



Sherry Garrison, Council Position 1  
Thane Harrison, Council Position 2  
Tommy Ginn, Council Position 3

Bill Patterson, Council Position 4  
Ron Martin, Council Position 5  
Rae A. Sinor, Council Position 6

James Stokes, City Manager  
Gary Jackson, Assistant City Manager

Jerry Mouton Jr., Mayor

Shannon Bennett, TRMC, City Secretary  
Jim Fox, City Attorney

## CALL TO ORDER

1. Executive Session - By authority of Article 6252-17 (Section 3 - e, f, and g) [EXS 18-015](#)  
V.A.T.S., and the Open Meetings Act, the Council may adjourn to an executive session related to the following items:
  - a. Personnel (551.074) - Naming an Appointee to the Board of Directors of the Deer Park Community Development Corporation  
**Recommended Action:** Discussion only in Executive Session.  
**Department:** City Council
2. Executive Session - By authority of Article 6252-17 (Section 3 - e, f, and g) [EXS 18-016](#)  
V.A.T.S., and the Open Meetings Act, the Council may adjourn to an executive session related to the following items:
  - a. Personnel (551.074) - Naming an Appointee to an Arbitration Committee  
**Recommended Action:** Discussion only in Executive Session.  
**Department:** City Manager's Office
3. Discussion of issues relating to the proposed ordinance related to Seismic Testing. [DIS 18-156](#)  
**Recommended Action:** Discussion only in Workshop.  
**Department:** City Manager's Office  
**Attachments:** [Amend 102-200-Geophysical mineral explore-revised 10-18-2018](#)
4. Discussion of issues relating to Sports Organization Utilization Agreement third party tournament fees. [DIS 18-149](#)  
**Recommended Action:** Discussion Only  
**Attachments:** [Sports Organization Utilization Agreement DRAFT - BASEBALL10418](#)  
[Sports Organization Utilization Agreement DRAFT - SOFTBALL10418](#)  
[Sports Organization Utilization Agreement -DRAFT- SOCCER101018](#)

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*The Mission of the City of Deer Park is to deliver exemplary municipal services that provide the community a high quality of life consistent with our history, culture and unique character.*

5. Discussion of issues relating to Christmas decorations for FY 2018-19. [DIS 18-151](#)

**Recommended Action:** Discussion Only

**Attachments:** [Christmas Budget](#)

6. Discussion of issues relating to the Battleground Golf Course Proposed Projects. [DIS 18-153](#)

**Recommended Action:** Discussion Only

7. Discussion of issues relating to the DPCDC projects including termination of task orders, use of unencumbered funds and professional services contracts. [DIS 18-154](#)

**Recommended Action:** Discussion only during Workshop.

8. Discussion of issues relating to potential Charter Amendments. [DIS 18-152](#)

**Recommended Action:** Discussion only

**Attachments:** [Charter Amendment Recommendations2 \(002\)](#)

9. Discussion of issues relating to a professional services agreement with Brinkley Sargent Wigington Architects for a needs assessment study for a new Community Center. [DIS 18-159](#)

**Recommended Action:** Discussion only at Workshop. An agenda item is also on the November 6, 2018 Regular Council Agenda to consider action on authorizing a professional services agreement with Brinkley Sargent Wigington Architects for a needs assessment for a new Community Center.

**Attachments:** [DPCC Needs Contract 2018-10-31 \(002\)](#)

10. Presentation and discussion of issues relating to the sale of Certificates of Obligation, Series 2018. [PRE 18-030](#)

**Recommended Action:** Discussion only in workshop.

**Department:** City Manager's Office and Finance

## ADJOURN

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Shannon Bennett, TRMC  
City Secretary

Posted on Bulletin Board  
November 2, 2018

City Hall is wheelchair accessible and accessible parking spaces are available. Hearing assistance devices are available. Requests for accommodation services must be made 72 hours prior to any meeting. Please contact the City Secretary office at 281-478-7248 for further information.

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## Legislation Details (With Text)

**File #:** EXS 18-015    **Version:** 1    **Name:**

**Type:** Executive Session    **Status:** Agenda Ready

**File created:** 10/22/2018    **In control:** City Council Workshop

**On agenda:** 11/6/2018    **Final action:**

**Title:** Executive Session - By authority of Article 6252-17 (Section 3 - e, f, and g) V.A.T.S., and the Open Meetings Act, the Council may adjourn to an executive session related to the following items:  
a. Personnel (551.074) - Naming an Appointee to the Board of Directors of the Deer Park Community Development Corporation

**Sponsors:** City Council

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
11/6/2018	1	City Council Workshop		

Executive Session - By authority of Article 6252-17 (Section 3 - e, f, and g) V.A.T.S., and the Open Meetings Act, the Council may adjourn to an executive session related to the following items:

a. Personnel (551.074) - Naming an Appointee to the Board of Directors of the Deer Park Community Development Corporation

### Summary:

Pursuant to Section 551.074 of the Open Meetings Act, the City Council will enter into executive session to discuss naming an appointee to the Board of Directors of the Deer Park Community Development Corporation.

### Fiscal/Budgetary Impact:

None

Discussion only in Executive Session.



## Legislation Details (With Text)

**File #:** EXS 18-016    **Version:** 1    **Name:**  
**Type:** Executive Session    **Status:** Agenda Ready  
**File created:** 10/31/2018    **In control:** City Council Workshop  
**On agenda:** 11/6/2018    **Final action:**  
**Title:** Executive Session - By authority of Article 6252-17 (Section 3 - e, f, and g) V.A.T.S., and the Open Meetings Act, the Council may adjourn to an executive session related to the following items:  
a. Personnel (551.074) - Naming an Appointee to an Arbitration Committee  
**Sponsors:** City Manager's Office  
**Indexes:**  
**Code sections:**  
**Attachments:**

Date	Ver.	Action By	Action	Result
11/6/2018	1	City Council Workshop		

Executive Session - By authority of Article 6252-17 (Section 3 - e, f, and g) V.A.T.S., and the Open Meetings Act, the Council may adjourn to an executive session related to the following items:

- a. Personnel (551.074) - Naming an Appointee to an Arbitration Committee

### Summary:

Pursuant to Section 5.14 of the City Charter, the City shall form an Arbitration Committee and name a qualified person to serve as the City's appointee to the Committee once a terminated employee files an appeal. Council will discuss an appointment to such a Committee.

### Fiscal/Budgetary Impact:

None

Discussion only in Executive Session.



## Legislation Details (With Text)

**File #:** DIS 18-156    **Version:** 1    **Name:**  
**Type:** Discussion    **Status:** Agenda Ready  
**File created:** 10/31/2018    **In control:** City Council Workshop  
**On agenda:** 11/6/2018    **Final action:**  
**Title:** Discussion of issues relating to the proposed ordinance related to Seismic Testing.  
**Sponsors:** City Manager's Office  
**Indexes:**  
**Code sections:**  
**Attachments:** [Amend 102-200-Geophysical mineral explore-revised 10-18-2018](#)

Date	Ver.	Action By	Action	Result
11/6/2018	1	City Council Workshop		

Discussion of issues relating to the proposed ordinance related to Seismic Testing.

### Summary:

On September 25, 2018, Council discussed potential adoption of an ordinance related to seismic testing within the city limits. This came at the request of Ballard Exploration and Blue Moon Exploration Company, LLC. Presently, the City has no ordinance which address seismic testing. City staff recently met with Mr. Michel Bechtel of Blue Moon Exploration Company, LLC to discuss potential requirements of a seismic testing ordinance (see attached). The attached varies slightly from what was presented to Council on September 25<sup>th</sup>. This will be discussed in greater detail on Tuesday night, with Mr. Bechtel present to answer any questions you may have. This item is set for action during Tuesday night's City Council Meeting, as well.

### Fiscal/Budgetary Impact:

To be determined.

Discussion only in Workshop.

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING SECTION 102-200 OF THE CODE OF ORDINANCES OF THE CITY OF DEER PARK, TEXAS, PROVIDING FOR GEOPHYSICAL MINERAL EXPLORATION AND TESTING; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEER PARK:**

**I.**

**DIVISION 3 - GEOPHYSICAL MINERAL EXPLORATION AND TESTING.**

**SECTION 102-200: Required.**

No person shall use or discharge in any manner any explosive including, but not limited to, dynamite and nitroglycerin, nor conduct any other method of geophysical mineral testing by the use of vibrating machines, or otherwise within the city, without first having obtained a permit therefor.

**SECTION 102-201: Application.**

Application for a permit under this article shall be made with the city secretary. Such application shall contain the name of the applicant, address of the applicant, the geophysical methods of mineral exploration to be used, the purpose therefor, the location and use with a map attached designating the points of use. Such application shall be accompanied by a permit fee in an amount established by the city and listed in appendix A of this Code. On receipt of such application by the city secretary, the application shall be referred to the city manager for a report as to the compliance of such application with the provisions of this article. Such report and the application shall then be submitted to the city council. No permit shall be issued except by the approval of the city council.

**SECTION 102-202: Insurance and bond requirements.**

(a) On approval of the permit, but before the issuance of the permit, the applicant shall provide the city secretary with an insurance certificate showing insurance coverage of the applicant for general liability coverage in amounts not less than:

- (1) Bodily injuries: \$1,000,000.00 per person and \$3,000,000.00 per accident: and
- (2) Property damage: \$1,000,000.00

(b) Such insurance coverage shall be provided by a good and solvent insurance company authorized to do business in the state. In addition, the applicant shall provide a cash bond in the amount of \$5,000.00. Such cash bond shall be for the benefit of the city and all persons concerned, conditioned that the permittee will comply with the terms and conditions of this article. The bond shall become effective on or before the date the bond is filed with the city secretary and remain in force and effect and on deposit for at least a period of six months after the exploration ends.

**SECTION 102-203: Duration.**

All permits issued under this article shall expire 120 days from the date of its issuance.

**SECTION 102-204: Terms.**

The terms of the permit shall be as follows:

- (1) The permittee shall not use any source point energy that exceeds 0.5 in/sec PPV and shall monitor PPV within 50 feet of any structure.
- (2) The written agreement shall cover any water well damage effective for 90 days after completion of the work.
- (3) At least one city police officer (off-duty) shall be employed to accompany the work crew while testing on the city rights-of-way, and the permittee shall provide 24-hour notice to the chief of police.
- (4) The permittee shall obtain written permission from citizens to enter their property.

**SECTION 102-205. Reserved.**

**DIVISION 3: REGULATIONS.**

**SECTION 102-206: Explosives.**

Explosives may be used with the prior and express written consent of the city council.

**SECTION 102-207: Notice of time and place of use of testing methods.**

No geophysical method of mineral exploration shall be used under this permit without the permittee having first, on the date of such proposed use, notified the city secretary and city manager of the proposed



time and location of the planned use. If the city secretary is not available, notice shall be given to the chief of police, in addition to the city manager, and if he is not available, then to any police personnel of the city. No testing shall be conducted on Sunday, nor between the hours of 8:00 p.m. and 6:00 a.m. local time unless prior approval by the City Manager. Notice shall also be given of the name of the person in charge of the testing for the permittee for the day on which notice is given. In addition, written notice of such testing to the occupants of all dwellings located within 300 feet of the test site at least 24 hours prior to the testing.

## **II.**

If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

## **III.**

It is officially found and determined that the meeting at which this Ordinance was adopted was open to the public, and that public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551 of the Government Code of the State of Texas.

## **IV.**

The City Council finds that this Ordinance relates to the immediate preservation of the public peace, safety and welfare, in that it is necessary that the above regulations be immediately put into effect to provide public safety of persons and property for mineral exploration and testing, thereby creating an emergency, for which the Charter requirement providing for the reading of Ordinances on three (3) several days should be dispensed with and this Ordinance should be passed finally on its introduction; and, accordingly, such requirement is dispensed with and this Ordinance shall take effect upon its passage and approval by the Mayor.

In accordance with Article VIII, Section 1 of the City Charter, this Ordinance was introduced before the City Council of the City of Deer Park, Texas, **passed, approved and adopted** on this the \_\_\_\_ day of \_\_\_\_\_, 2018 **by a vote of** \_\_\_\_\_ **“Ayes” and** \_\_\_\_\_ **“Noes”**.

\_\_\_\_\_  
**MAYOR**, City of Deer Park, Texas

**ATTEST:**

\_\_\_\_\_  
City Secretary

**APPROVED:**

\_\_\_\_\_  
City Attorney



## Legislation Details (With Text)

**File #:** DIS 18-149    **Version:** 1    **Name:**  
**Type:** Discussion    **Status:** Agenda Ready  
**File created:** 10/18/2018    **In control:** City Council Workshop  
**On agenda:** 11/6/2018    **Final action:**  
**Title:** Discussion of issues relating to Sports Organization Utilization Agreement third party tournament fees.  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** [Sports Organization Utilization Agreement DRAFT - BASEBALL10418](#)  
[Sports Organization Utilization Agreement DRAFT - SOFTBALL10418](#)  
[Sports Organization Utilization Agreement -DRAFT- SOCCER101018](#)

Date	Ver.	Action By	Action	Result
11/6/2018	1	City Council Workshop		

Discussion of issues relating to Sports Organization Utilization Agreement third party tournament fees.

City staff have been asked to review the current Sports Organization Utilization Agreement for language related to Third Party usage. In addition, staff was asked to research options into the regulation of third party usage at athletic sports complexes.

The following points will be discussed:

- The philosophy of recreation vs non-recreation third party usage
- Parks & Recreation regulation of field usage
- Field usage by third party organization - proposed new agreement
  - Fees
  - Regulating usage of fields for maintenance purposes
  - Lease agreement
- Itemized amenities at facilities

None

Discussion Only



# City of Deer Park

## Parks and Recreation Department

### Sport Organization Utilization Agreement

#### Baseball

This agreement for the use of athletic facilities is designed to ensure that athletic facilities owned and/or operated by the City of Deer Park, hereinafter referred to as "City" and the Parks and Recreation Department, hereinafter referred to as "Department", are utilized efficiently and safely. All Deer Park sports programs recognized by the City and all Sports Organizations, hereinafter referred to as "Organization", and are intended to enhance and enrich the interest of our citizens and to promote participation in wholesome recreational activities; in addition to an agreement to share the responsibility of caring, improving, and maintaining the facilities.

In order to establish a mutual understanding and working relationship between various Organizations and the City, the following is agreed to by all parties concerned. The City enters into agreements that will best serve the athletes. Any and all fields can be assigned or reassigned to use by any contracted organization on a yearly basis depending on the participation and needs.

#### A. Term

1. This agreement shall be for a term of up to one (1) calendar year beginning on the date of full execution hereof concluding on December 31 of each calendar year, unless terminated by either party upon sixty (60) days advanced written notice to the other party. Any Organization that holds a current valid agreement, in compliance with the City, for the use of any athletic facility (ies) for the previous year will have the opportunity to renew that agreement for the following year. Agreements will be taken before City Council annually each December to approve for the following calendar year.

#### B. Option to renew

1. Renewal of this agreement for an additional term shall be conditioned upon the following terms:
  - i. That a request for renewal be initiated by the signing of a new agreement by the Organization's president, with a copy of the annual report, prior to October 31st of each year.
  - ii. That the Organization provide the annual report prior to the start of the season:

**Commented [JZ1]:** To better meet the needs of the community, this wording was revised

**Commented [JZ2]:** This has been updated in 2017 and removed in 2018 revisions. See new condensed definitions in Glossy of Terms

**Commented [SS3]:** March 6, 2017, PARC agreed they wanted to leave the agreement as an annual instead of making it a 5year agreement as requested by Quest.

- a. Copy of approved current constitution and by-laws for Organization.
- b. List of current Organization officers and board members with addresses, phone numbers, and email.
- c. Proposed Organization schedule of events.
- d. Copy of Organization's general liability insurance policy and have the City of Deer Park as additional insured.
- iii. Seek recommendation for approval by City Council from the Parks and Recreation Commission in November of each year.
- iv. Approval by the City Council in December of each year.

