Texas. Each party consents to the sole and proper jurisdiction of such court in any such civil action or legal proceeding and waives any objection to the laying of venue of any such civil action or legal proceeding in such court.

13.16 **Acknowledgement.** The parties hereto acknowledge that they have been provided with a copy of this Agreement for review prior to signing it, that they have been given the opportunity to review it

prior to signing it, that they have been given the opportunity to have this Agreement reviewed by their attorney prior to signing it, and that they understand the purposes and effect of this Agreement.

13.17 **Severability.** If any provision or provisions of this Agreement shall be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provisions of this Agreement, and this Agreement shall be construed and enforced as if such provision or provisions had not been included.

13.18 **Intellectual Property.** Subject to the limitations of Section 7.2 above, Owner acknowledges that Manager has certain intellectual property, trade secrets and proprietary business techniques ("Intellectual Property ") that it will on behalf of Owner to meet its obligations under this Agreement. Owner acknowledges that it obtains no ownership rights whatsoever in the Intellectual Property and, upon termination of this Agreement, Manager shall retain all rights to the Intellectual Property and remove such Intellectual Property from the Facility and its operations. For purposes of this Agreement, the term Intellectual Property shall include, without limitation, analytical tools and documented procedures for forecasting, performance tracking, operational and marketing systems that are unique to Manager's approach, staff training programs, program curriculum and agendas, rights to certain discounts or programs that Manager has negotiated for Manager-operated facilities, and other intellectual property which Manager has previously introduced to the Facility and of which Manager is an author.

13.19 **Tax Exempt; Annual Appropriations.** Owner is tax exempt and shall not be subject to or pay for any charges for taxes under the Agreement. All payments by the Owner under the Agreement, including any provision in the Agreement relating to penalties, overages, interest, collections, or any other additional costs, shall be subject to and conditioned upon the annual appropriation of public funding budgeted for the specific purposes of the Agreement in accordance with the Owner's Charter and Texas law. The Owner shall make a good faith effort to appropriate funds in accordance with Texas law; however, in the event funds are not appropriated, the Agreement shall automatically terminate without regard for any renewal or other notice requirements in the Agreement.

13.20 **Additional Verifications.** To the extent required by Texas law, Manager verifies that: 1) It does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, as defined in Texas Government Code § 2274.001, and that it will not during the term of the Agreement discriminate against a firearm entity or firearm trade association; (2) It does not "boycott Israel" as that term is defined in Texas Government Code § 808.001 and 2271.001, and it will not boycott Israel during the term of the Agreement; (3) It does not "boycott energy companies," as those terms are defined in Texas Government Code §§ 809.001 and 2276.001, and it will not boycott energy companies during the term of the Agreement; (4) It does not engage in scrutinized business operations with Sudan, Iran, or designated foreign terrorist organization as defined in Texas Government Code, Chapter 2270; and (5) It is not owned by or the majority of its stock or other ownership interest is held or controlled by i) individuals who are citizens of China, Iran, North Korea, Russia, or a designated country as defined by Texas Government Code § 2275.0101; or ii) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a designated country; nor is it headquartered in China, Iran, North Korea, Russia, or a designated country.

13.21 **Governmental Function(s) and Immunity.**

A. **Immunity retained.** The Owner and Manager hereby acknowledge and agree that Owner is entering into the Agreement in the performance of and pursuant to its governmental functions for the health, safety, and welfare of the citizens of the Owner, the general public, and the State of Texas, and nothing

contained in the Agreement shall be construed as constituting a waiver of the Owner's governmental immunity from suit or liability, which is expressly reserved to the fullest extent allowed by law.

B. **Limited Waiver of Immunity.** Notwithstanding any other provision to the contrary in the Agreement, the Owner and Manager hereby acknowledge and agree that to the extent the Agreement is subject to the provisions of Subchapter I of Chapter 271, Texas Local Gov't Code, as amended, the Owner's immunity from suit is waived only as set forth in Subchapter I of Chapter 271, Texas Local Gov't Code.