**Commented [J24]:** Not previously listed. Added to protect City.

**Commented [J25]:** Identified the formal approval process

### C. General Agreements

1. The Organization understands that the City is the sole owner of the facilities and any contribution of services, amenities and cash or donation on the part of the Organization does not imply ownership on behalf of the Organization.
2. Use of City facilities are primarily for the use of citizens living within the incorporated city limits and/or attends a Deer Park ISD school.
3. The Organization is required to provide a minimum service of Recreational League play.
4. It is suggested that the Organization prioritize usage of the fields in the following manner:
  - i. Recreational league games
  - ii. League sponsored tournaments
  - iii. Select league games
  - iv. Select tournaments
  - v. Third party usage
5. Other priority users include any persons living within the Deer Park Independent School District boundary lines.
  - i. 70% of the Recreational League participation must be comprised of either City of Deer Park residents or those living within the Deer Park Independent School District boundary lines.
6. If an Organization does not meet the above criteria, the Organization must provide annually the "Plan of Action" to increase the local participation percentage in an effort to achieve the criteria.
7. All persons within the established boundaries will be offered the opportunity to participate in all the Organization's programs regardless of gender, race, national origin, religion or disability in accordance with present state and federal law.
8. Organization must operate as a non-profit association, as set forth by the Internal Revenue Service.
  - i. All financial documents and records are subject to audit per request of the City.
  - ii. Only camps or clinics authorized by the City, with all proceeds benefiting the Organization or the City are permitted. The City has first right of refusal.
9. The Organization WILL NOT collect admission fees nor require the public to pay other charges to attend practice, games or recreational tournaments at City facilities per City ordinance.
10. Annually, The Organization must submit with the annual agreement renewal either of the following:

**Commented [J26]:** Item only listed in baseball and Softball

**Commented [J27]:** This is only listed in this order for baseball and softball. Recreation is priority for Baseball and Softball.

**Commented [J28]:** Recommended organization priority usage list

**Commented [J29]:** Will be managed by P&R department.

**Commented [SS10]:** March 6, 2017, PARC agreed they would like to keep the 75% requirement and agreed to include the "Plan of Action" allowance for those that do not currently meet the 75%. The PARC did not want to lower the percentage to 60% as requested by Quest.

**Commented [J211R10]:** Due to challenges regulating these percentages; this item was removed

**Commented [J212]:** The City administers the usage of the facilities outside of the Sports Organization Utilization Agreement.

- i. In Lieu of proposal for capital improvements to their designated facility in the minimum amount of \$5,000. Capital improvements may consist of, but are not limited to:
    - a. Fence repairs
    - b. Irrigation repairs and installation
    - c. Field grading work
    - d. Concession stand infrastructure
    - e. Field light repairs and installation
    - f. Other items related to sports field improvements
  - ii. A payment in the amount of \$5,000 for future projects at the Organizations designated facility.
    - a. Funds will be held in a designated City of Deer Park account.
    - b. It is recommended that funds are used prior to reaching an account balance of \$50,000.
    - c. The City of Deer Park may utilize funds at their discretion with recommendation from the Parks and Recreation Commission and approval from the City Council.
11. Should the Organization choose to submit an In Lieu of project or payment exceeding the \$5,000 minimum; the following terms would apply:
  - i. The difference of the minimum amount can be applied to the following year's agreement.
  - ii. Should the Organization decide to make a payment towards a specific capital project, funds can be deferred up to three consecutive (3) years or up to an account balance of \$50,000. Three (3) consecutive years begins at initial deferred payment.
    - a. The specific capital project must be recommended by the Parks and Recreation Commission and presented and approved by City Council at initial deferment.
12. No construction or alterations may be done on City property/facility without the authorization of the City. Any approved construction will become the sole property of the City at the conclusion of construction and acceptance by the City. All capital improvement projects will go through the relevant formal City process.
13. Advertising is permitted at City facilities only with the prior approval of the Parks and Recreation Department.
14. The Organization will not allow any other organization, association or group to use the facility without prior approval of the Parks and Recreation Department.
  - i. The City of Deer Park reserve the right to regulate field usage at any time.
15. Anyone wishing to utilize the fields outside the organization must go through the City in order to rent the facilities. All Board of Directors members and managers are recommended to have completed a current applicable training program from a recognized state or national youth sports association. It is required that all head coaches involved in the league have such up to date training.
16. All league officials, coaches, managers, umpires and any other person(s) involved with the Organization's activities shall have a valid personal background check performed annually and with the results being kept in a confidential file by the Board of Directors.

**Commented [JZ13]:** Staff believes this will meet the leagues short expectations of Capital Improvement items.

**Commented [JZ14]:** New in Lieu of flat fee structure for review

**Commented [JZ15]:** Capital projects will be put through the standard formal City process for construction.

**Commented [JZ16]:** P&R has a formal rental process in place

#### D. Obligation of the City

1. To provide athletic facilities to be utilized efficiently and safely to enhance and enrich the interest of our youth and to promote participation in wholesome athletic activities.
2. To ensure the Organization has first rights of refusal.
3. To oversee, manage, and accept all capital improvement projects for athletic facilities.
4. To approve advertising permitted at athletic facilities.
5. The City reserves the right to close any field for routine maintenance for up to seven consecutive calendars days and will provide the Organization with a minimum of two week's written notice.

**Commented [JZ17]:** For reference to the SOUA

- 4.i. In the event of an emergency maintenance, the City may close the fields with less than two week's written notice to the Organization.

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5-6. The City will provide maintenance and repairs to athletic facilities and more specifically as follows:

- i. Will prepare all playing surfaces, buildings and grounds on City owned property prior to the beginning of the league season and as deemed necessary by the Department.
  - a. Maintain playing surfaces to include leveling and drainage work deemed necessary by the Department.
  - b. Maintain all, fences, bleachers and gates in a safe and secure condition.
  - c. Maintain structural integrity of concession stands, restrooms and storage buildings including repair or replacement of damaged roofs, doors and windows.
  - d. Make major plumbing repairs for restrooms, sinks, urinals and commodes as deemed necessary by the Department.
  - e. Make major electrical and air conditioning unit repairs as deemed necessary by the Department.
  - f. Paint all structures as deemed necessary by the Department.
  - g. Maintain all area and field lighting. Repair and replace lights, poles, wiring, fuses, transformers and other equipment related to the lighting of each field.
    - a. Attempt to maintain at least 75% of the potential lighting for field or pole during regularly scheduled season.
    - b. The Department will maintain lighting schedules for facilities with automatic lighting system.
  - h. The Organization will appoint three officials at the beginning of each calendar year to have access to the automatic light schedule. The Organization is responsible for notifying the City of permission changes throughout the year.

Maintain all field irrigation system(s).

    - a. Watering schedules are managed and authorized by the Department.
    - b. The Department reserves the right to restrict watering schedules if conditions deem it necessary.
- i. To provide, inspect and maintain AED units, fire extinguishers and pest control service at all City facilities.

**Commented [JZ18]:** Already in practice with organizations. 3 business days was not regulated and did not provide good customer service.

6-7. Maintain all turf areas on the fields to include, but not limited to mowing, weed control, fertilization and herbicide spraying.

- i. Department mowing routines allow for mowing of playing surfaces twice a week during scheduled season play.
- ii. Department mowing routines allow for surrounding grounds mowing once every other week.



- iii. Mowing routines are subject to change based on field conditions or as deemed necessary by the department.
- iv. If any organization wants a more frequent mowing routine, it becomes their responsibility.
  - a. The Organization must receive prior approval before beginning additional mowing.
  - b. The Organization will be responsible for all damages occurring from additional mowing if damages should occur.
- v. All additional herbicide, fertilization and overseeding applications will be performed by the Department upon request and with funds provided by the Organization.

~~7-8.~~ 8. Furnish trash receptacles and trash liners.

- i. Remove all trash deposited in containers minimum twice a week or as deemed necessary the Department.

~~8-9.~~ 9. Clean and stock restrooms.

- i. Daily, Monday through Friday, during regularly scheduled season.
- ii. Saturdays and Sundays when deemed necessary by the Department.
- iii. Once weekly during off-season.

~~9-10.~~ 10. Maintain all parking areas.

~~10-11.~~ 11. Provide utility services for facilities including electrical, water and sewer where required.

~~11-12.~~ 12. The City will supply support poles and an electrical source for scoreboards.

- i. Routine maintenance and repairs to scoreboards becomes the responsibility of the Organization after installation.

~~12-13.~~ 13. The City retains the right and privilege to enter and inspect all buildings and premises at any time.

~~13-14.~~ 14. The Department will abide by and establish a line of communication between the Organization's President, or designated representative, and a City appointed liaison.

~~14-15.~~ 15. The City will provide a liaison to attend Organization board meetings as deemed necessary by the Department.

~~15-16.~~ 16. The Department's obligations under this agreement will be performed as soon as, and to the extent that, budgeted funds and resources are available for performance of its obligations.

- i. The Department, to the best of our ability, will address all maintenance and repair requests in priority order.

~~16-17.~~ 17. The City will include promotional opportunities through the Fall/Winter, Spring and Summer Parks and Recreation Brochures, electronic marquees, website and Facebook page.

~~17-18.~~ 18. The City is obligated to provide a facility location, dependent on availability, with advanced notice, depending on facility and purpose of usage.

**Commented [JZ19]:** P&R has opened up the usage of or meeting rooms and facilities to better meet the demands from the Sports Organizations.

#### E. Obligation of Youth Sports Organization

1. To utilize athletic facilities efficiently and safely to enhance and enrich the interest of our youth and to promote participation in athletic activities.
2. Utilize City facilities for the primary use of citizens living within the incorporated city limits. It is suggested that the Organization prioritize usage of the fields in the following manner
  - i. Recreational league games
  - ii. League sponsored tournaments

- iii. Select league games
  - iv. Select tournaments
  - v. Third party usage
3. The Organization shall furnish the Department an annual report, by October 31<sup>st</sup> of each year, which includes the total number of participants, including the number of resident and non-resident participants and any other information requested by the Department.
4. To seek approval from the Department for any capital improvement projects for athletic facilities.
5. To seek approval from the Department for advertising permitted at athletic facilities.
6. The Organization is obligated to provide the City with a schedule of all City facility usage. This is to include, but not limited to schedules for, games, tournaments, and league ceremonies. Schedules are due quarterly (January 1<sup>st</sup>, April 1<sup>st</sup>, July 1<sup>st</sup>, October 1<sup>st</sup>).
- ~~6.7.~~ The Organization agrees NOT to expand schedules, length of league play, number of tournaments nor add seasons without prior written approval from the City.
- ~~7.8.~~ The Organization shall at all times during the term of this agreement maintain, in effect general public liability insurance covering the Organization's program(s) at the facility against claims for personal injury, death or damage to property to the limit of not less than one-million (\$1,000,000). The City shall be named as additional insured on such policy and shall be entitled to thirty (30) day notice of cancellation or changes of any kind regarding such insurance and certificates of insurance shall be provided to the City prior to the agreement becoming valid.
- ~~8.9.~~ By the execution of this agreement, the Organization does hereby indemnify and hold harmless the City and its officers, agents and employees from and against any and all suits, actions or claims of any character, type or description, including all expenses of litigation, court cost and attorney's fees, brought or made for or on account of any injuries or damages received or sustained by any person or persons or property, arising out of, or occasioned by, the act or failure to act by the Organization or its agents, volunteers or employees in the use of the facilities as set forth in the agreement.
- ~~9.10.~~ All Board of Directors elections shall be conducted as prescribed by the Organization's by-laws. The election of offices shall be open to any and all qualified individuals. The Organization shall provide public notice of all Board of Directors elections. Notice shall be posted prior to the election. Every reasonable effort shall be made to notify all interested parties prior to the election date.
- i. The City will provide a liaison to attend Organization board meetings as deemed necessary by the Department.
- ~~10.11.~~ Each Organization is deemed responsible for the conduct of its participants, coaches and spectators. The Department can require an organization to hire an off duty officer for security if they feel it is in the best interest of the City.
- ~~11.12.~~ It shall be the Organization's responsibility to ensure that no alcoholic beverages are permitted on the premises, per City Ordinance. This policy is to be inclusive of any individual under the influence of alcohol. League officials will request any such person to leave the premises and if necessary contact the Police.
- ~~12.13.~~ The use of tobacco products such as cigars, cigarettes, smokeless tobacco and pipes is prohibited in all indoor City property venues including, but not limited to, the building entrance

**Commented [JZ20]:** The P&R department will be able to regulate this number more efficiently.

and exit ways. Tobacco use is allowed in designated areas which will be clearly marked with signage and markings.

~~13.~~14. During the term of this agreement the Organization shall operate its own concession stand and all revenues generated from such shall be for the sole and exclusive use of the Organization.

- i. The Organization shall furnish and maintain all equipment needed and/or used in the concession stand. The Organization shall abide and comply by all city, county and state health and fire code requirements.
- ii. It shall be the responsibility of the Organization to contact the Harris County Health Department for an annual inspection of the concession stand and to acquire all necessary health code licenses prior to opening for any season.
  - a. Dependent upon the issue, it shall be the responsibility of the Organization to make any alterations or repairs required by the Harris County Health Department.
  - b. It shall be the responsibility of the Organization to provide an annual report to the Department as proof of meeting Harris County Health Department code requirements.
- iii. The Organization may sublet its concessions based on the following conditions:
  - a. Receive written permission to sublet concessions from the Department.
  - b. Concession contractor will be required to acquire a vendor permit from the Department.

~~14.~~15. The Organization will be responsible for all game preparations of fields.

- i. No one under 16 years of age is allowed to operate any motorized equipment used in field preparation or materials transport, to include but not limited to golf carts, infield groomers, 4-wheelers, riding lawnmowers and motorized vehicles.

~~15.~~16. The Organization shall provide all bases and base stubs, pitching rubbers, marking chalk/paint and application equipment. The installation of pitching rubbers, bases and base stubs are to be installed per the manufactures instructions.

17. At anytime a mechanical batting machine or batting cage is being used, for instruction or practice, an adult league authorized official over the age of 21 must be present to supervise. It shall be the responsibility of the organization to ensure that any league official operating or supervising the use of a mechanical batting machine has been instructed in the proper operation procedures and with all safety precautions.

- i. The Organization maintains first right of refusal on the usage of batting cages at their contracted facilities.

~~16.~~ii. The Organization is responsible for securing batting cages and maintenance of batting cage nets.

~~17.~~18. The Organization shall report any facility damage, dangerous or unsafe conditions, or unusual or suspicious situations to the Department as soon as possible but no longer than the next business day.

- i. At no time or under any circumstances is any organization official or bystander allowed to attempt to correct any of these problems.

~~18.~~19. The Organization has the right to sell and install signs along the fences and scoreboards of certain designated fields located on the facility. All revenues generated from such use shall be

**Commented [J221]:** Health code requirements are extensive and strictly enforced

**Commented [J222]:** Internal form that may be used at P&R discretion.

**Commented [J223]:** Include in softball and baseball. Remove from soccer.

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for the sole and exclusive use of the Organization. The Department, before installation, shall approve signs including installation materials and methods.

~~19-20.~~ The Organization shall:

- i. Prohibit its coaches and players from hitting balls into any fences unless it occurs in the natural course of a game. This policy is also to include surrounding structures and buildings. Failure to enforce this policy may result in the Organization incurring costs associated with the repairs of the fencing, structures and buildings.
- ii. Be responsible for keeping the area clean of all trash, paper, boxes, cartons, cans, containers, etc. generated by the concessions stand, spectators, or participants. All such items shall be placed in City provided trash receptacles. This includes, but not limited to, all fields, dugouts, restrooms, concession stands, storage areas, commons areas and parking lots.
- iii. The Organization is responsible for changing out trash bags in trash receptacles if the trash bag is more than half-full. Trash bags are to be placed in dumpsters located at each City owned facility.
- iv. Supply all locks necessary and provide the Department with either code or keys for locks. At their discretion, the Organization has the right to lock access gates to protect prepped fields. The City reserves the right to remove any locks as deemed necessary by the Department and at the Organization's expense.
  - a. Prepped fields are defined as Game-Ready, which includes infields dragged, batter boxes chalked, foul lines chalked and bases placed in their proper locations.
  - b. Organization shall not lock a prepped field more than three (3) hours before the start of a game or tournament.
  - c. Organizations may lock fields during inclement weather when field conditions are not conducive for play.
- v. Fields are to remain open following the conclusion of practices, games and tournaments and are to remain open until permissible by the above conditions. Do all watering of fields as needed and allowed by the Department.
- vi. Supply all scoreboards and maintain all boards including bulb replacement.
- vii. Keep buildings and rooms clean and free of litter. Storerooms shall be maintained in an orderly and safe condition. Restrooms are not to be used as storerooms for any equipment or supplies.
- viii. Maintain the premises in a safe and aesthetic manner, i.e. keep all drags and other equipment stored and inaccessible to children.

~~20-21.~~ Organizations are responsible for observing proper flag etiquette when displaying state and national flags on facility property.

~~21-22.~~ The Organization shall have at least two identified league officials, over the age of 21, to be on duty at all games to supervise activities and conduct including supervision of parking lots.

~~22-23.~~ The Organization shall have an official inspect every field (playing surfaces) prior to the first game each day/night of league play for any safety concerns such as holes in the infield or outfield, secure bases, fences, backstops or anything that might be a hazard. All corrections shall

**Commented [JZ24]:** For safety purpose and for code purposes, this was revised to meet City standards

**Commented [JZ25]:** Include in softball and baseball. Remove from Soccer.

**Commented [JZ26R25]:** The City will close fields for maintenance purposes of defer to the P&R rain out policy.

**Commented [JZ27]:** Include in softball and baseball. Remove from soccer.

be made by the Organization prior to the start of the first game and if this cannot be accomplished play will be suspended until the Department is notified and any repairs can be made.

~~23.24.~~ The Organization shall have a written “emergency situation” plan in effect. This plan shall include the shelter in-place plans, evacuation plans and routes and all necessary supervisory assignments and duties.

- i. At least one board member shall be assigned as an Emergency Response Officer to be in charge of all procedures, equipment and shall be responsible for the training of all board members, coaches and volunteers.
- ii. The Organization shall make “emergency situation” response information available to any out of town teams playing in league play, league tournaments or post-season play. Such information shall be included in any and all packets or information given to visiting coaches or managers.

~~24.25.~~ Organization officials, coaches or volunteers are restricted from driving vehicles of any description on park walkways or turf areas without prior permission.

~~25.26.~~ **The operation of motor vehicles and/or parking vehicles on turf areas is prohibited by City ordinance. It is the organization’s responsibility to make sure all of their officials, coaches, spectators, participants and volunteers are aware of and comply with this ordinance.**

~~26.27.~~ The Organization will abide by and establish a line of communication between the Organization’s President, or designated representative, and a City appointed liaison.

- i. The Organization’s President, or designated representative, is required to attend all scheduled City sports organization meetings.

~~27.28.~~ The Organization may provide information to be included in promotional opportunities through the Fall/Winter, Spring and Summer Parks and Recreation Brochures, electronic marquees, website and Facebook page.

~~28.29.~~ The Organization is authorized to use a City facility location, dependent on availability, and approval from the Parks and Recreation Department. :

~~29.30.~~ The Organization should utilize the following recommendations in the event of severe weather:

- i. Postpone or suspend activity if a thunderstorm appears imminent before or during an activity or contest (irrespective of whether lightning is seen or thunder heard) until the hazard has passed. Signs of imminent thunderstorm activity are darkening clouds, high winds, and thunder or lightning activity.
- ii. Have a means of monitoring local weather forecasts and warnings.
- iii. When thunder is heard within 30 seconds of a visible lightning strike, or a cloud-to-ground lightning bolt is seen, the thunderstorm is close enough to strike your location with lightning. Suspend play for thirty minutes and take shelter immediately.
- iv. Once activities have been suspended, wait at least thirty minutes following the last sound of thunder or lightning flash prior to resuming an activity or returning outdoors.
- v. All individuals have the right to leave an athletic site in order to seek a safe structure if the person feels in danger of impending lightning activity, without fear of repercussions or penalty from anyone.

## F. Tournaments

1. The Department will be notified of all tournaments by the Organization no later than two (2) weeks prior to tournament taking place. Notification of tournament to include dates, who is hosting the tournament, contact information for tournament host, and whom any and all net proceeds benefit.
2. Organization may allow any teams affiliated with organization to utilize facilities for tournaments beginning March 1 – October 31 of each year.
3. Facilities may be utilized outside of the allotted time period for tournaments with prior permission from the Parks and Recreation Department. The Organization sponsoring such a tournament will be responsible for all field preparation including any required marking paint, field maintenance, litter control and crowd control during the duration of the tournament.
4. Concession operations will remain with the Organization or as authorized through this agreement.
5. All policies and regulations that apply to the Organization listed in the lease agreement apply to all select teams and hosting entities.

**Commented [JZ28]:** Staff is requesting more detailed information to better meet the demands for maintenance purposes

**Commented [SS29]:** Quest would like to change the dates to January 2 – December 15<sup>th</sup>. This is allowed below as long as the Organization provides Rye Grass for those fields to protect the turf when the grass is dormant.

March 6, 2017, PARC agreed this needs to remain as is, which allows the leagues to utilize the facilities during the dormant season as long as they pay to have Winter Grass planted.

**Commented [JZ30]:** We have addressed this with a flat fee that encumbers all organizational annual usage fees

**Commented [JZ31]:** P&R has addressed field usage from third party users via a formal rental process.

#### G. Third party usage

1. Use of any City facility is restricted to Organizations that are members of and/or affiliated with a City Council approved Sports Organization Utilization Agreement.
2. Outside third party usage must be contracted and approved through the Parks and Recreation Department.
  - a. All Third party usage must carry general liability insurance with limits no less than one (1) million dollars.
  - ~~a.b.~~ The Organization who has entered into this agreement with the City may not authorize the usage of the facilities to Third Party Users or Organizations without the expressed written consent from the City.
3. The Organizations regular league play, practices and associated events take precedence over all third party team play, practices, games, tournaments and associated events.
- ~~3.4.~~ Facilities for tournaments are available for rental beginning March 1 – October 31 of each year.
- ~~4.5.~~ The Association's Board of Directors have the first right of refusal on the availability of fields and dates of all games, practices and tournaments.
- ~~5.6.~~ Concession operations will remain with the Organization or as authorized through this agreement.
  - i. Third Party user may bring in their own private concessions vendor, but not utilize on site concession facility without prior approval from the organization and the Parks and Recreation Department.
  - ii. Private concessions vendor must carry all required Harris County health permits in order to sell concessions.
- ~~6.7.~~ Third Party user will be responsible for all field preparation including any required marking paint, field maintenance, litter control and crowd control.
- ~~7.8.~~ All policies and regulations that apply to the Organization listed in the lease agreement apply to all.
- ~~8.9.~~ The City may allow third party users to utilize facilities for practices, games and tournaments beginning March 1 – October 31 of each year.
  - i. If approved by the Parks and Recreation Department, facilities may be utilized outside of the scheduled use.

**Commented [JZ32]:** Added to assist with the regulation of the contract.

**Commented [SS33]:** Quest would like to change the dates to January 2 – December 15<sup>th</sup>. This is allowed below as long as the Organization provides Rye Grass for those fields to protect the turf when the grass is dormant.

March 6, 2017, PARC agreed this needs to remain as is, which allows the leagues to utilize the facilities during the dormant season as long as they pay to have Winter Grass planted.

**Commented [SS34]:** Quest would like to change the dates to January 2 – December 15<sup>th</sup>. This is allowed below as long as the Organization provides Rye Grass for those fields to protect the turf when the grass is dormant.

March 6, 2017, PARC agreed this needs to remain as is, which allows the leagues to utilize the facilities during the dormant season as long as they pay to have Winter Grass planted.

~~9.10.~~ The Department will receive notification of third party usage of facilities no later than two (2) weeks prior to utilization for tournaments and games. Practices are subject to availability and approval of by the Department until 12:00 pm on day of rental.

~~11.~~ Payments: The City will receive from the third party renter payment prior to usage.

~~12.~~ Field Rental Costs:

Field Usage: \$25 for 2 hours

Tournament usage: \$25 per hour per field

Tournament deposit: \$500

Field Lights: \$10 hour per field

**Commented [J235]:** Current P&R policy

**Commented [J236]:** There is an existing P&R field rental policy in place.

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~~10.~~

**H. Rain-out Policy**

1. Organization must abide by the City adopted Rainout Policy dated August 1, 2016 (Exhibit A).

**I. Default**

1. If any event of default of any of the obligations or in the performance of any of the terms, conditions, or provisions of any instrument or document evidencing the obligations secured by this agreement or in the performance of any covenant contained herein shall occur; then the following course of action shall be taken:

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**Commented [J237]:** Formal Default policy established and added to contract

i. Documentation and discussion with the organization of non-compliance from the Parks and Recreation Department.

ii. Written notice of non-compliance from the Parks and Recreation Department.

iii. Second written notice of non-compliance from the Parks and Recreation Department with stipulation requiring corrective action within in thirty (30) days of issuance.

iv. Failure to take corrective actions after the second written notice of non-compliance will result in a staff discussion with City of Deer Park Administration.

v. Recommended course of action from City of Deer Park Administration may be presented to the Parks and Recreation commission by staff should a suitable solution not be determined.

vi. Parks and Recreation Commission will recommend to City Council a suitable course of action.

vii. City Council will make a recommendation up to possible termination of the Sports Organization Utilization Agreement.

**Annual Report Attachments:**

1. Current Copy of board approved Organization constitution and by-laws.
2. Proof of Insurance.
3. List of current officers and Board of Directors.
4. Proposed annual calendar of events.

5. Copies of all receipts for any current agreement's contributions must be provided to determine the total funds contributed to the facilities in lieu of payment for current agreement.
6. If requesting, written contribution request in lieu of payment.

Facility Usage

The following facilities will be used for this contractual agreement:

1. Five (5) fields located at Minchen Athletic Complex
2. The Concession/Restroom building
3. Maintenance/Storage buildings located at Minchen Athletic Complex
4. Batting cages located at Minchen Athletic Complex
5. Six (6) fields located at Spencerview Athletic Complex
6. The Concession/Restroom/Meeting room building
7. Maintenance/Storage buildings located at Spencerview Athletic Complex
8. Batting cages located at Spencerview Athletic Complex
9. Three (3) baseball fields located at Dow Park.
10. The Concession stand and two(2) storage buildings at Dow Park.
- 6-11. Batting cages located at Dow Park.

In case any one or more of the provisions contained in this agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

Nothing in this agreement shall be construed to make the City or its respective agents or representatives liable in situations it is otherwise immune from liability.

Each party represents to the other that the individual signing this agreement below has been duly authorized to do so by its respective governing body and that this agreement is binding and enforceable as to each party.

I have read and I understand the policies and regulations stated herein and agree to abide by them. Failure to abide by these policies and/or regulations may be cause for the revocation of the agreement.

The City of Deer Park enters an agreement with: \_\_\_\_\_ for the sole purpose of playing games and/or tournaments and related activities upon the above agreement, terms and conditions, that certain tract(s) of land in the City of Deer Park, Harris County, Texas to wit:

The City of Deer Park, Texas \_\_\_\_\_ located in \_\_\_\_\_ in said city. This agreement shall be effective from January 1, 20\_\_ through December 31, 20\_\_ but may be sooner.

Signed in duplicate, this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

Authorized organization: \_\_\_\_\_ Parks and Recreation Department Director

Name: \_\_\_\_\_ Name: \_\_\_\_\_

Signature: \_\_\_\_\_ Signature: \_\_\_\_\_

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Park Board Chairman:

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

City of Deer Park Mayor

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

DRAFT

## **EXHIBIT A**

### **Deer Park Athletic Field**

#### **Rain-out Policy**

Practices and games will be held, as long as conditions are safe for participants and do not violate our rules or park guidelines. As a standard, the City of Deer Park will do our best to alert the leagues and rentals via email or phone call with as much notice as possible on practice/game day should fields be unplayable. Please keep in mind that Park closures and practice/game cancellations are determined by the City of Deer Park Parks and Recreation Department which reserves the right to cancel practices/games at any time depending on the current weather and field conditions.

Please call 281-478-2099 for a recorded message that will provide information in reference to Rainouts and Cancellations during the week after 3:00pm or visit the City of Deer Park Athletics Website at: [www.deerparktx.gov/athletics](http://www.deerparktx.gov/athletics) for status updates. City of Deer Park staff will work with league officials, citizen field rentals, and tournament directors when making decisions on field conditions and the playability of fields at the various athletic sports complexes. League and tournament officials make the final call if their event will play or not based on 1) current weather conditions and 2) if the fields have not been previously closed by the City of Deer Park.

#### *City of Deer Park Athletic Sports Complexes - Determining Field Playability*

Standing water occurs because the ground is saturated. Removing standing water does not eliminate the saturation. It is the saturation, and not standing water, that causes damage and unsafe conditions. Determining the playability of an athletic field is crucial to the continued health of the turf and the sustainability of the field throughout the season. More importantly, determining the playability is vital to the safety and best interests of the participants and patrons to the City of Deer Park athletic sports complexes. The Department will close its athletic fields if City of Deer Park staff determines that fields are too wet for play, or if other issues arise that would compromise patron safety.

League officials have the responsibility to close fields for play when safety and/or field damage is possible.

*An athletic field should be considered closed for play if any part of the field becomes unsafe for field users or if conditions exist where use will cause damage to the field.*

An athletic field should be considered closed if any of the following conditions exist:

1. There is standing water present on any part of the field that cannot be removed without causing damage to the field.
2. There are muddy conditions present that will not dry by the start of the game.
3. While walking on the field water can be seen or heard with any footstep.

4. If water gathers around the sole of a shoe or boot on any portion of the field.
5. While walking in turf areas any impression of your footprint is left in the surface.
6. While walking on the infield portion of the field, an impression of ½" deep or more is left by a footprint.

*Additional reasons for cancelling games:*

1. It has rained most of the day of the scheduled game and there is standing water on the field.
2. It has rained for several days prior to the scheduled game and the fields are wet to the point where playing the game will destroy the playing surface.
3. It is raining at the time of the scheduled game and the temperature is low enough to make conditions unbearable for the children.
4. The presence of lightning - 3 strikes and you're out. The first lightning strike will cause a 30-minute delay, with subsequent strikes re-setting the 30-minute delay. Three strikes within 30 minutes will result in cancellation.
5. The potential for severe weather is significant enough that it warrants cancellation for the safety of participants and patrons.

## EXHIBIT B

### Glossary of Terms

1. **Recognized Organization** – A recognized sports organization with the City of Deer Park is an organization that has been formally recognized by City Council as an established sports group within the City. Recognized organizations are eligible to use City facilities or Deer Park ISD facilities at discount fee rates or at no cost per the inter-local agreement. A recognized organization must have:
  - a. Established structure
  - b. Recommendation from Parks and Recreation Commission
  - c. Approval from City Council
2. **Sports Organization Utilization Agreement**- An agreement to establish a mutual understanding and working relationship between various organizations and the City.
3. **Recreation(al) Play**: An interclub league in which the use of invitations, recruiting, or any similar process to roster players to any team on the basis of talent or ability is prohibited and a system or rostering players is used to establish a fair or balanced distribution of playing talent among all teams participating.
4. **Non-Recreation (al) Play**: Teams and Tournaments that do not meet the established criteria of "Glossary of Terms, Item 3" are to be considered non-recreation(al).
5. **First Right of Refusal** – a contractual right that gives the agreement holder first priority to utilize the facilities according to specified terms in this agreement.
6. **Third Party Usage** - A person or group besides the two primarily involved in the Sports Organization Utilization Agreement.
7. **Parks and Recreation Commission** - Under the supervision of the city manager, the Parks and Recreation Commission shall provide, conduct, and supervise public playgrounds, athletic fields, recreation centers, and other recreational facilities and activities on any property owned or controlled by the city. The commission shall consult, advise, and cooperate with other groups concerned with providing recreation in and for the city.
8. **Capital Improvement Project** - A Capital Project is a project that helps maintain or improve a City asset, often called infrastructure.

**Commented [JZ38]:** We have identified several terms and referenced them for better understanding during the Sports organization utilization agreement.

**Commented [JZ39]:** Is this the correct term?



# City of Deer Park

## Parks and Recreation Department

### Sport Organization Utilization Agreement

#### ~~Baseball~~Softball

This agreement for the use of athletic facilities is designed to ensure that athletic facilities owned and/or operated by the City of Deer Park, hereinafter referred to as "City" and the Parks and Recreation Department, hereinafter referred to as "Department", are utilized efficiently and safely. All Deer Park sports programs recognized by the City and all Sports Organizations, hereinafter referred to as "Organization", and are intended to enhance and enrich the interest of our citizens and to promote participation in wholesome recreational activities; in addition to an agreement to share the responsibility of caring, improving, and maintaining the facilities.

In order to establish a mutual understanding and working relationship between various Organizations and the City, the following is agreed to by all parties concerned. The City enters into agreements that will best serve the athletes. Any and all fields can be assigned or reassigned to use by any contracted organization on a yearly basis depending on the participation and needs.

#### A. Term

1. This agreement shall be for a term of up to one (1) calendar year beginning on the date of full execution hereof concluding on December 31 of each calendar year, unless terminated by either party upon sixty (60) days advanced written notice to the other party. Any Organization that holds a current valid agreement, in compliance with the City, for the use of any athletic facility (ies) for the previous year will have the opportunity to renew that agreement for the following year. Agreements will be taken before City Council annually each December to approve for the following calendar year.

#### B. Option to renew

1. Renewal of this agreement for an additional term shall be conditioned upon the following terms:
  - i. That a request for renewal be initiated by the signing of a new agreement by the Organization's president, with a copy of the annual report, prior to October 31st of each year.
  - ii. That the Organization provide the annual report prior to the start of the season:

**Commented [JZ1]:** To better meet the needs of the community, this wording was revised

**Commented [JZ2]:** This has been updated in 2017 and removed in 2018 revisions. See new condensed definitions in Glossy of Terms

**Commented [SS3]:** March 6, 2017, PARC agreed they wanted to leave the agreement as an annual instead of making it a 5year agreement as requested by Quest.