C. **Rights Retained.** The Owner expressly reserves its legislative and municipal police power in accordance with the laws of the State of Texas. Any provision, term, or condition in the Agreement requiring the Owner to waive its rights under the Texas or Federal Constitution, or under any foreign law(s), or limiting the claims or remedies available to the Owner, or requiring settlement of claims through binding mediation or arbitration are void and shall be given no effect. This reservation of powers includes, but is not limited to, the power to prohibit the sale and/or consumption of alcoholic beverages at the Facility.

13.20 **Ethics Disclosure.** To the extent required by Texas law, Manager represents that it has completed a Texas Ethics Commission (the "TEC") form 1295 ("Form 1295") generated by the TEC's electronic filing application in accordance with the provisions of Texas Gov't Code Ch. 2252.908 and the rules promulgated by the TEC. The parties agree that, with the exception of the information identifying the Owner and the contract identification number, the Owner is not responsible for the information contained in the Form 1295. The information contained in the Form 1295 has been provided solely by Manager and the Owner has not verified such information.

13.21 **Public Information.** Manager acknowledges that Owner is obligated to strictly comply with the Public Information Act, Chapter 552, Texas Government Code, in responding to any request for public information pertaining to this Agreement, as well as any other disclosure of information required by applicable Texas law. Owner's compliance with the Texas Public Information Act shall not violate the Agreement. Upon Owner's written request, Manager shall promptly provide specified contracting information exchanged or created under this Agreement for or on behalf of Owner. The requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to this Agreement and Manager agrees that the Agreement can be terminated if Manager knowingly or intentionally fails to comply with a requirement of that subchapter.

13.22 **Conflicts of Interest.** Manager and each person signing on behalf of Manager certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, that to the best of their knowledge and belief, no member of City Council, city manager, deputy city manager, city secretary, department heads, or deputy department heads of the Owner has direct or indirect financial interest in the award of this Agreement, or in the services to which this Agreement relates, or in any of the profits, real or potential, thereof, in violation of Section 132 of the Home Rule Charter of the City of Burleson. Manager agrees that the Agreement can be terminated if Manager knowingly violates that section.

13.23 **Tax-Exempt Bond Compliance.** The Manager understands that the Owner is going to finance the Project with proceeds of bonds, the interest of which is excludable from "gross income" for federal income tax purposes, and that, therefore, this Agreement has to comply with the management contract's safe-harbor guidelines of Rev. Proc. 2017-13, I.R.B. 2017-6, as amended and superseded ("Guidelines"). Owner and Manager represent that compensation for the services provided by Manager is reasonable, and it is consistent with industry standards. In furtherance thereof, the Manager agrees (a) that it is not entitled to and will not take any tax position that is inconsistent with being a service provider to the Owner with respect to the Project; (b) not to claim any depreciation or amortization deduction, investment tax credit, or deduction that an owner would otherwise be allowed with respect to the Project; (c) that the Owner bear the risk of loss upon damage or destruction of the managed property (for example, due to force majeure); (d) to not share in the net losses from the operation of the Project; and (e) to not have its compensation based on net profits derived from the Project. The Owner and the Manager agree to ensure that throughout the Term: (i) no more than 20 percent of the voting power of the governing body of the Owner is vested in the directors, officers, shareholders, partners, members,

and employees of the Manager, in the aggregate; (ii) the governing body of the Owner does not include the chief executive officer (or a person with equivalent management responsibilities) of the Manager or the chairperson (or equivalent executive) of the Manager's governing body; and (iii) the chief executive officer of the Manager is not the chief executive officer of the Owner or any of the qualified user's related parties (within the meaning of section 1.150-1(b) of the Treasury Regulations). During the Term, the Owner shall exercise control over the Project and shall approved the annual budget for the Project, Capital Expenditures to be made at the Project, disposition of property that is part of each facility comprising the Project, rates to be charged at the Project and other matters related to the control ownership of each facility comprising the Project. Manager and Owner agree to make a good-faith effort to amend the Agreement, to the extent necessary to ensure compliance with the Guidelines. In no event will the Term exceed the lesser of 30 years or 80 percent of the weighted average reasonably expected economic life of the Project.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the Effective Date, which is the day and year first above written.