- a. Copy of approved current constitution and by-laws for Organization.
- b. List of current Organization officers and board members with addresses, phone numbers, and email.
- c. Proposed Organization schedule of events.
- d. Copy of Organization's general liability insurance policy and have the City of Deer Park as additional insured.
- iii. Seek recommendation for approval by City Council from the Parks and Recreation Commission in November of each year.
- iv. Approval by the City Council in December of each year.

**Commented [J24]:** Not previously listed. Added to protect City.

**Commented [J25]:** Identified the formal approval process

### C. General Agreements

1. The Organization understands that the City is the sole owner of the facilities and any contribution of services, amenities and cash or donation on the part of the Organization does not imply ownership on behalf of the Organization.
2. Use of City facilities are primarily for the use of citizens living within the incorporated city limits and/or attends a Deer Park ISD school.
3. The Organization is required to provide a minimum service of Recreational League play.
4. It is suggested that the Organization prioritize usage of the fields in the following manner:
  - i. Recreational league games
  - ii. League sponsored tournaments
  - iii. Select league games
  - iv. Select tournaments
  - v. Third party usage
5. Other priority users include any persons living within the Deer Park Independent School District boundary lines.
  - i. 70% of the Recreational League participation must be comprised of either City of Deer Park residents or those living within the Deer Park Independent School District boundary lines.
6. If an Organization does not meet the above criteria, the Organization must provide annually the "Plan of Action" to increase the local participation percentage in an effort to achieve the criteria.
7. All persons within the established boundaries will be offered the opportunity to participate in all the Organization's programs regardless of gender, race, national origin, religion or disability in accordance with present state and federal law.
8. Organization must operate as a non-profit association, as set forth by the Internal Revenue Service.
  - i. All financial documents and records are subject to audit per request of the City.
  - ii. Only camps or clinics authorized by the City, with all proceeds benefiting the Organization or the City are permitted. The City has first right of refusal.
9. The Organization WILL NOT collect admission fees nor require the public to pay other charges to attend practice, games or recreational tournaments at City facilities per City ordinance.
10. Annually, The Organization must submit with the annual agreement renewal either of the following:

**Commented [J26]:** Item only listed in baseball and Softball

**Commented [J27]:** This is only listed in this order for baseball and softball. Recreation is priority for Baseball and Softball.

**Commented [J28]:** Recommended organization priority usage list

**Commented [J29]:** Will be managed by P&R department.

**Commented [SS10]:** March 6, 2017, PARC agreed they would like to keep the 75% requirement and agreed to include the "Plan of Action" allowance for those that do not currently meet the 75%. The PARC did not want to lower the percentage to 60% as requested by Quest.

**Commented [J211R10]:** Due to challenges regulating these percentages; this item was removed

**Commented [J212]:** The City administers the usage of the facilities outside of the Sports Organization Utilization Agreement.

- i. In Lieu of proposal for capital improvements to their designated facility in the minimum amount of \$5,000. Capital improvements may consist of, but are not limited to:
    - a. Fence repairs
    - b. Irrigation repairs and installation
    - c. Field grading work
    - d. Concession stand infrastructure
    - e. Field light repairs and installation
    - f. Other items related to sports field improvements
  - ii. A payment in the amount of \$5,000 for future projects at the Organizations designated facility.
    - a. Funds will be held in a designated City of Deer Park account.
    - b. It is recommended that funds are used prior to reaching an account balance of \$50,000.
    - c. The City of Deer Park may utilize funds at their discretion with recommendation from the Parks and Recreation Commission and approval from the City Council.
11. Should the Organization choose to submit an In Lieu of project or payment exceeding the \$5,000 minimum; the following terms would apply:
  - i. The difference of the minimum amount can be applied to the following year's agreement.
  - ii. Should the Organization decide to make a payment towards a specific capital project, funds can be deferred up to three consecutive (3) years or up to an account balance of \$50,000. Three (3) consecutive years begins at initial deferred payment.
    - a. The specific capital project must be recommended by the Parks and Recreation Commission and presented and approved by City Council at initial deferment.
12. No construction or alterations may be done on City property/facility without the authorization of the City. Any approved construction will become the sole property of the City at the conclusion of construction and acceptance by the City. All capital improvement projects will go through the relevant formal City process.
13. Advertising is permitted at City facilities only with the prior approval of the Parks and Recreation Department.
14. The Organization will not allow any other organization, association or group to use the facility without prior approval of the Parks and Recreation Department.
  - i. The City of Deer Park reserve the right to regulate field usage at any time.
15. Anyone wishing to utilize the fields outside the organization must go through the City in order to rent the facilities. All Board of Directors members and managers are recommended to have completed a current applicable training program from a recognized state or national youth sports association. It is required that all head coaches involved in the league have such up to date training.
16. All league officials, coaches, managers, umpires and any other person(s) involved with the Organization's activities shall have a valid personal background check performed annually and with the results being kept in a confidential file by the Board of Directors.

**Commented [JZ13]:** Staff believes this will meet the leagues short expectations of Capital Improvement items.

**Commented [JZ14]:** New in Lieu of flat fee structure for review

**Commented [JZ15]:** Capital projects will be put through the standard formal City process for construction.

**Commented [JZ16]:** P&R has a formal rental process in place

#### D. Obligation of the City

1. To provide athletic facilities to be utilized efficiently and safely to enhance and enrich the interest of our youth and to promote participation in wholesome athletic activities.
2. To ensure the Organization has first rights of refusal.
3. To oversee, manage, and accept all capital improvement projects for athletic facilities.
4. To approve advertising permitted at athletic facilities.
5. The City reserves the right to close any field for routine maintenance for up to seven consecutive calendars days and will provide the Organization with a minimum of two week's written notice.

**Commented [JZ17]:** For reference to the SOUA

- 4.i. In the event of an emergency maintenance, the City may close the fields with less than two week's written notice to the Organization.

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5-6. The City will provide maintenance and repairs to athletic facilities and more specifically as follows:

- i. Will prepare all playing surfaces, buildings and grounds on City owned property prior to the beginning of the league season and as deemed necessary by the Department.
  - a. Maintain playing surfaces to include leveling and drainage work deemed necessary by the Department.
  - b. Maintain all, fences, bleachers and gates in a safe and secure condition.
  - c. Maintain structural integrity of concession stands, restrooms and storage buildings including repair or replacement of damaged roofs, doors and windows.
  - d. Make major plumbing repairs for restrooms, sinks, urinals and commodes as deemed necessary by the Department.
  - e. Make major electrical and air conditioning unit repairs as deemed necessary by the Department.
  - f. Paint all structures as deemed necessary by the Department.
  - g. Maintain all area and field lighting. Repair and replace lights, poles, wiring, fuses, transformers and other equipment related to the lighting of each field.
    - a. Attempt to maintain at least 75% of the potential lighting for field or pole during regularly scheduled season.
    - b. The Department will maintain lighting schedules for facilities with automatic lighting system.
  - h. The Organization will appoint three officials at the beginning of each calendar year to have access to the automatic light schedule. The Organization is responsible for notifying the City of permission changes throughout the year.

Maintain all field irrigation system(s).

    - a. Watering schedules are managed and authorized by the Department.
    - b. The Department reserves the right to restrict watering schedules if conditions deem it necessary.
- i. To provide, inspect and maintain AED units, fire extinguishers and pest control service at all City facilities.

**Commented [JZ18]:** Already in practice with organizations. 3 business days was not regulated and did not provide good customer service.

6-7. Maintain all turf areas on the fields to include, but not limited to mowing, weed control, fertilization and herbicide spraying.

- i. Department mowing routines allow for mowing of playing surfaces twice a week during scheduled season play.
- ii. Department mowing routines allow for surrounding grounds mowing once every other week.



- iii. Mowing routines are subject to change based on field conditions or as deemed necessary by the department.
- iv. If any organization wants a more frequent mowing routine, it becomes their responsibility.
  - a. The Organization must receive prior approval before beginning additional mowing.
  - b. The Organization will be responsible for all damages occurring from additional mowing if damages should occur.
- v. All additional herbicide, fertilization and overseeding applications will be performed by the Department upon request and with funds provided by the Organization.

~~7-8.~~ 8. Furnish trash receptacles and trash liners.

- i. Remove all trash deposited in containers minimum twice a week or as deemed necessary the Department.

~~8-9.~~ 9. Clean and stock restrooms.

- i. Daily, Monday through Friday, during regularly scheduled season.
- ii. Saturdays and Sundays when deemed necessary by the Department.
- iii. Once weekly during off-season.

~~9-10.~~ 10. Maintain all parking areas.

~~10-11.~~ 11. Provide utility services for facilities including electrical, water and sewer where required.

~~11-12.~~ 12. The City will supply support poles and an electrical source for scoreboards.

- i. Routine maintenance and repairs to scoreboards becomes the responsibility of the Organization after installation.

~~12-13.~~ 13. The City retains the right and privilege to enter and inspect all buildings and premises at any time.

~~13-14.~~ 14. The Department will abide by and establish a line of communication between the Organization's President, or designated representative, and a City appointed liaison.

~~14-15.~~ 15. The City will provide a liaison to attend Organization board meetings as deemed necessary by the Department.

~~15-16.~~ 16. The Department's obligations under this agreement will be performed as soon as, and to the extent that, budgeted funds and resources are available for performance of its obligations.

- i. The Department, to the best of our ability, will address all maintenance and repair requests in priority order.

~~16-17.~~ 17. The City will include promotional opportunities through the Fall/Winter, Spring and Summer Parks and Recreation Brochures, electronic marquees, website and Facebook page.

~~17-18.~~ 18. The City is obligated to provide a facility location, dependent on availability, with advanced notice, depending on facility and purpose of usage.

**Commented [JZ19]:** P&R has opened up the usage of or meeting rooms and facilities to better meet the demands from the Sports Organizations.

#### E. Obligation of Youth Sports Organization

1. To utilize athletic facilities efficiently and safely to enhance and enrich the interest of our youth and to promote participation in athletic activities.
2. Utilize City facilities for the primary use of citizens living within the incorporated city limits. It is suggested that the Organization prioritize usage of the fields in the following manner
  - i. Recreational league games
  - ii. League sponsored tournaments

- iii. Select league games
  - iv. Select tournaments
  - v. Third party usage
3. The Organization shall furnish the Department an annual report, by October 31<sup>st</sup> of each year, which includes the total number of participants, including the number of resident and non-resident participants and any other information requested by the Department.
4. To seek approval from the Department for any capital improvement projects for athletic facilities.
5. To seek approval from the Department for advertising permitted at athletic facilities.
6. The Organization is obligated to provide the City with a schedule of all City facility usage. This is to include, but not limited to schedules for, games, tournaments, and league ceremonies. Schedules are due quarterly (January 1<sup>st</sup>, April 1<sup>st</sup>, July 1<sup>st</sup>, October 1<sup>st</sup>).
- ~~6.7.~~ The Organization agrees NOT to expand schedules, length of league play, number of tournaments nor add seasons without prior written approval from the City.
- ~~7.8.~~ The Organization shall at all times during the term of this agreement maintain, in effect general public liability insurance covering the Organization's program(s) at the facility against claims for personal injury, death or damage to property to the limit of not less than one-million (\$1,000,000). The City shall be named as additional insured on such policy and shall be entitled to thirty (30) day notice of cancellation or changes of any kind regarding such insurance and certificates of insurance shall be provided to the City prior to the agreement becoming valid.
- ~~8.9.~~ By the execution of this agreement, the Organization does hereby indemnify and hold harmless the City and its officers, agents and employees from and against any and all suits, actions or claims of any character, type or description, including all expenses of litigation, court cost and attorney's fees, brought or made for or on account of any injuries or damages received or sustained by any person or persons or property, arising out of, or occasioned by, the act or failure to act by the Organization or its agents, volunteers or employees in the use of the facilities as set forth in the agreement.
- ~~9.10.~~ All Board of Directors elections shall be conducted as prescribed by the Organization's by-laws. The election of offices shall be open to any and all qualified individuals. The Organization shall provide public notice of all Board of Directors elections. Notice shall be posted prior to the election. Every reasonable effort shall be made to notify all interested parties prior to the election date.
- i. The City will provide a liaison to attend Organization board meetings as deemed necessary by the Department.
- ~~10.11.~~ Each Organization is deemed responsible for the conduct of its participants, coaches and spectators. The Department can require an organization to hire an off duty officer for security if they feel it is in the best interest of the City.
- ~~11.12.~~ It shall be the Organization's responsibility to ensure that no alcoholic beverages are permitted on the premises, per City Ordinance. This policy is to be inclusive of any individual under the influence of alcohol. League officials will request any such person to leave the premises and if necessary contact the Police.
- ~~12.13.~~ The use of tobacco products such as cigars, cigarettes, smokeless tobacco and pipes is prohibited in all indoor City property venues including, but not limited to, the building entrance

**Commented [JZ20]:** The P&R department will be able to regulate this number more efficiently.

and exit ways. Tobacco use is allowed in designated areas which will be clearly marked with signage and markings.

~~13.~~14. During the term of this agreement the Organization shall operate its own concession stand and all revenues generated from such shall be for the sole and exclusive use of the Organization.

- i. The Organization shall furnish and maintain all equipment needed and/or used in the concession stand. The Organization shall abide and comply by all city, county and state health and fire code requirements.
- ii. It shall be the responsibility of the Organization to contact the Harris County Health Department for an annual inspection of the concession stand and to acquire all necessary health code licenses prior to opening for any season.
  - a. Dependent upon the issue, it shall be the responsibility of the Organization to make any alterations or repairs required by the Harris County Health Department.
  - b. It shall be the responsibility of the Organization to provide an annual report to the Department as proof of meeting Harris County Health Department code requirements.
- iii. The Organization may sublet its concessions based on the following conditions:
  - a. Receive written permission to sublet concessions from the Department.
  - b. Concession contractor will be required to acquire a vendor permit from the Department.

~~14.~~15. The Organization will be responsible for all game preparations of fields.

- i. No one under 16 years of age is allowed to operate any motorized equipment used in field preparation or materials transport, to include but not limited to golf carts, infield groomers, 4-wheelers, riding lawnmowers and motorized vehicles.

~~15.~~16. The Organization shall provide all bases and base stubs, pitching rubbers, marking chalk/paint and application equipment. The installation of pitching rubbers, bases and base stubs are to be installed per the manufactures instructions.

17. At anytime a mechanical batting machine or batting cage is being used, for instruction or practice, an adult league authorized official over the age of 21 must be present to supervise. It shall be the responsibility of the organization to ensure that any league official operating or supervising the use of a mechanical batting machine has been instructed in the proper operation procedures and with all safety precautions.

- i. The Organization maintains first right of refusal on the usage of batting cages at their contracted facilities.

~~16.~~ii. The Organization is responsible for securing batting cages and maintenance of batting cage nets.

~~17.~~18. The Organization shall report any facility damage, dangerous or unsafe conditions, or unusual or suspicious situations to the Department as soon as possible but no longer than the next business day.

- i. At no time or under any circumstances is any organization official or bystander allowed to attempt to correct any of these problems.

~~18.~~19. The Organization has the right to sell and install signs along the fences and scoreboards of certain designated fields located on the facility. All revenues generated from such use shall be

**Commented [J221]:** Health code requirements are extensive and strictly enforced

**Commented [J222]:** Internal form that may be used at P&R discretion.

**Commented [J223]:** Include in softball and baseball. Remove from soccer.

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for the sole and exclusive use of the Organization. The Department, before installation, shall approve signs including installation materials and methods.

~~19-20.~~ The Organization shall:

- i. Prohibit its coaches and players from hitting balls into any fences unless it occurs in the natural course of a game. This policy is also to include surrounding structures and buildings. Failure to enforce this policy may result in the Organization incurring costs associated with the repairs of the fencing, structures and buildings.
- ii. Be responsible for keeping the area clean of all trash, paper, boxes, cartons, cans, containers, etc. generated by the concessions stand, spectators, or participants. All such items shall be placed in City provided trash receptacles. This includes, but not limited to, all fields, dugouts, restrooms, concession stands, storage areas, commons areas and parking lots.
- iii. The Organization is responsible for changing out trash bags in trash receptacles if the trash bag is more than half-full. Trash bags are to be placed in dumpsters located at each City owned facility.
- iv. Supply all locks necessary and provide the Department with either code or keys for locks. At their discretion, the Organization has the right to lock access gates to protect prepped fields. The City reserves the right to remove any locks as deemed necessary by the Department and at the Organization's expense.
  - a. Prepped fields are defined as Game-Ready, which includes infields dragged, batter boxes chalked, foul lines chalked and bases placed in their proper locations.
  - b. Organization shall not lock a prepped field more than three (3) hours before the start of a game or tournament.
  - c. Organizations may lock fields during inclement weather when field conditions are not conducive for play.
- v. Fields are to remain open following the conclusion of practices, games and tournaments and are to remain open until permissible by the above conditions. Do all watering of fields as needed and allowed by the Department.
- vi. Supply all scoreboards and maintain all boards including bulb replacement.
- vii. Keep buildings and rooms clean and free of litter. Storerooms shall be maintained in an orderly and safe condition. Restrooms are not to be used as storerooms for any equipment or supplies.
- viii. Maintain the premises in a safe and aesthetic manner, i.e. keep all drags and other equipment stored and inaccessible to children.