Attest:

OWNER:
CITY OF BURLESON, TEXAS
a Texas home-rule municipal corporation

Print Name:

BY: _____

Its _____

Attest:

MANAGER:
SPORTS FACILITIES MANAGEMENT, LLC,
a Florida limited liability company

Kelly Baine

Kelly Baine

Print Name:

BY: *Jason Clement*

Jason Clement
Its Manager

EXHIBIT A

MANAGEMENT SERVICES

During the Term, Manager will be responsible for all aspects of oversight for the staffing, marketing, maintenance, event management, sponsorship and advertising sales, and day-to-day operations of the Owner's Facility.

1. Staffing. Manager shall provide a full-time on-site General Manager and other employees as required to meet the operational needs of the Facility, within the budgeted percentage of labor.

2. Annual Business Plan. Manager will produce an Annual Business Plan (the "Annual Business Plan" or "Business Plan") two (2) months prior to the beginning of any Operating Year in the Term, Manager shall update the Business Plan and submit the revised Business Plan to Owner for its review and approval. The Business Plan shall include an Operating Budget for the Operating Year. Owner shall give its comments and/or approval of the updated Business Plan within sixty (60) days after receiving the Business Plan from the Manager. In the event of disapproval of the Business Plan, the Manager shall use commercially reasonable efforts to operate the facility pursuant to the general terms of this Agreement and the prior Business Plan then in effect, until such time as the revisions to the Business Plan are agreed upon. In the event of disapproval of the Business Plan, the Manager shall continue operating the facility pursuant to the Business Plan then in effect, subject to increases in Operating Expenses required due to (i) increases in Gross Receipts; or (ii) other matters beyond the control of the Manager, until such time as Owner and the Manager agree upon the appropriate replacement Business Plan. However, in the event Owner disapproves of a Business Plan, revised Business Plan hereunder, and Manager and Owner fail to reach an agreement on a new Business Plan, revised Business Plan within ninety (90) days of such disapproval, either party may terminate this Agreement by providing the other party with written notice sixty (60) days prior to the date such party intends to terminate, without any further liability. Owner and the Manager agree to use good faith efforts to resolve any differences in opinion regarding the Business Plan and any portion thereof so that agreement on the Business Plan can be reached as soon as possible after the date Manager first submits the revised Business Plan for such year to the Owner.

2.1 Annual Appropriations. Manager understands and agrees that Owner's fiscal year begins on October 1st of each year and ends on September 31st of each subsequent year. In accordance with Laws of the State of Texas, the Owner's funding obligations under this Agreement are subject to the annual appropriation of funds. Accordingly, Manager shall make its best efforts to provide necessary budgetary information to the Owner to ensure that funds are budgeted and appropriated in accordance with the Owner's budgetary timeline.

3. Employment Matters. The Manager shall present the then current staffing, and all salaries and payments to employees through the Payroll Account (defined below) in the annual Business Plan. It is understood by all parties that reductions and additions to various positions may be made at Manager's discretion throughout the year due to business tempo, trends, opportunities, and budget requirements. If a change is recommended that will require expense above the budgeted labor percentage, the change will be submitted for Owner's review and approval by Owner via reforecast and revised Business Plan or budget.

4. Independent Accounting Firm. Prior to the expiration of each year under this Agreement, Manager shall hire an independent certified public accounting firm to be selected by mutual agreement of Owner and Manager to audit the financial statements required under this Agreement. The cost of the annual audit required by this section shall be paid out of the Operating Budget of the Facility and shall be considered an Operating Expense.

5. Accounting Records and Reporting. During the Term, Manager shall maintain professional accounting records in accordance with generally accepted accounting principles ("GAAP"). Manager shall provide the financial statements in a format reasonably specified by Owner.

6. Internal Control. The Manager agrees to develop, install, and maintain reasonably appropriate accounting, operating, and administrative controls governing the financial aspects of the Facility, such controls to be consistent with GAAP, or any higher level of professionally accepted accounting practices.

7. Bank Accounts. The Manager shall establish, in the Facility's name, at a banking institution or institutions subject to the approval of Owner, utilizing the federal tax identification number of Facility, an operating expense account (the "Operating Expense Account") and a payroll account in the Manager's or its affiliates' name, at a banking institution or institutions subject to the approval of Owner, utilizing the federal tax identification number of Manager or its affiliated entity (the "Payroll Account").

8. Account Funding. Subject to the Manager's written notices to Owner as herein, Owner acknowledges that it is solely responsible for all Operating Expenses and Capital Expenditures required for or on behalf of the Facility provided that such Operating Expenses and Capital Expenditures are made in accordance with the terms of this Agreement.

EXHIBIT B
MANAGER COMPENSATION

During the Term of this Agreement, Manager shall receive compensation from the Owner according to the following:

1. Base Management Fee;
2. Deferred Management Incentive Fee;
3. Sponsorship and Advertising Compensation; and
4. Employee Compensation; and
5. Reimbursed Expenses

1. **Base Management Fee.** During the Term, Owner shall pay to Manager equal monthly installments of Eighteen Thousand Five Hundred Dollars (\$18,500) per month. Each installment will be due and payable on the first day of each successive month. Beginning on October 6, 2026 and continuing thereafter on each October 6 throughout the Initial Term and all Renewal Terms the Base Management Fee shall increase by two- and one-half percent (2.5%) each year.

2. **Deferred Management Incentive Fee.** To encourage Manager to grow revenues, Owner agrees to pay to Manager an incentive fee (the “Deferred Management Incentive Fee”) in addition to the Base Management Fee identified above. Owner will begin pay the Deferred Management Incentive Fee in an amount equal to three and one-half percent (3.5%) of the Facility’s Gross Revenue each month. Such calculations shall be made by Manager within thirty (30) days of the ending of any operating month and paid to Manager within thirty (30) days of such calculation being delivered to Owner.

3. **Sponsorship and Advertising Compensation.** Due to the role that Manager will play in organizing the programs, negotiating agreements and pricing, and providing confidence to sponsors and advertisers, Manager will receive twenty percent (20%) of the gross revenue for sponsorship and advertising, including facility naming rights for all sponsorship and advertising sold throughout the life of the Manager's service.

Manager will also be paid twenty percent (20%) of the total cost savings for sponsored equipment, scoreboards, fencing, or other budgeted items that are donated to the project as a sponsorship effort by the vendor or supplier. This will apply only if the item has been budgeted for and where the Owner has approved such budgeted items and where negotiations with a vendor result in a direct cost savings in trade for a sponsorship or promotion of the vendor at the facility site.