~~20-21.~~ Organizations are responsible for observing proper flag etiquette when displaying state and national flags on facility property.

~~21-22.~~ The Organization shall have at least two identified league officials, over the age of 21, to be on duty at all games to supervise activities and conduct including supervision of parking lots.

~~22-23.~~ The Organization shall have an official inspect every field (playing surfaces) prior to the first game each day/night of league play for any safety concerns such as holes in the infield or outfield, secure bases, fences, backstops or anything that might be a hazard. All corrections shall

**Commented [JZ24]:** For safety purpose and for code purposes, this was revised to meet City standards

**Commented [JZ25]:** Include in softball and baseball. Remove from Soccer.

**Commented [JZ26R25]:** The City will close fields for maintenance purposes of defer to the P&R rain out policy.

**Commented [JZ27]:** Include in softball and baseball. Remove from soccer.

be made by the Organization prior to the start of the first game and if this cannot be accomplished play will be suspended until the Department is notified and any repairs can be made.

~~23.24.~~ The Organization shall have a written “emergency situation” plan in effect. This plan shall include the shelter in-place plans, evacuation plans and routes and all necessary supervisory assignments and duties.

- i. At least one board member shall be assigned as an Emergency Response Officer to be in charge of all procedures, equipment and shall be responsible for the training of all board members, coaches and volunteers.
- ii. The Organization shall make “emergency situation” response information available to any out of town teams playing in league play, league tournaments or post-season play. Such information shall be included in any and all packets or information given to visiting coaches or managers.

~~24.25.~~ Organization officials, coaches or volunteers are restricted from driving vehicles of any description on park walkways or turf areas without prior permission.

~~25.26.~~ **The operation of motor vehicles and/or parking vehicles on turf areas is prohibited by City ordinance. It is the organization’s responsibility to make sure all of their officials, coaches, spectators, participants and volunteers are aware of and comply with this ordinance.**

~~26.27.~~ The Organization will abide by and establish a line of communication between the Organization’s President, or designated representative, and a City appointed liaison.

- i. The Organization’s President, or designated representative, is required to attend all scheduled City sports organization meetings.

~~27.28.~~ The Organization may provide information to be included in promotional opportunities through the Fall/Winter, Spring and Summer Parks and Recreation Brochures, electronic marquees, website and Facebook page.

~~28.29.~~ The Organization is authorized to use a City facility location, dependent on availability, and approval from the Parks and Recreation Department. :

~~29.30.~~ The Organization should utilize the following recommendations in the event of severe weather:

- i. Postpone or suspend activity if a thunderstorm appears imminent before or during an activity or contest (irrespective of whether lightning is seen or thunder heard) until the hazard has passed. Signs of imminent thunderstorm activity are darkening clouds, high winds, and thunder or lightning activity.
- ii. Have a means of monitoring local weather forecasts and warnings.
- iii. When thunder is heard within 30 seconds of a visible lightning strike, or a cloud-to-ground lightning bolt is seen, the thunderstorm is close enough to strike your location with lightning. Suspend play for thirty minutes and take shelter immediately.
- iv. Once activities have been suspended, wait at least thirty minutes following the last sound of thunder or lightning flash prior to resuming an activity or returning outdoors.
- v. All individuals have the right to leave an athletic site in order to seek a safe structure if the person feels in danger of impending lightning activity, without fear of repercussions or penalty from anyone.

## F. Tournaments

1. The Department will be notified of all tournaments by the Organization no later than two (2) weeks prior to tournament taking place. Notification of tournament to include dates, who is hosting the tournament, contact information for tournament host, and whom any and all net proceeds benefit.
2. Organization may allow any teams affiliated with organization to utilize facilities for tournaments beginning February/March 1 – October 31 of each year.
3. Facilities may be utilized outside of the allotted time period for tournaments with prior permission from the Parks and Recreation Department. The Organization sponsoring such a tournament will be responsible for all field preparation including any required marking paint, field maintenance, litter control and crowd control during the duration of the tournament.
4. Concession operations will remain with the Organization or as authorized through this agreement.
5. All policies and regulations that apply to the Organization listed in the lease agreement apply to all select teams and hosting entities.

**Commented [JZ28]:** Staff is requesting more detailed information to better meet the demands for maintenance purposes

**Commented [SS29]:** Quest would like to change the dates to January 2 – December 15<sup>th</sup>. This is allowed below as long as the Organization provides Rye Grass for those fields to protect the turf when the grass is dormant.

March 6, 2017, PARC agreed this needs to remain as is, which allows the leagues to utilize the facilities during the dormant season as long as they pay to have Winter Grass planted.

#### G. Third party usage

1. Use of any City facility is restricted to Organizations that are members of and/or affiliated with a City Council approved Sports Organization Utilization Agreement.
2. Outside third party usage must be contracted and approved through the Parks and Recreation Department.

**Commented [JZ30]:** We have addressed this with a flat fee that encumbers all organizational annual usage fees

**Commented [JZ31]:** P&R has addressed field usage from third party users via a formal rental process.

a. All Third party usage must carry general liability insurance with limits no less than one (1) million dollars.

a.b. The Organization who has entered into this agreement with the City may not authorize the usage of the facilities to Third Party Users or Organizations without the expressed written consent from the City.

3. The Organizations regular league play, practices and associated events take precedence over all third party team play, practices, games, tournaments and associated events.

3.4. Facilities for tournaments are available for rental beginning March 1 – October 31 of each year.

4.5. The Association's Board of Directors have the first right of refusal on the availability of fields and dates of all games, practices and tournaments.

5.6. Concession operations will remain with the Organization or as authorized through this agreement.

- i. Third Party user may bring in their own private concessions vendor, but not utilize on site concession facility without prior approval from the organization and the Parks and Recreation Department.
- ii. Private concessions vendor must carry all required Harris County health permits in order to sell concessions.

6.7. Third Party user will be responsible for all field preparation including any required marking paint, field maintenance, litter control and crowd control.

7.8. All policies and regulations that apply to the Organization listed in the lease agreement apply to all.

8.9. The City may allow third party users to utilize facilities for practices, games and tournaments beginning March 1 – October 31 of each year.

- i. If approved by the Parks and Recreation Department, facilities may be utilized outside of the scheduled use.

**Commented [JZ32]:** Added to assist with the regulation of the contract.

**Commented [SS33]:** Quest would like to change the dates to January 2 – December 15<sup>th</sup>. This is allowed below as long as the Organization provides Rye Grass for those fields to protect the turf when the grass is dormant.

March 6, 2017, PARC agreed this needs to remain as is, which allows the leagues to utilize the facilities during the dormant season as long as they pay to have Winter Grass planted.

**Commented [SS34]:** Quest would like to change the dates to January 2 – December 15<sup>th</sup>. This is allowed below as long as the Organization provides Rye Grass for those fields to protect the turf when the grass is dormant.

March 6, 2017, PARC agreed this needs to remain as is, which allows the leagues to utilize the facilities during the dormant season as long as they pay to have Winter Grass planted.

~~9.10.~~ The Department will receive notification of third party usage of facilities no later than two (2) weeks prior to utilization for tournaments and games. Practices are subject to availability and approval of by the Department until 12:00 pm on day of rental.

~~11.~~ Payments: The City will receive from the third party renter payment prior to usage.

~~12.~~ Field Rental Costs:

Field Usage: \$25 for 2 hours

Tournament usage: \$25 per hour per field

Tournament deposit: \$500

Field Lights: \$10 hour per field

**Commented [J235]:** Current P&R policy

**Commented [J236]:** There is an existing P&R field rental policy in place.

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**H. Rain-out Policy**

1. Organization must abide by the City adopted Rainout Policy dated August 1, 2016 (Exhibit A).

**I. Default**

1. If any event of default of any of the obligations or in the performance of any of the terms, conditions, or provisions of any instrument or document evidencing the obligations secured by this agreement or in the performance of any covenant contained herein shall occur; then the following course of action shall be taken:

**Commented [J237]:** Formal Default policy established and added to contract

i. Documentation and discussion with the organization of non-compliance from the Parks and Recreation Department.

ii. Written notice of non-compliance from the Parks and Recreation Department.

iii. Second written notice of non-compliance from the Parks and Recreation Department with stipulation requiring corrective action within in thirty (30) days of issuance.

iv. Failure to take corrective actions after the second written notice of non-compliance will result in a staff discussion with City of Deer Park Administration.

v. Recommended course of action from City of Deer Park Administration may be presented to the Parks and Recreation commission by staff should a suitable solution not be determined.

vi. Parks and Recreation Commission will recommend to City Council a suitable course of action.

vii. City Council will make a recommendation up to possible termination of the Sports Organization Utilization Agreement.

**Annual Report Attachments:**

1. Current Copy of board approved Organization constitution and by-laws.
2. Proof of Insurance.
3. List of current officers and Board of Directors.
4. Proposed annual calendar of events.

5. Copies of all receipts for any current agreement's contributions must be provided to determine the total funds contributed to the facilities in lieu of payment for current agreement.
6. If requesting, written contribution request in lieu of payment.

#### Facility Usage

The following facilities will be used for this contractual agreement:

1. ~~Five Six (56) fields located at MinchenGirls Softball-Athletic Complex (upon completion)~~  
~~The Concession/Restroom building~~  
~~Maintenance/Storage buildings located at Minchen Athletic Complex~~
2. ~~Batting cages located at Minchen Athletic-Girls Softball Complex~~  
~~Six (6) fields located at Spencerview Athletic Complex~~
3. ~~The Concession/Restroom/Meeting room building~~
4. ~~Maintenance/Storage buildings located at Spencerview Athletic-Girls Softball Complex~~
5. ~~Three (3) Softball fields located at the Adult Sports Complex (If needed and with written approval from Parks and Recreation Department)~~  
~~Batting cages located at Spencerview Athletic Complex~~  
~~Three (3) baseball fields located at Dow Park.~~  
~~The Concession stand and two(2) storage buildings at Dow Park.~~
6. ~~Batting cages located at Dow Park.~~

In case any one or more of the provisions contained in this agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

Nothing in this agreement shall be construed to make the City or its respective agents or representatives liable in situations it is otherwise immune from liability.

Each party represents to the other that the individual signing this agreement below has been duly authorized to do so by its respective governing body and that this agreement is binding and enforceable as to each party.

I have read and I understand the policies and regulations stated herein and agree to abide by them. Failure to abide by these policies and/or regulations may be cause for the revocation of the agreement.

The City of Deer Park enters an agreement with: \_\_\_\_\_ for the sole purpose of playing games and/or tournaments and related activities upon the above agreement, terms and conditions, that certain tract(s) of land in the City of Deer Park, Harris County, Texas to wit:

The City of Deer Park, Texas \_\_\_\_\_ located in \_\_\_\_\_ in said city. This agreement shall be effective from January 1, 20\_\_ through December 31, 20\_\_ but may be sooner.

Signed in duplicate, this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

Authorized organization: \_\_\_\_\_ Parks and Recreation Department Director

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Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Park Board Chairman:

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

City of Deer Park Mayor

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

DRAFT

## **EXHIBIT A**

### **Deer Park Athletic Field**

#### **Rain-out Policy**

Practices and games will be held, as long as conditions are safe for participants and do not violate our rules or park guidelines. As a standard, the City of Deer Park will do our best to alert the leagues and rentals via email or phone call with as much notice as possible on practice/game day should fields be unplayable. Please keep in mind that Park closures and practice/game cancellations are determined by the City of Deer Park Parks and Recreation Department which reserves the right to cancel practices/games at any time depending on the current weather and field conditions.

Please call 281-478-2099 for a recorded message that will provide information in reference to Rainouts and Cancellations during the week after 3:00pm or visit the City of Deer Park Athletics Website at: [www.deerparktx.gov/athletics](http://www.deerparktx.gov/athletics) for status updates. City of Deer Park staff will work with league officials, citizen field rentals, and tournament directors when making decisions on field conditions and the playability of fields at the various athletic sports complexes. League and tournament officials make the final call if their event will play or not based on 1) current weather conditions and 2) if the fields have not been previously closed by the City of Deer Park.

#### *City of Deer Park Athletic Sports Complexes - Determining Field Playability*

Standing water occurs because the ground is saturated. Removing standing water does not eliminate the saturation. It is the saturation, and not standing water, that causes damage and unsafe conditions. Determining the playability of an athletic field is crucial to the continued health of the turf and the sustainability of the field throughout the season. More importantly, determining the playability is vital to the safety and best interests of the participants and patrons to the City of Deer Park athletic sports complexes. The Department will close its athletic fields if City of Deer Park staff determines that fields are too wet for play, or if other issues arise that would compromise patron safety.

League officials have the responsibility to close fields for play when safety and/or field damage is possible.

*An athletic field should be considered closed for play if any part of the field becomes unsafe for field users or if conditions exist where use will cause damage to the field.*

An athletic field should be considered closed if any of the following conditions exist:

1. There is standing water present on any part of the field that cannot be removed without causing damage to the field.
2. There are muddy conditions present that will not dry by the start of the game.
3. While walking on the field water can be seen or heard with any footstep.
4. If water gathers around the sole of a shoe or boot on any portion of the field.
5. While walking in turf areas any impression of your footprint is left in the surface.
6. While walking on the infield portion of the field, an impression of ½" deep or more is left by a footprint.

*Additional reasons for cancelling games:*

1. It has rained most of the day of the scheduled game and there is standing water on the field.
2. It has rained for several days prior to the scheduled game and the fields are wet to the point where playing the game will destroy the playing surface.
3. It is raining at the time of the scheduled game and the temperature is low enough to make conditions unbearable for the children.
4. The presence of lightning - 3 strikes and you're out. The first lightning strike will cause a 30-minute delay, with subsequent strikes re-setting the 30-minute delay. Three strikes within 30 minutes will result in cancellation.
5. The potential for severe weather is significant enough that it warrants cancellation for the safety of participants and patrons.

## EXHIBIT B

### Glossary of Terms

1. **Recognized Organization** – A recognized sports organization with the City of Deer Park is an organization that has been formally recognized by City Council as an established sports group within the City. Recognized organizations are eligible to use City facilities or Deer Park ISD facilities at discount fee rates or at no cost per the inter-local agreement. A recognized organization must have:
  - a. Established structure
  - b. Recommendation from Parks and Recreation Commission
  - c. Approval from City Council
2. **Sports Organization Utilization Agreement**- An agreement to establish a mutual understanding and working relationship between various organizations and the City.
3. **Recreation(al) Play**: An interclub league in which the use of invitations, recruiting, or any similar process to roster players to any team on the basis of talent or ability is prohibited and a system of rostering players is used to establish a fair or balanced distribution of playing talent among all teams participating.
4. **Non-Recreation (al) Play**: Teams and Tournaments that do not meet the established criteria of "Glossary of Terms, Item 3" are to be considered non-recreation(al).
5. **First Right of Refusal** – a contractual right that gives the agreement holder first priority to utilize the facilities according to specified terms in this agreement.
6. **Third Party Usage** - A person or group besides the two primarily involved in the Sports Organization Utilization Agreement.
7. **Parks and Recreation Commission** - Under the supervision of the city manager, the Parks and Recreation Commission shall provide, conduct, and supervise public playgrounds, athletic fields, recreation centers, and other recreational facilities and activities on any property owned or controlled by the city. The commission shall consult, advise, and cooperate with other groups concerned with providing recreation in and for the city.
8. **Capital Improvement Project** - A Capital Project is a project that helps maintain or improve a City asset, often called infrastructure.

**Commented [JZ38]:** We have identified several terms and referenced them for better understanding during the Sports organization utilization agreement.

**Commented [JZ39]:** Is this the correct term?



# City of Deer Park

## Parks and Recreation Department

### Sport Organization Utilization Agreement

#### Soccer

This agreement for the use of athletic facilities is designed to ensure that athletic facilities owned and/or operated by the City of Deer Park, hereinafter referred to as "City" and the Parks and Recreation Department, hereinafter referred to as "Department", are utilized efficiently and safely. All Deer Park sports programs recognized by the City and all Sports Organizations, hereinafter referred to as "Organization", and are intended to enhance and enrich the interest of our citizens and to promote participation in wholesome recreational activities; in addition to an agreement to share the responsibility of caring, improving, and maintaining the facilities.