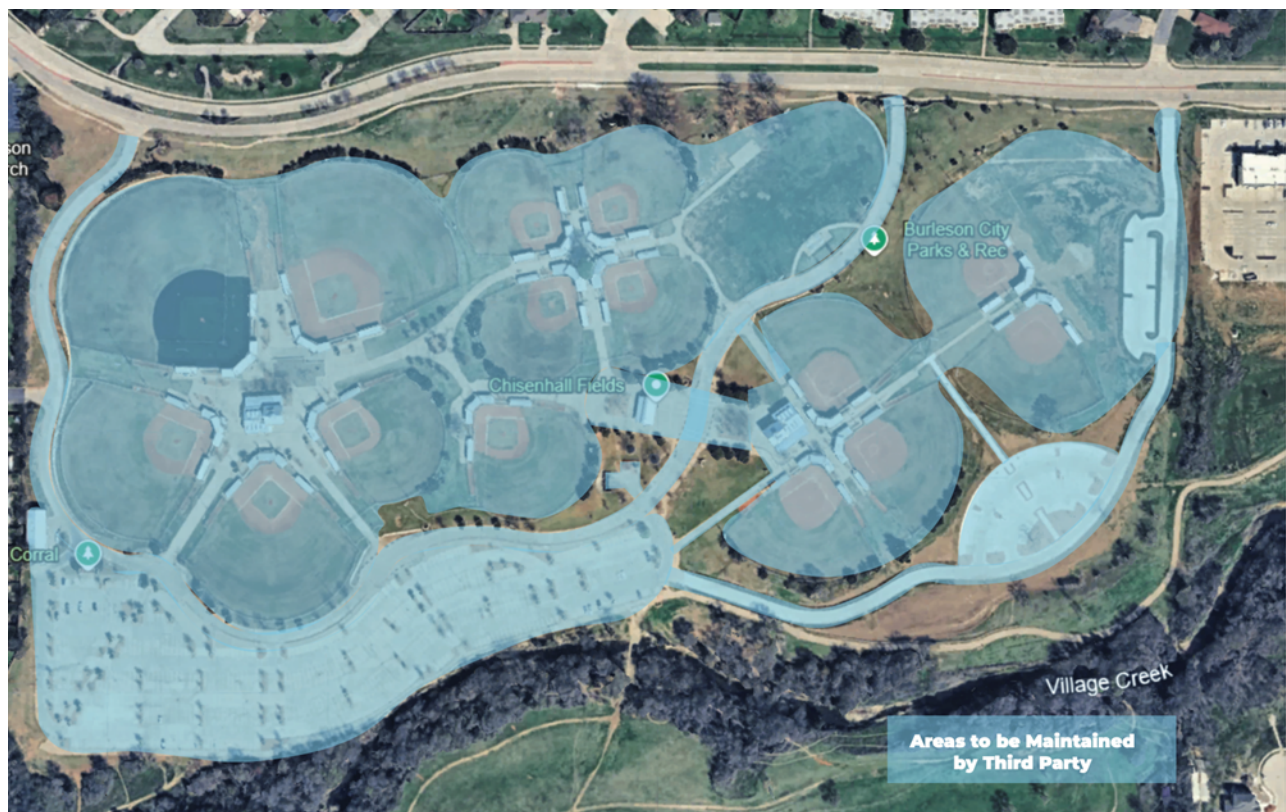
Payments for Sponsorship and Advertising Compensation will be made to Manager within thirty (30) days of the time when a sponsor/advertiser makes payment.

4. **Employee Compensation.** During the Term, Owner shall pay to Manager in monthly installments, the Employment Costs for all employees at the Facility (collectively, the “**Employee Compensation**”). Manager will compensate all of its employees on a bi-weekly basis and therefore each Employee Compensation payment will become due and payable on the first (1st) day of each successive month. For purposes of this Agreement, the term “**Employment Costs**” shall mean the total salary and compensation and any Owner-approved payroll incentives for Manager’s employees at the Facility, plus any fringe benefits including health insurance, etc.

5. **Reimbursed Expenses.** Manager shall be reimbursed with prior written approval by the Owner, for reasonable travel and other expenses directly related to the Management Services. All travel reimbursement will be based on receipts to be furnished by Manager to the Owner. Travel expenses may include but are not limited to economy or business class airfare, rental cars, parking fees, lodging and meals. All fees and reimbursements shall be subject to the Owner's established per diem rates and Owner policy, which prohibits reimbursement for alcohol and other unauthorized entertainment, and shall be paid to Manager within thirty (30) calendar days of invoicing. Manager will make a good-faith effort to keep these travel expenses to a minimum.

EXHIBIT C

DESCRIPTION/DEPICTION OF THE FACILITY



THE CITY OF
BURLESON
TEXAS

**Parks and
Recreation**

EXHIBIT D

MINIMUM OPERATION AND MAINTENANCE STANDARDS

I. Food and Beverage Operations.

A. Food and Beverage Services. Manager shall provide food and beverage services at the Facility to include (i) the operation of the Concession Stands during use of the Facility; and (ii) catering and banquet services on an as-needed basis to support tournaments, special events, and private events.

B. Management and Other Food Service Staff. Manager shall hire food service personnel in numbers sufficient to satisfy customer demands for food service.

C. Health Certificates and Licenses. Manager shall obtain and maintain for the Facility during the Term of this Agreement any and all permits and licenses required by any federal, state or local governmental agency in connection with the Food and Beverage Services to be provided by Manager under this Agreement.

D. Health and Safety Requirements. Manager shall comply with all applicable requirements of the Texas Health and Safety Code and the City of Burleson Code of Ordinances for food service facilities. Required approvals and permits shall be obtained.

E. Quality of Service. Manager shall provide food and beverage service in accordance with (1) all laws, statutes, ordinances, orders, rules, regulations, permits, licenses, authorizations, directives, and requirements of all governmental authorities, which now or hereafter may be applicable to the operation of the Facility, including, but not limited to , the Americans with Disabilities Act and implementing regulations as well as other federal, state, and local laws and regulations governing access and all federal, state, and local laws and regulations pertaining to the storage, use and disposal of "hazardous or toxic wastes, substances or materials" as defined by applicable law; (2) all requirements of each insurance policy, and all orders, rules, regulations, and other insurance requirements applicable to the Facility; and (3) all reputable business standards.

F. Sufficient Inventory. Manager shall ensure that food and beverages are kept in stock sufficiently to meet customer demand.

G. Price List. Manager shall at all times maintain a complete list or schedule of the prices charged for all food and beverage supplied to the public on or from the Facility. Such list or schedule of prices shall be provided to the City Manager with the Annual Business Plan.

H. Sanitation, Maintenance and Repair. Manager will be responsible for maintaining the food and beverage operations, including any alcoholic beverage service operations, and all equipment and fixtures related thereto in good condition and repair. Manager will provide cleaning services as needed to support functions when necessary for the food and beverage services to operate according to the highest sanitary standards and in compliance with all applicable health and sanitation laws and regulations.

II. Alcoholic Beverage Operations.

A. Alcoholic Beverage Sales. Manager will manage the service and sale of any alcohol beverages at the Facility by separate agreement with any alcohol license or permit holder and in accordance with applicable law and at the standard of service comparable to the prevailing standard of service provided at Comparable Facilities in Texas. Such management services will include, without limitation, serving beverages, both alcoholic (per agreement with a current alcohol license holder to do so) and non-alcoholic, to customers in accordance with the TABC License and local regulations; maintaining all records and financial information required by the Texas Alcoholic Beverage Commission (hereinafter called "Commission"), and submitting same to the Facility's alcohol license holder pursuant to its requests; negotiating and executing service contracts required in the ordinary course of business; advising and consulting with the alcohol license holder's personnel regarding operational matters; and generally providing day-to-day supervision and direction for the Alcoholic Beverage Operation (the "Operation"). Alcoholic beverages may be offered to the public only during hours in which food offerings also are available.

B. Personnel. Manager will designate a manager and such other employees necessary to perform alcoholic beverage services. All persons involved in the service, dispensing, or delivery of alcoholic beverages in the operation shall hold a currently-effective certificate issued by the Commission evidencing his/her successful completion of a Commission-certified Seller Training Program in accordance with the provisions of the Alcoholic Beverage Code ("Code") and the rules of the Commission promulgated thereunder. Manager agrees that (a) any new employees who do not hold such a currently effective certificate on the date of employment shall successfully complete a Commission-certified Seller Training Program within thirty (30) days of such date, and (b) it will comply with all other applicable provisions of the Code to insure that Manager, as the TABC Licensed Permittee, is at all times in full compliance with the requirements of the Code and the Commission's rules to obtain the benefits afforded under Section 106.14, as same may be amended from time to times. Manager and its employees shall not sell alcohol to minors or intoxicated persons.

C. Cash Receipts. Manager will collect and be accountable for all cash receipts from the food and beverage operations, separate and apart from other food and beverage operations. Manager is responsible for any losses that occur between collection of the cash and deposit of the cash into the Operating Account. Cash receipts shall be supported by sales reports from the point of sale system to include register tapes, which shall be date stamped and signed by Manager's staff. Manager shall tally the receipts for each Event, and Manager shall provide such detailed reporting in a monthly report to Owner. An inventory report of each bar will be conducted at initial set-up for an Event and at the conclusion of the Event. The report shall be submitted to Owner on a monthly basis.

D. Reservation of Powers. The paragraphs above regarding the sale and/or consumption of alcohol are subject to the Owner's right to regulate and/or prohibit the same, in accordance with Section 13.21(c) of the Agreement.