In order to establish a mutual understanding and working relationship between various Organizations and the City, the following is agreed to by all parties concerned. The City enters into agreements that will best serve the athletes. Any and all fields can be assigned or reassigned to use by any organization on a yearly basis depending on the registration numbers and needs.

#### A. Term

1. This agreement shall be for a term of up to one (1) calendar year beginning on the date of full execution hereof concluding on December 31 of each calendar year, unless terminated by either party upon sixty (60) days advanced written notice to the other party. Any Organization that holds a current valid agreement, in compliance with the City, for the use of any athletic facility(ies) for the previous year will have the opportunity to renew that agreement for the following year. Agreements will be taken before City Council annually each December to approve for the following calendar year.

#### B. Option to renew

1. Renewal of this agreement for an additional term shall be conditioned upon the following terms:
2. That a request for renewal be initiated by the signing of a new agreement by the Organization's president, with a copy of the annual report, prior to October 31st of each year.
3. That the Organization provide the annual report prior to the start of the season:
  - i. Copy of approved current constitution and by-laws for Organization.

**Commented [JZ1]:** To better meet the needs of the community, this wording was revised.

**Commented [JZ2]:** This has been updated in 2017 and removed in 2018 revisions. See new condensed definitions in Glossy of Terms

**Commented [SS3]:** March 6, 2017, PARC agreed they wanted to leave the agreement as an annual instead of making it a 5year agreement as requested by Quest.

- ii. List of current Organization officers and board members with addresses, phone numbers, and email.
  - iii. Proposed Organization schedule of events.
  - iv. Copy of Organization's general liability insurance policy and have the City of Deer Park as additional insured.
4. Seek recommendation for approval by City Council from the Parks and Recreation Commission in November of each year
  5. Approval by the City Council in December of each year.

**Commented [JZ4]:** Not previously listed. Added to protect City.

**Commented [JZ5]:** Identified the formal approval process

### C. General Agreements

1. The Organization understands that the City is the sole owner of the facilities and any contribution of services, amenities and cash or donation on the part of the Organization does not imply ownership on behalf of the Organization.
2. City facility usage for soccer is approved for utilization within the Sports Organization Utilization Agreement.
3. It is suggested that the Organization prioritize usage of the fields in the following manner:
  - i. Recreational league games
  - ii. Select league games
  - iii. League sponsored tournaments
  - iv. Select tournaments
  - v. Third party usage
4. Other priority users include any persons living within the Deer Park Independent School District boundary lines.
  - i. 70% of the Recreational League participation must be comprised of either City of Deer Park residents or those living within the Deer Park Independent School District boundary lines.
5. If an Organization does not meet the above criteria, the Organization must provide annually the "Plan of Action" to increase the local participation percentage in an effort to achieve the criteria.
6. All persons will be offered the opportunity to participate in all the Organization's programs regardless of gender, race, national origin, religion or disability in accordance with present state and federal law.
 

Only camps or clinics authorized by the City, with all proceeds benefiting the Organization or the City, are permitted. The City has first right of refusal.
7. The Organization WILL NOT collect admission fees nor require the public to pay other charges to attend practice, games or recreational tournaments at City facilities per City ordinance.
8. Annually, The Organization must submit with the annual agreement renewal either of the following:
  - i. In Lieu of proposal for capital improvements to their designated facility in the minimum amount of \$5,000. Capital improvements may consist of, but are not limited to:
    - a. Fence repairs
    - b. Irrigation repairs and installation

**Commented [JZ6]:** Recommended organization priority usage list

**Commented [JZ7]:** Will be managed by P&R department.

**Commented [SS8]:** March 6, 2017, PARC agreed they would like to keep the 75% requirement and agreed to include the "Plan of Action" allowance for those that do not currently meet the 75%. The PARC did not want to lower the percentage to 60% as requested by Quest.

**Commented [JZ9R8]:** Due to the regional make of soccer and challenges regulating these percentages; this item was removed.

**Commented [JZ10]:** Due to the Request for Proposal for Soccer services, we have opened this option to Profit and Non-profit organizations.

**Commented [JZ11]:** The City administers the usage of the facilities outside of the Sports Organization Utilization Agreement.

- c. Field grading work
    - d. Concession stand infrastructure
    - e. Field light repairs and installation
    - f. Other items related to sports field improvements
  - ii. A payment in the amount of \$5,000 for future projects at the Organizations designated facility.
    - a. Funds will be held in a designated City of Deer Park account.
    - b. It is recommended that funds are used prior to reaching an account balance of \$50,000.
    - c. The City of Deer Park may utilize funds at their discretion with recommendation from the Parks and Recreation Commission and approval from the City Council.
9. Should the Organization choose to submit an In Lieu of project or payment exceeding the \$5,000 minimum; the following terms would apply:
  - i. The difference of the minimum amount can be applied to the following year's agreement.
  - ii. Should the Organization decide to make a payment towards a specific capital project, funds can be deferred up to three consecutive (3) years or up to an account balance of \$50,000. Three (3) consecutive years begins at initial deferred payment.
    - a. The specific capital project must be presented and approved by City Council at initial deferment.
10. No construction or alterations may be done on City property/facility without the authorization of the City. Any approved construction will become the sole property of the City at the conclusion of construction and acceptance by the City. All capital improvement projects will go through the relevant formal City process.
11. Advertising is permitted at City facilities only with the prior approval of the Parks and Recreation Department.
12. The Organization will not allow any other organization, association or group to use the facility without prior approval of the Parks and Recreation Department.
  - i. The City of Deer Park reserve the right to regulate field usage at any time.
13. Anyone wishing to utilize the fields outside the organization must go through the City in order to rent the facilities. All Board of Directors members and managers are recommended to have completed a current applicable training program from a recognized state or national youth sports association. It is required that all head coaches involved in the league have such up to date training.
14. All league officials, coaches, managers, umpires and any other person(s) involved with the Organization's activities shall have a valid personal background check performed annually and with the results being kept in a confidential file by the Board of Directors.

#### D. Obligation of the City

1. To provide athletic facilities to be utilized efficiently and safely to enhance and enrich the interest of our youth and to promote participation in wholesome athletic activities.
2. To ensure the Organization has first rights of refusal.
3. To oversee, manage, and accept all capital improvement projects for athletic facilities.
4. To approve advertising permitted at athletic facilities.

**Commented [JZ12]:** Staff believes this will meet the leagues short expectations of Capital Improvement items.

**Commented [JZ13]:** New in Lieu of flat fee structure for review

**Commented [JZ14]:** Capital projects will be put through the standard formal City process for construction.

**Commented [JZ15]:** P&R has a formal rental process in place

5. The City reserves the right to close any field for routine maintenance for up to seven consecutive calendars days and will provide the Organization with a minimum of two week's written notice.

4-i. In the event of an emergency maintenance, the City may close the fields with less than two week's written notice to the Organization.

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5-6. The City will provide maintenance and repairs to athletic facilities and more specifically as follows:

- i. Will prepare all playing surfaces, buildings and grounds on City owned property prior to the beginning of the league season and as deemed necessary by the Department.
  - a. Maintain playing surfaces to include leveling and drainage work deemed necessary by the Department.
  - b. Maintain all goals, bleachers and gates in a safe and secure condition.
  - c. Maintain structural integrity of concession stands, restrooms and storage buildings including repair or replacement of damaged roofs, doors and windows.
  - d. Make major plumbing repairs for restrooms, sinks, urinals and commodes, electrical repairs and air conditioning unit repairs as deemed necessary by the Department.
  - e. Paint all structures as deemed necessary by the Department.
  - f. Maintain all area and field lighting. Repair and replace lights, poles, wiring, fuses, transformers and other equipment related to the lighting of each field.
    - a. Attempt to maintain at least 75% of the potential lighting for field (based on bulbs per field) during regularly scheduled season.
    - b. The Department will maintain lighting schedules for facilities with automatic lighting system.
  - g. The Organization will appoint three (3) officials at the beginning of each calendar year to have access to the automatic light schedule. The Organization is responsible for notifying the City of permission changes throughout the year. Maintain all field irrigation system(s).
    - a. Watering schedules are managed and authorized by the Department.
    - b. The Department reserves the right to restrict watering schedules if conditions deem it necessary.
  - h. To provide, inspect and maintain AED units, fire extinguishers and pest control service at all City facilities.

**Commented [JZ16]:** Already in practice with organizations. 3 business days was not regulated and did not provide good customer service.

6-7. Maintain all turf areas on the fields to include, but not limited to mowing, weed control, fertilization and herbicide spraying.

- i. Department mowing routines allow for mowing of playing surfaces twice a week during scheduled season play.
- ii. Department mowing routines allow for surrounding grounds mowing once every other week.
- iii. Mowing routines are subject to change based on field conditions or as deemed necessary by the department.
- iv. If any organization wants a more frequent mowing routine it becomes their responsibility.
  - a. The Organization must receive prior approval before beginning additional mowing.



- b. The Organization will be responsible for all damages occurring from additional mowing if damages should occur.
  - v. All additional herbicide, fertilization and overseeding applications will be performed by the Department upon request and with funds provided by the Organization.
- ~~7-8.~~ Furnish trash receptacles and trash liners.
- i. Remove all trash deposited in containers minimum twice a week or as deemed necessary the Department.
- ~~8-9.~~ Clean and stock restrooms.
- i. Daily, Monday through Friday, during regularly scheduled season.
  - ii. Saturdays and Sundays when deemed necessary by the Department.
  - iii. Once weekly during off season.
- ~~9-10.~~ Maintain all parking areas.
- ~~10-11.~~ Provide utility services for facilities including electrical, water and sewer where required.
- ~~11-12.~~ The City will supply support poles and an electrical source for scoreboards.
- i. Routine maintenance and repairs to scoreboards becomes the responsibility of the Organization after installation.
- ~~12-13.~~ The City retains the right and privilege to enter and inspect all buildings and premises at any time.
- ~~13-14.~~ The Department will abide by and establish a line of communication between the Organization's President, or designated representative, and a City appointed liaison.
- ~~14-15.~~ The City will provide a liaison to attend Organization board meetings as deemed necessary by the Department.
- ~~15-16.~~ The Department's obligations under this agreement will be performed as soon as, and to the extent that, budgeted funds and resources are available for performance of its obligations.
- i. All maintenance and repair requests will be addressed in priority order by the Department, to the best of our ability, within 15 business days of written receipt of request.
- ~~16-17.~~ The City will include promotional opportunities through the Fall/Winter, Spring and Summer Parks and Recreation Brochures, electronic marquees, website and Face book page.
- ~~17-18.~~ The City is obligated to provide a facility location, dependent on availability, with advanced notice, depending on facility and purpose of usage.

**Commented [J217]:** P&R has opened up the usage of or meeting rooms and facilities to better meet the demands from the Sports Organizations.

#### **E. Obligation of Youth Sports Organization**

1. To utilize athletic facilities efficiently and safely to enhance and enrich the interest of our youth and to promote participation in athletic activities.
2. Utilize City facilities for the primary use of citizens living within the incorporated city limits. It is suggested that the Organization prioritize usage of the fields in the following manner
  - i. Recreational league games
  - ii. Select league games
  - iii. League sponsored tournaments
  - iv. Select tournaments
  - v. Third party usage

3. The Organization shall furnish the Department an annual report, by October 31<sup>st</sup> of each year, which includes the total number of participants, and any other information requested by the Department.
4. To seek approval from the Department for any capital improvement projects for athletic facilities.
5. To seek approval from the Department for advertising permitted at athletic facilities.
6. The Organization is obligated to provide the City with a schedule of all City facility usage. This is to include, but not limited to schedules for, games, tournaments, and league ceremonies. Schedules are due quarterly (January 1<sup>st</sup>, April 1<sup>st</sup>, July 1<sup>st</sup>, October 1<sup>st</sup>).
- ~~6-7.~~ The Organization agrees NOT to expand schedules, length of league play, number of tournaments nor add seasons without prior written approval from the City.
- ~~7-8.~~ The Organization shall at all times during the term of this agreement maintain, in effect general public liability insurance covering the Organization's program(s) at the facility against claims for personal injury, death or damage to property to the limit of not less than one-million (\$1,000,000). The City shall be named as additional insured on such policy and shall be entitled to thirty (30) day notice of cancellation or changes of any kind regarding such insurance and certificates of insurance shall be provided to the City prior to the agreement becoming valid.
- ~~8-9.~~ By the execution of this agreement, the Organization does hereby indemnify and hold harmless the City and its officers, agents and employees from and against any and all suits, actions or claims of any character, type or description, including all expenses of litigation, court cost and attorney's fees, brought or made for or on account of any injuries or damages received or sustained by any person or persons or property, arising out of, or occasioned by, the act or failure to act by the Organization or its agents, volunteers or employees in the use of the facilities as set forth in the agreement.
- ~~9-10.~~ All Board of Directors elections shall be conducted as prescribed by the Organization's by-laws. The election of offices shall be open to any and all qualified individuals. The Organization shall provide public notice of all Board of Directors elections. Notice shall be posted prior to the election. Every reasonable effort shall be made to notify all interested parties prior to the election date.
  - i. The City will provide a liaison to attend Organization board meetings as deemed necessary by the Department.
- ~~10-11.~~ Each Organization is deemed responsible for the conduct of its participants, coaches and spectators. The Department can require an organization to hire an off duty officer for security if they feel it is in the best interest of the City.
- ~~11-12.~~ It shall be the Organization's responsibility to ensure that no alcoholic beverages are permitted on the premises, per City Ordinance. This policy is to be inclusive of any individual under the influence of alcohol. League officials will request any such person to leave the premises and if necessary contact the Police.
- ~~12-13.~~ The use of tobacco products such as cigars, cigarettes, smokeless tobacco and pipes is prohibited in all indoor City property venues including, but not limited to, the building entrance and exit ways. Tobacco use is allowed in designated areas which will be clearly marked with signage and markings.

**Commented [J218]:** The P&R department will be able to regulate this number more efficiently.

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**Commented [J219]:** Based on the results of the Soccer Request for Proposal; this item may need to be removed or revised.

~~13.~~14. During the term of this agreement the Organization shall operate its own concession stand and all revenues generated from such shall be for the sole and exclusive use of the Organization.

- i. The Organization shall furnish and maintain all equipment needed and/or used in the concession stand. The Organization shall abide and comply by all city, county and state health and fire code requirements.
- ii. It shall be the responsibility of the Organization to contact the Harris County Health Department for an annual inspection of the concession stand and to acquire all necessary health code licenses prior to opening for any season.
  - a. Dependent upon the issue, it shall be the responsibility of the Organization to make any alterations or repairs required by the Harris County Health Department.
  - b. It shall be the responsibility of the Organization to provide an annual report to the Department as proof of meeting Harris County Health Department code requirements.
- iii. The Organization may sublet its concessions based on the following conditions:
  - a. Receive written permission to sublet concessions from the Department.
  - b. Concession contractor will be required to acquire a vendor permit from the Department.

~~14.~~15. The Organization will be responsible for all game preparations of fields.

- i. No one under 16 years of age is allowed to operate any motorized equipment used in field preparation or materials transport, to include but not limited to golf carts, infield groomers, 4-wheelers, riding lawnmowers and motorized vehicles.

~~15.~~16. The Organization shall report any facility damage, dangerous or unsafe conditions, or unusual or suspicious situations to the Department as soon as possible but no longer than the next business day.

- i. At no time or under any circumstances is any organization official or bystander allowed to attempt to correct any of these problems.

~~16.~~17. The Organization has the right to sell and install signs along the fences and scoreboards of certain designated fields located on the facility. All revenues generated from such use shall be for the sole and exclusive use of the Organization. The Department, before installation, shall approve signs including installation materials and methods.

~~17.~~18. The Organization shall:

- i. Prohibit its coaches and players from kicking balls into any fences unless it occurs in the natural course of a game. This policy is also to include surrounding structures and buildings. Failure to enforce this policy may result in the Organization incurring costs associated with the repairs of the fencing, structures and buildings.
- ii. Be responsible for keeping the area clean of all trash, paper, boxes, cartons, cans, containers, etc. generated by the concessions stand, spectators, or participants. All such items shall be placed in City provided trash receptacles. This includes, but not limited to, all fields, dugouts, restrooms, concession stands, storage areas, commons areas and parking lots.