III. Building and Equipment Maintenance.

A. Manager shall keep and maintain the Facility in good and safe condition throughout the term of this Agreement, providing for such repairs, replacements, rebuilding and restoration as may be necessary and appropriate to comply with the requirements of this Agreement, and in accordance with the standards for maintenance. Manager shall have preventative maintenance programs in place for all buildings and equipment, including the Sports Facilities, Parking Lot, and Park Amenities.

B. Interior Building Maintenance. Manager shall be responsible for completing all interior building maintenance for all buildings at the Facility as a Facility Operating Expense, including but not limited to the following:

1. Cleaning and replacing floors;
2. Cleaning and replacing carpets;

3. Replacing light bulbs;
4. Maintaining window treatments;
5. Appliance repair;
6. Cleaning exhaust hood;
7. Minor plumbing issues, such as stoppages, flush valves, and leaking faucets;
8. Fire extinguisher monthly inspection;
9. Electrical and mechanical issues;
10. HVAC maintenance and basic repair;
11. Painting;
12. Removing debris, foreign materials, trash, graffiti, markings, and similar remnants of usage of the Facility, promptly after the Facility is used for an Event and periodically at other times;
13. Inspecting, testing, and determining the operating status of all equipment, and each operating system and component within the Facility, but excluding structural components of the Facility;
14. Periodically replacing all fluids and parts of any system or component of a system within the Facility, which reasonably require replacement, with new fluids or parts;
15. Periodically repainting painted surfaces as needed to maintain an aesthetically attractive appearance;
16. Repairing damaged seats.

IV. Janitorial Services. Manager shall provide daily janitorial services for the Facility to include, but are not limited to the following:

1. Vacuum carpets, sweep and mop floors every day and clean more frequently, as needed.
2. Empty trash receptacles and clean waste baskets daily.
3. Sweep all building entrances daily.
4. Dispose of all waste daily.
5. Sanitize all food preparation, storage and service areas, daily or more frequently as needed.
6. Dust all desks, counters, chairs, file cabinets, tables, and shelves as needed.
7. Clean baseboards as needed.
8. Clean window glass in the doors inside and out daily or more frequently as needed.
9. Clean all windows inside and outside as needed.
10. Clean restrooms daily or more frequently as needed as follows: Entry mat or carpet clean; entry door finger mark free, tile and painted walls clean; toilets: clean bowls, rims, tank tops, exterior body and toilet seats; clean tops and under sides; mirrors clean and streak-free; soap dispenser clean and full; paper towel dispenser clean and

full; toilet paper dispensers clean and full; seat cover dispenser clean and full; clean counter top; clean sink and faucet fixtures; clean and functional light fixtures; clean, functional and bug free room; air freshener; clean and functional trash receptacle, clean with liner; reasonably empty napkin receptacles, clean with liners.

V. Exterior Building Maintenance. Manager shall be responsible for exterior building maintenance for all buildings at the Facility as a Facility Operating Expense, including but not limited to the following:

1. Window washing;
2. Replacing light bulbs;
3. Cleaning and maintaining walkways free of brush and other debris;
4. Building washing;
5. Emptying and maintaining grease traps in accordance with all applicable law;
6. Maintaining holding tanks;
7. Fence and gate maintenance and repair;
8. Maintenance of decorative landscaping and irrigation;
9. Electrical and mechanical issues;
10. HVAC maintenance and repair;
11. Painting;
12. Minor roof repair;
13. Minor concrete/asphalt work;
14. Window repair; and
15. Sweep and keep all sidewalks and walkways clear of debris and other obstructions.

VI. Parking Lot. Manager shall maintain the Parking Lot free of trash and debris, well striped, in good repair, and clean. Lighting adequate and functional according to the season.

VII. Sports Fields and Park Amenities

Chisenhall Sports Complex – Maintenance Standards

1. Scope

Manager shall be responsible for the operation, care, and maintenance of the sports fields and related park amenities at the Facility . This includes, but is not limited to, baseball and athletic fields, synthetic turf infields, natural grass outfields, bullpens, dugouts, fencing, furnishings (including benches, bleachers, and seating), irrigation and drainage systems, restrooms, concession facilities, park shop, and office areas. All services must be performed in accordance with industry standards, manufacturer recommendations, and City requirements to ensure the Facility remains safe, clean, sanitary, and playable at all times.

2. Service Frequencies

- Daily (on scheduled use days): Pre- and post-use inspections, debris removal, restroom and concession cleaning, and safety checks.
- Weekly: Turf grooming, facility inspections, irrigation and drainage checks, supply replenishment.
- Monthly: Deep cleaning, detailed inspections, and preventive maintenance.
- As Needed: Repairs, weather response, infill replenishment, and preparation/restoration for special events.

3. Standards of Performance

3.1 Daily Tasks – Fields and Grounds

- Visual Inspection – Inspect all fields prior to use for visible damage, unsafe conditions, or hazards.
- Debris Removal – Remove litter, trash, seeds, gum, and other foreign objects from playing surfaces, bullpens, dugouts, common areas, and furnishings.
- Safety Checks – Verify that base anchors, pitching mounds, and home plate areas are secure, level, and game-ready.
- Irrigation/Drainage Review – Confirm irrigation systems are operational and no standing water is present.

3.2 Daily Tasks – Facilities

- Restrooms – Clean and sanitize fixtures, floors, and high-touch surfaces; restock paper products, soap, and other consumables; ensure plumbing fixtures are operational.
- Concession Facilities – Clean and sanitize preparation areas; remove trash; confirm equipment is in safe and sanitary condition.
- Office/Shop Areas – Maintain offices and shop in a clean and orderly condition, including trash removal, surface cleaning, and proper storage compliance.

3.3 Weekly Tasks

- Turf Grooming – Groom synthetic turf infields with approved equipment to maintain infill depth and consistent playability.
- Seam & Edge Inspection – Inspect seams, edges, and transitions for lifting or damage; repair minor issues.
- Facility Check – Inspect restrooms, concession areas, park shop, offices, and furnishings (benches, bleachers, dugout seating) for maintenance needs, supply levels, and repairs.
- Irrigation & Drainage – Inspect irrigation and drainage systems to confirm proper operation and clear obstructions.

3.4 Monthly Tasks

- Deep Cleaning – Perform turf vacuuming to remove embedded debris and conduct sanitation of restroom and concession facilities, including fixtures, flooring, walls, and storage areas.

- Detailed Inspection – Inspect all fields, restrooms, concessions, park shop, offices, and furnishings for wear, hazards, or deferred maintenance.
- Preventive Treatments – Apply fertilizer, antimicrobial, pest control, and/or weed control products as needed, in compliance with applicable regulations.
- Edge & Hazard Repair – Reinforce or repair seams, fencing, fixtures, furnishings, or other identified hazards.

3.5 As-Needed Tasks

- Weather Response – Remove standing water, storm debris, and restore safe play and facility conditions following weather events.
- Damage Repair – Repair turf tears, seams, fixtures, furnishings, or other damaged amenities immediately to prevent worsening.
- Infill Management – Replenish or replace infill material in high-use areas.
- Special Events – Prepare fields, restrooms, concessions, offices, and furnishings for tournaments or events and restore them to standard conditions following completion.
- Emergency Response – Provide additional cleaning or repair services in response to health, safety, or operational concerns.

4. Tools and Equipment

Manager shall maintain all equipment required to perform these services, including turf groomers, vacuums/blowers designed for turf, restroom cleaning equipment, concession sanitation supplies, repair hand tools, and storm management equipment.

5. Safety Requirements

- All services shall comply with applicable federal, state, and local health, safety, and sanitation regulations.
- Staff shall use appropriate personal protective equipment (PPE) when handling cleaning agents, chemicals, or operating machinery.
- Unauthorized vehicles or equipment are prohibited on playing surfaces and pedestrian areas.

6. Reporting and Documentation

- Task Logging – Maintain logs of all completed tasks, inspections, and repairs in a designated reporting system.
- Chemical & Material Tracking – Document chemical applications, repairs, and material usage for City review upon request.
- Cleaning Logs – Maintain restroom and concession cleaning logs available for City inspection upon request.

Immediate Notification – Notify the City immediately of unsafe conditions, service disruptions, or major repairs requiring Owner authorization.