**Commented [JZ20]:** Health code requirements are extensive and strictly enforced

**Commented [JZ21]:** Internal form that may be used at P&R discretion.

**Commented [JZ22]:** Include in softball and baseball. Remove from soccer.

**Commented [JZ23]:** For safety purpose and for code purposes, this was revised to meet City standards

- iii. The Organization is responsible for changing out trash bags in trash receptacles if the trash bag is more than half full. Trash bags are to be placed in dumpsters located at each City owned facility.
- iv. Supply all locks necessary and provide the Department with either code or keys for locks. At their discretion the Organization has the right to lock access gates to protect prepped fields. The City reserves the right to remove any locks as deemed necessary by the Department and at the Organization's expense.
- v. Supply all scoreboards and maintain all boards including bulb replacement.
- vi. Keep buildings and rooms clean and free of litter. Storerooms shall be maintained in an orderly and safe condition. Restrooms are not to be used as storerooms for any equipment or supplies.
- vii. Maintain the premises in a safe and aesthetic manner.
- ~~18,19.~~ Organizations are responsible for observing proper flag etiquette when displaying state and national flags on facility property.
- ~~19,20.~~ The Organization shall have at least two identified league officials, over the age of 21, to be on duty at all games to supervise activities and conduct including supervision of parking lots.
- ~~20,21.~~ The Organization shall have an official inspect every field (playing surfaces) prior to the first game each day/night of league play for any safety concerns such as holes in the infield or outfield, secure bases, fences, backstops or anything that might be a hazard.
  - i. All corrections shall be made by the Organization prior to the start of the first game and if this cannot be accomplished play will be suspended until the Department is notified and any repairs can be made.
- ~~21,22.~~ The Organization shall have a written "emergency situation" plan in effect. This plan shall include the shelter in-place plans, evacuation plans and routes and all necessary supervisory assignments and duties.
  - i. At least one board member shall be assigned as an Emergency Response Officer to be in charge of all procedures, equipment and shall be responsible for the training of all board members, coaches and volunteers.
  - ii. The Organization shall make "emergency situation" response information available to any out of town teams playing in league play, league tournaments or post season play. Such information shall be included in any and all packets or information given to visiting coaches or managers.
- ~~22,23.~~ Organization officials, coaches or volunteers are restricted from driving vehicles of any description on park walkways or turf areas without prior permission.
  - i. **The operation of motor vehicles and/or parking vehicles on turf areas is prohibited by City ordinance. It is the organization's responsibility to make sure all of their officials, coaches, spectators, participants and volunteers are aware of and comply with this ordinance.**
- ~~23,24.~~ The Organization will abide by and establish a line of communication between the Organization's President, or designated representative, and a City appointed liaison.
  - i. The Organization's President, or designated representative, is required to attend all scheduled City sports organization meetings.

**Commented [J224]:** Include in softball and baseball. Remove from soccer.

**Commented [J225]:** Renovations to all facilities will address parking issues.

~~24-25.~~ The Organization may provide information to be included in promotional opportunities through the Fall/Winter, Spring and Summer Parks and Recreation Brochures, electronic marquees, website and Facebook page.

~~25-26.~~ The Organization is authorized to use a City facility location, dependent on availability, and facility availability :

~~26-27.~~ The Organization should utilize the following recommendations in the event of severe weather:

- i. Postpone or suspend activity if a thunderstorm appears imminent before or during an activity or contest (irrespective of whether lightning is seen or thunder heard) until the hazard has passed. Signs of imminent thunderstorm activity are darkening clouds, high winds, and thunder or lightning activity.
- ii. Have a means of monitoring local weather forecasts and warnings.
- iii. When thunder is heard within 30 seconds of a visible lightning strike, or a cloud-to-ground lightning bolt is seen, the thunderstorm is close enough to strike your location with lightning. Suspend play for thirty minutes and take shelter immediately.
- iv. Once activities have been suspended, wait at least thirty minutes following the last sound of thunder or lightning flash prior to resuming an activity or returning outdoors.
- v. All individuals have the right to leave an athletic site in order to seek a safe structure if the person feels in danger of impending lightning activity, without fear of repercussions or penalty from anyone.

#### F. Tournaments

1. The Department will be notified of all tournaments by the Organization no later than two (2) weeks prior to tournament taking place. Notification of tournament to include dates, who is hosting the tournament, contact information for tournament host, and who any and all net proceeds benefit.
2. Organization may allow any teams affiliated with organization to utilize facilities for tournaments beginning March 1 – October 31 of each year.
3. Facilities may be utilized outside of the allotted time period for tournaments with prior permission from the Parks and Recreation Department. The Organization sponsoring such a tournament will be responsible for all field preparation including any required marking paint, field maintenance, litter control and crowd control during the duration of the tournament.
4. Concession operations will remain with the Organization or as authorized through this agreement.
5. All policies and regulations that apply to the Organization listed in the lease agreement apply to all select teams and hosting entities.

#### G. Third party Usage

1. Use of any City facility is restricted to Organizations that are members of and/or affiliated with a Department approved Sports Organization Utilization Agreement.
2. Outside third party usage must be contracted and approved through the Parks and Recreation Department.

a. All Third party usage must carry general liability insurance with limits no less than one (1) million dollars.

**Commented [JZ26]:** Item to be utilized in P&R agreement only.

**Commented [JZ27]:** Staff is requesting more detailed information to better meet the demands for maintenance purposes

**Commented [SS28]:** Quest would like to change the dates to January 2 – December 15<sup>th</sup>. This is allowed below as long as the Organization provides Rye Grass for those fields to protect the turf when the grass is dormant.

March 6, 2017, PARC agreed this needs to remain as is, which allows the leagues to utilize the facilities during the dormant season as long as they pay to have Winter Grass planted.

**Commented [JZ29]:** We have addressed this with a flat fee that encumbers all organizational annual usage fees.

**Commented [JZ30]:** P&R has addressed field usage from third party users via a formal rental process.

~~a.b.~~ The Organization who has entered into this agreement with the City may not authorize the usage of the facilities to Third Party Users or Organizations without the expressed written consent from the City.

**Commented [JZ31]:** Added to assist with the regulation of the contract.

3. The Organizations regular league play, practices and associated events take precedence over all third party team play, practices, games, tournaments and associated events.

~~3.4.~~ Facilities for tournaments are available for rental beginning March 1 – October 31 of each year.

**Commented [SS32]:** Quest would like to change the dates to January 2 – December 15<sup>th</sup>. This is allowed below as long as the Organization provides Rye Grass for those fields to protect the turf when the grass is dormant.

~~4.5.~~ The Association's Board of Directors have the first right of refusal on the availability of fields and dates of all games, practices and tournaments.

March 6, 2017, PARC agreed this needs to remain as is, which allows the leagues to utilize the facilities during the dormant season as long as they pay to have Winter Grass planted.

~~5.6.~~ Concession operations will remain with the Organization or as authorized through this agreement.

- i. Third Party user may bring in their own private concessions vendor, but not utilize on site concession facility without prior approval from the organization and the Parks and Recreation Department.
- ii. Private concessions vendor must carry all required Harris County health permits in order to sell concessions.

~~6.7.~~ Third Party user will be responsible for all field preparation including any required marking paint, field maintenance, litter control and crowd control.

~~7.8.~~ All policies and regulations that apply to the Organization listed in the lease agreement apply to all.

~~8.9.~~ The City may allow third party users to utilize facilities for practices, games and tournaments beginning March 1 – October 31 of each year.

- i. If approved by the Parks and Recreation Department, facilities may be utilized outside of the scheduled use.

**Commented [SS33]:** Quest would like to change the dates to January 2 – December 15<sup>th</sup>. This is allowed below as long as the Organization provides Rye Grass for those fields to protect the turf when the grass is dormant.

~~9.10.~~ The Department will receive notification of third party usage of facilities no later than two (2) weeks prior to utilization for tournaments and games. Practices are subject to availability and approval of by the Department until 12:00 pm on day of rental.

March 6, 2017, PARC agreed this needs to remain as is, which allows the leagues to utilize the facilities during the dormant season as long as they pay to have Winter Grass planted.

~~11.~~ Payments: The City will receive from the third party renter payment prior to usage.

**Commented [JZ34]:** Current P&R policy

12. Field Rental Costs:

Field Usage: \$25 for 2 hours

Tournament usage: \$25 per hour per field

Tournament deposit: \$500

Field Lights: \$10 hour per field

~~10.~~

**Commented [JZ35]:** There is an existing P&R field rental policy in place.

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#### H. Rain-out Policy

1. Organization must abide by the City adopted Rain-out Policy dated August 1, 2016 (Exhibit A).

#### I. Default

**Commented [JZ36]:** Formal Default policy established and added to contract

1. If any event of default of any of the obligations or in the performance of any of the terms, conditions, or provisions of any instrument or document evidencing the obligations secured by this agreement or in the performance of any covenant contained herein shall occur; then the following course of action shall be taken:

i. Documentation and discussion with the organization of non-compliance from the Parks and Recreation Department.

ii. Written notice of non-compliance from the Parks and Recreation Department.

iii. Second written notice of non-compliance from the Parks and Recreation Department with stipulation requiring corrective action within in thirty (30) days of issuance.

iv. Failure to take corrective actions after the second written notice of non-compliance will result in a staff discussion with City of Deer Park Administration.

v. Recommended course of action from City of Deer Park Administration may be presented to the Parks and Recreation commission by staff should a suitable solution not be determined.

vi. Parks and Recreation Commission will recommend to City Council a suitable course of action.

vii. City Council will make a recommendation up to possible termination of the Sports Organization Utilization Agreement.

Annual Report Attachments:

1. Current Copy of board approved Organization constitution and by-laws.
2. Proof of Insurance.
3. List of current officers and Board of Directors.
4. Proposed annual calendar of events.
5. Copies of all receipts for any current agreement's contributions must be provided to determine the total funds contributed to the facilities in lieu of payment for current agreement.
6. If requesting, written contribution request in lieu of payment.

Facility Usage

The following facilities will be used for this contractual agreement:

1. Two (2) fields located at Dow Park Athletic Complex
2. Six (6) fields located at Deer Park Soccer Complex (upon completion)
3. The Concession/Restroom/Meeting/Storage at Dow Park Athletic Complex
4. Multi-purpose field located at the Adult Sports Complex (If needed and with written approval from Parks and Recreation Department)
- 6.—

In case any one or more of the provisions contained in this agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

Nothing in this agreement shall be construed to make the City or its respective agents or representatives liable in situations it is otherwise immune from liability.

Each party represents to the other that the individual signing this agreement below has been duly authorized to do so by its respective governing body and that this agreement is binding and enforceable as to each party.

I have read and I understand the policies and regulations stated herein and agree to abide by them. Failure to abide by these policies and/or regulations may be cause for the revocation of the agreement.

The City of Deer Park enters an agreement with: \_\_\_\_\_ for the sole purpose of playing games and/or tournaments and related activities upon the above agreement, terms and conditions, that certain tract(s) of land in the City of Deer Park, Harris County, Texas to wit:

The City of Deer Park, Texas \_\_\_\_\_ located in \_\_\_\_\_ in said city. This agreement shall be effective from January 1, 20\_\_ through December 31, 20\_\_ but may be sooner.

Signed in duplicate, this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

Authorized organization:

Parks and Recreation Department Director

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Park Board Chairman:

City of Deer Park Mayor

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_



DRAFT

**EXHIBIT A**

**Deer Park Athletic Field**

**Rain-out Policy**

Practices and games will be held, as long as conditions are safe for participants and do not violate our rules or park guidelines. As a standard, the City of Deer Park will do our best to alert the leagues and rentals via email or phone call with as much notice as possible on practice/game

day should fields be unplayable. Please keep in mind that Park closures and practice/game cancellations are determined by the City of Deer Park Parks and Recreation Department which reserves the right to cancel practices/games at any time depending on the current weather and field conditions.

Please call 281-478-2099 for a recorded message that will provide information in reference to Rainouts and Cancellations during the week after 3:00pm or visit the City of Deer Park Athletics Website at: [www.deerparktx.gov/athletics](http://www.deerparktx.gov/athletics) for status updates. City of Deer Park staff will work with league officials, citizen field rentals, and tournament directors when making decisions on field conditions and the playability of fields at the various athletic sports complexes. League and tournament officials make the final call if their event will play or not based on 1) current weather conditions and 2) if the fields have not been previously closed by the City of Deer Park.

#### *City of Deer Park Athletic Sports Complexes - Determining Field Playability*

Standing water occurs because the ground is saturated. Removing standing water does not eliminate the saturation. It is the saturation, and not standing water, that causes damage and unsafe conditions. Determining the playability of an athletic field is crucial to the continued health of the turf and the sustainability of the field throughout the season. More importantly, determining the playability is vital to the safety and best interests of the participants and patrons to the City of Deer Park athletic sports complexes. The Department will close its athletic fields if City of Deer Park staff determines that fields are too wet for play, or if other issues arise that would compromise patron safety.

League officials have the responsibility to close fields for play when safety and/or field damage is possible.

*An athletic field should be considered closed for play if any part of the field becomes unsafe for field users or if conditions exist where use will cause damage to the field.*

An athletic field should be considered closed if any of the following conditions exist:

1. There is standing water present on any part of the field that cannot be removed without causing damage to the field.
2. There are muddy conditions present that will not dry by the start of the game.
3. While walking on the field water can be seen or heard with any footstep.
4. If water gathers around the sole of a shoe or boot on any portion of the field.
5. While walking in turf areas any impression of your footprint is left in the surface.
6. While walking on the infield portion of the field, an impression of ½" deep or more is left by a footprint.

#### *Additional reasons for cancelling games:*

1. It has rained most of the day of the scheduled game and there is standing water on the field.

2. It has rained for several days prior to the scheduled game and the fields are wet to the point where playing the game will destroy the playing surface.
3. It is raining at the time of the scheduled game and the temperature is low enough to make conditions unbearable for the children.
4. The presence of lightning - 3 strikes and you're out. The first lightning strike will cause a 30 minute delay, with subsequent strikes re-setting the 30 minute delay. Three strikes within 30 minutes will result in cancellation.
5. The potential for severe weather is significant enough that it warrants cancellation for the safety of participants and patrons.

DRAFT

#### EXHIBIT B

##### Glossary of Terms

1. **Recognized Organization** – A recognized sports organization with the City of Deer Park is an organization that has been formally **recognized** by City Council as an established sports group within the

**Commented [JZ37]:** We have identified several terms and referenced them for better understanding during the Sports organization utilization agreement.

**Commented [JZ38]:** Is this the correct term?

City. Recognized organizations are eligible to use City facilities or Deer Park ISD facilities at discount fee rates or at no cost per the inter-local agreement. A recognized organization must have:

- a. Established structure
- b. Recommendation from Parks and Recreation Commission
- c. Approval from City Council

2. **Sports Organization Utilization Agreement**- An agreement to establish a mutual understanding and working relationship between various organizations and the City.
3. **Recreation(al) Play**: An interclub league in which the use of invitations, recruiting, or any similar process to roster players to any team on the basis of talent or ability is prohibited and a system of rostering players is used to establish a fair or balanced distribution of playing talent among all teams participating.
4. **Non-Recreation (al) Play**: Teams and Tournaments that do not meet the established criteria of "Glossary of Terms, Item 3" are to be considered non-recreation(al).
5. **First Right of Refusal** – a contractual right that gives the agreement holder first priority to utilize the facilities according to specified terms in this agreement.
6. **Third Party Usage** - A person or group besides the two primarily involved in the Sports Organization Utilization Agreement.
7. **Parks and Recreation Commission** - Under the supervision of the city manager, the Parks and Recreation Commission shall provide, conduct, and supervise public playgrounds, athletic fields, recreation centers, and other recreational facilities and activities on any property owned or controlled by the city. The commission shall consult, advise, and cooperate with other groups concerned with providing recreation in and for the city.
8. **Capital Improvement Project** - A Capital Project is a project that helps maintain or improve a City asset, often called infrastructure.



## Legislation Details (With Text)

**File #:** DIS 18-151    **Version:** 1    **Name:**  
**Type:** Discussion    **Status:** Agenda Ready  
**File created:** 10/18/2018    **In control:** City Council Workshop  
**On agenda:** 11/6/2018    **Final action:**  
**Title:** Discussion of issues relating to Christmas decorations for FY 2018-19.  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** [Christmas Budget](#)

Date	Ver.	Action By	Action	Result
11/6/2018	1	City Council Workshop		

Discussion of issues relating to Christmas decorations for FY 2018-19.

Review of the proposed 4-year Christmas Decoration plan.

Budget impact for FY 2017-2018, FY 2018-2019, FY 2019-2020, and FY 2020-2021 is shown on the attached.

Discussion Only

To: Rae Sinor

From: Charlie Sandberg, Director

Date: March 6, 2018

Subject: Christmas Decorations

Councilwoman Sinor,

Please review the recommendations below for purchase of Christmas decorations for this current fiscal year and the next 3 fiscal years. We are working on putting these items into Granicus for the March 20 Council Meeting.

**FY 2017-18 \$35,500 (HOT)** – Please prioritize. All items cannot be purchased in current fiscal year.

1. City Hall Permanent Lighting (Lights & Labor)	\$17,000
2. (3) Street Banners	<u>\$18,500</u>
	\$35,500.

**FY 2018-19 \$68,000 (HOT)**

1. 27' Christmas tree for Theatre <i>(Current tree will be relocated to City Hall)</i>	\$23,000
2. Star for Police Department	\$2,000.
3. (6) 6' Deer for the Library	\$15,000
4. 23' Santa	<u>\$28,000.</u>
	\$68,000.

**FY 2019-20 \$31,500 (HOT)**

1. (3) Snow Flakes	\$6,500.
2. (6) 6' Deer for Theatre	\$15,000
3. Lights & Bulbs	\$5,000
4. Lights to back of City Hall	<u>\$5,000</u>
	\$31,500.

**FY 2020-21 \$40,000 (HOT)**

1. Community Center Permanent Lighting (Lights & Labor)	\$20,000
2. (6) 6' Deer (Replacements-various locations)	<u>\$20,000</u>
	\$40,000



## Legislation Details (With Text)

**File #:** DIS 18-153    **Version:** 1    **Name:**  
**Type:** Discussion    **Status:** Agenda Ready  
**File created:** 10/30/2018    **In control:** City Council Workshop  
**On agenda:** 11/6/2018    **Final action:**  
**Title:** Discussion of issues relating to the Battleground Golf Course Proposed Projects.  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:**

Date	Ver.	Action By	Action	Result
11/6/2018	1	City Council Workshop		

Discussion of issues relating to the Battleground Golf Course Proposed Projects.

Discussion items will include:

- Architectural / Professional Services with RVi for proposed new landscaping design for the fountain.
- Removal of old monument sign by City staff
- Construction, land clearing and engineer design for hole 5 issue
- Waterfall, piping and erosion issue for hole 17
- Funding for projects

Budget estimates are in the process of being determined. Funding is not currently allocated.

Discussion Only



## Legislation Details (With Text)

**File #:** DIS 18-154    **Version:** 1    **Name:**  
**Type:** Discussion    **Status:** Agenda Ready  
**File created:** 10/30/2018    **In control:** City Council Workshop  
**On agenda:** 11/6/2018    **Final action:**  
**Title:** Discussion of issues relating to the DPCDC projects including termination of task orders, use of unencumbered funds and professional services contracts.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
11/6/2018	1	City Council Workshop		

Discussion of issues relating to the DPCDC projects including termination of task orders, use of unencumbered funds and professional services contracts.

The following items will be discussed:

- Termination of Task Order 16-005 A with Halff Associates for the Community Center and Gymnasium - Phase I Programming
- Termination of Task Order 16-007 with Halff Associates for the development of hike and bike trails.
- Authorization to amend and utilize existing unencumbered funds from the Maxwell Adult Center Project for the purchase and installation of security camera equipment from Lensec.
- Authorization to amend and utilize existing unencumbered funds from the Maxwell Adult Center Project for an amendment to the professional services agreement with Halff Associated for additional construction phase services due to the extended days.
- Authorize negotiating a professional services agreement with Brinkley Sargent Wigington Architects for programming services related to the Community Center.
- Authorize staff to negotiate a proposed professional services agreement with Burditt Consultants, LLC for the development of hike and bike trails.

The above topics were discussed with the DPCDC Board on October 22, 2018.

All of the above projects have available Type B funding.

Discussion only during Workshop.





## Legislation Details (With Text)

**File #:** DIS 18-152    **Version:** 1    **Name:**  
**Type:** Discussion    **Status:** Agenda Ready  
**File created:** 10/22/2018    **In control:** City Council Workshop  
**On agenda:** 11/6/2018    **Final action:**  
**Title:** Discussion of issues relating to potential Charter Amendments.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** [Charter Amendment Recommendations2 \(002\)](#)

Date	Ver.	Action By	Action	Result
11/6/2018	1	City Council Workshop		

Discussion of issues relating to potential Charter Amendments.

### Summary:

The Charter was adopted on December 6, 1960. The last Charter Amendment Election was held on May 10, 2008, with only five amendments being approved by the citizens of Deer Park. In the Strategic Plan, Strategy #2 references the Charter Review and Election. Over the last several months, Staff has reviewed the current Charter and made recommendation for your review. If the recommendations are agreed upon, an election will be called when the Secretary of State releases the Election Calendar to conduct a Charter Amendment Election in May of 2019. The City Council may schedule future workshops to discuss the potential Charter Amendments.

### Fiscal/Budgetary Impact:

Discussion only

## Charter Amendment Recommendations

City of Deer Park Proposition A	
Current Charter	
Section 6.10 Purchase Procedure	
<p>All purchases made and contracts executed by the city shall be pursuant to a requisition from the head of the office, department or agency whose appropriation will be charged, and no contract or order shall be binding upon the city unless and until the city manager certifies that there is to the credit of such office, department or agency a sufficient unencumbered appropriation and allotment balance to pay for the supplies, materials, equipment or contractual services for which the contract or order is to be issued . Before the city makes any purchase or contract for supplies, materials, equipment, or contractual services, opportunity shall be given for competition. The council may by ordinance confer upon the city manager general authority to contract for expenditures without further approval of the council for all budgeted items not exceeding fifty thousand dollars (\$50,000 .00). All contracts for expenditures involving more than fifty thousand dollars (\$50,000 .00) must be expressly approved in advance by the council. All contracts or purchases involving more than fifty thousand dollars (\$50,000.00) shall be let to the lowest and best responsible bidder after there has been opportunity for competitive bidding as provided for by law or ordinance; provided that the council, or the city manager in such cases as he is authorized to contract for the city, shall have the right to reject any and all bids. Copies of all bids shall be delivered to each councilman immediately.</p>	
Proposed Amendment	
To follow State Statue on Purchase Procedure	
Section 6.10 Purchase Procedure	
<p>All purchases made and contracts executed by the city shall be pursuant to a requisition from the head of the office, department or agency whose appropriation will be charged, and no contract or order shall be binding upon the city unless and until the city manager certifies that there is to the credit of such office, department or agency a sufficient unencumbered appropriation and allotment balance to pay for the supplies, materials, equipment or contractual services for which the contract or order is to be issued. Before the city makes any purchase or contract for supplies, materials, equipment, or contractual services, opportunity shall be given for competition. The council may by ordinance confer upon the city manager general authority to contract for expenditures without further approval of the council for all budgeted items not exceeding \$50,000.00. All contracts or purchases involving more than “state minimum dollar bidding limit” shall be let as per state statute for purchasing, contracting and competitive bidding, provided that the Council or the City Manager in such cases is authorized to contract for the City, shall have the right to reject any and all bids. Copies of the tabulation of all bids shall be delivered to each councilman .</p>	
City of Deer Park Proposition B	
Current Charter	

#### **Section 5.14 Job Security; Arbitration Committee**

Should an employee of the city be discharged from his employment therewith, such employee(s) shall have the right to appeal said action and to seek reinstatement in accordance with the following provisions, to wit:

Said employee shall, within fourteen (14) days after the date of discharge, file a written notice and request for reinstatement with the person performing the duties of city secretary. Such request-notice shall contain a statement requesting reinstatement to employment, the circumstances under which his discharge occurred and the reasons pertinent to, or the objections to such discharge becoming final.

- (a) Said request-notice shall be filed with the person performing the duties of city secretary within the time above allotted. It shall then become the duty of the city secretary to appraise the council, at the next meeting thereof and following the date upon which such request-notice is filed, that such request-notice was filed and whether or not same was filed in compliance with the a foregoing provision.
- (b) Provided the request-notice is found to be in compliance with the foregoing provisions, the council shall immediately order the formation of an arbitration committee for the purpose of settling the existing dispute. Such committee shall be comprised of three (3) resident qualified voters. Each of the three (3) members thereto shall serve without reward or compensation and no member of the council, or city employee, or relative thereof shall be eligible to serve upon such committee. The three (3) qualified citizens to comprise the arbitration committee shall be named and appointed in the following manner:
  - (1) Within seven (7) days of the date on which the council acts to form such requested committee, the aggrieved employee shall name one qualified member thereto.
  - (2) Within the same period of time allotted in (1) above, the council (as expressed in a majority vote thereof) shall name one qualified member thereto. Provided further that the council may appoint a subcommittee of its members for the purpose of naming the qualified person to said committee. The action of such council subcommittee shall be binding upon the council and shall constitute council appointment of the committee member thus named to service by the subcommittee.
  - (3) Within seven (7) days of the date upon which the second or latter member is appointed, as provided above, the two-(2) committee members shall name a disinterested person mutually acceptable to both. The committee thus formed shall be the arbitration committee and shall have all powers hereinafter set forth.
- (c) Should the two (2) members first appointed fail to name a third member to the committee in the time allotted, notice of such failure will be given to the council at the next meeting thereof. The council shall forthwith terminate the appointments of both members. Both

the council and the aggrieved employee shall then have the right to appoint second members to the committee in the same manner and in the same time specified above for the original appointments. Provided further that the two (2) original appointees shall be ineligible for reappointment to any such arbitration committee concerned with the same aggrieved employee.

An arbitration committee acting in its official capacity shall, within thirty (30) days of the date upon which the third member is named to service, render its majority decision. During said thirty (30) days, when acting as a committee, the members thereof shall have the power to inquire into any phase of the municipal function, which, in their opinions, might aid in the determination of the facts related to the case before them. The committee shall have the power to administer oaths, subpoena witnesses, compel the production of books, papers and other evidence material to the inquiry.

### Proposed Amendment

Appeal process will be covered in the Administrative Policies

#### **~~Section 5.14-e Job Security; Arbitration Committee~~**

~~Should an employee of the city be discharged from his employment therewith, such employee(s) shall have the right to appeal said action and to seek reinstatement in accordance with the following provisions, to wit:~~

~~Said employee shall, within fourteen (14) days after the date of discharge, file a written notice and request for reinstatement with the person performing the duties of city secretary. Such request notice shall contain a statement requesting reinstatement to employment, the circumstances under which his discharge occurred and the reasons pertinent to, or the objections to such discharge becoming final.~~

~~(a) Said request notice shall be filed with the person performing the duties of city secretary within the time above allotted. It shall then become the duty of the city secretary to appraise the council, at the next meeting thereof and following the date upon which such request notice is filed, that such request notice was filed and whether or not same was filed in compliance with the foregoing provision.~~

~~(b) Provided the request notice is found to be in compliance with the foregoing provisions, the council shall immediately order the formation of an arbitration committee for the purpose of settling the existing dispute. Such committee shall be comprised of three (3) resident qualified voters. Each of the three (3) members thereto shall serve without reward or compensation and no member of the council, or city employee, or relative thereof shall be eligible to serve upon such committee. The three (3) qualified citizens to comprise the arbitration committee shall be named and appointed in the following manner:~~

~~(1) Within seven (7) days of the date on which the council acts to form such requested~~

~~committee, the aggrieved employee shall name one qualified member thereto.~~

~~(2) Within the same period of time allotted in (1) above, the council (as expressed in a majority vote thereof) shall name one qualified member thereto. Provided further that the council may appoint a subcommittee of its members for the purpose of naming the qualified person to said committee. The action of such council subcommittee shall be binding upon the council and shall constitute council appointment of the committee member thus named to service by the subcommittee.~~

~~(3) Within seven (7) days of the date upon which the second or latter member is appointed, as provided above, the two (2) committee members shall name a disinterested person mutually acceptable to both. The committee thus formed shall be the arbitration committee and shall have all powers hereinafter set forth.~~

~~(c) Should the two (2) members first appointed fail to name a third member to the committee in the time allotted, notice of such failure will be given to the council at the next meeting thereof. The council shall forthwith terminate the appointments of both members. Both the council and the aggrieved employee shall then have the right to appoint second members to the committee in the same manner and in the same time specified above for the original appointments. Provided further that the two (2) original appointees shall be ineligible for reappointment to any such arbitration committee concerned with the same aggrieved employee.~~

~~An arbitration committee acting in its official capacity shall, within thirty (30) days of the date upon which the third member is named to service, render its majority decision. During said thirty (30) days, when acting as a committee, the members thereof shall have the power to inquire into any phase of the municipal function, which, in their opinions, might aid in the determination of the facts related to the case before them. The committee shall have the power to administer oaths, subpoena witnesses, compel the production of books, papers and other evidence material to the inquiry.~~

<b>City of Deer Park Proposition C</b>
<b>Current Charter</b>
<b>Section 2.05 Powers of the City Council (C) (4)</b>
May with just cause and not in conflict with the provisions of this Charter, remove from any office or position of employment in the city government, any officer or employee by a majority vote of the councilmembers qualified and serving.
<b>Proposed Amendment</b>
Amend Councils ability to remove an officer or employee other than as prescribed in this Charter for the City Manager, Municipal Judge and City Attorney.
<b>Section 2.05 Powers of the city Council (c )(4)</b>
<b>May with just cause and not in conflict with the provisions of this Charter, remove the City Manager, Municipal Judge and City Attorney by a majority vote of the councilmembers qualified and serving.</b>

<b>City of Deer Park Proposition D</b>

## Current Charter

### Section 5.12 (D) Director of Finance power and duties

Have custody of all public funds or moneys received by any person, department, or agency of the city for or in connection with affairs of the city and shall deposit same daily in the city depository or depositories, which shall be designated by the council in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established by ordinance. All checks, vouchers, or warrants for the withdrawal of money from the city depositories shall be signed by the mayor, the director of finance or his deputy and by the city manager. In the event the city manager is the director of finance, all checks signed by him shall be countersigned by the person performing the duties of city secretary, provided that the council, under such regulations and limitations as it may prescribe, may by ordinance authorize the use of machine imprinted facsimile signatures of said director of finance and city manager and/or city secretary on such checks, vouchers or warrants not in excess of five thousand dollars (\$5,000.00). The mayor shall sign all checks, vouchers or warrants manually, other than checks, vouchers or warrants less than one thousand dollars (\$1,000.00) or payroll checks, which may be imprinted with the mayor's facsimile signature.

## Proposed Amendment

To give signatory rights or powers to the Assistant City Manager and Mayor Pro-Tem

### Section 5.12 (D) Director of Finance power and duties

Have custody of all public funds or moneys received by any person, department, or agency of the city for or in connection with affairs of the city and shall deposit same daily in the city depository or depositories, which shall be designated by the council in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established by ordinance. All checks, vouchers, or warrants for the withdrawal of money from the city depositories shall be signed by the mayor, the director of finance or his ~~deputy~~ designee, and by the city manager or assistant city manager. In the event the city manager is the director of finance, all checks signed by him shall be countersigned by the assistant city manager or the person performing the duties of city secretary, provided that the council, under such regulations and limitations as it may prescribe, may by ordinance authorize the use of machine imprinted facsimile signatures of said director of finance, ~~and~~ city manager, or assistant city manager, and/or city secretary on such checks, vouchers or warrants not in excess of \$5,000.00. The mayor shall manually sign all checks, vouchers or warrants ~~manually, other than checks, vouchers or warrants less than~~ of \$1,000.00 or more. Checks, vouchers, or warrants or less than \$1,000.00 or and payroll checks, ~~which~~ may be imprinted with the mayor's facsimile signature. In the absence of the mayor, the mayor pro-tem shall sign all checks, vouchers or warrants requiring the manual signature of the mayor.

## City of Deer Park Proposition E

## Current Charter

### Section 5.07 Police Department (A)(1)(2)

There shall be established and maintained a department of police to preserve order within the city and to secure the residents of said city from violence and the property therein from injury or loss.

(A) *Chief of police.* The chief of police shall be the chief administrative officer of the department of Police.

- (1) He shall be a man of at least thirty (30) years of age, with a minimum of five (5) year's prior experience in the field of law enforcement, possessed of good moral character and shall have never been convicted of a felony or any crime involving moral turpitude in this or any other state or country.
- (2) He shall, with the approval of the city manager, appoint and remove the employees of said department and shall perform such duties as may be required of him by legislation of the council.

## Proposed Amendment

Amend language related to the Police Department

### Section 5.07 Police Department (A)(1)(2)

There shall be established and maintained a department of police to preserve order within the city and to secure the residents of said city from violence and the property therein from injury or loss.

(A) *Chief of police.* The chief of police shall be the chief administrative officer of the department of Police.

- (3) He Shall be ~~a man of~~ at least thirty (30) years of age, with a minimum of five (5) year's prior experience in the field of law enforcement, possessed of good moral character and shall have never been convicted of a felony or any crime involving moral turpitude in this or any other state or country.
- (4) He shall, with the approval of the city manager, appoint ~~and remove~~ the employees of said department and shall perform such duties as may be required of him by legislation of the council.

## City of Deer Park Proposition F



<b>Current Charter</b>
<b>Section 8.03 Development of property</b>
No expenditure of public funds shall be authorized by the council for the development of privately owned property within the corporate limits of the city, except for the extension of water and sewer to such areas, and then only if it can be shown to the satisfaction of the council that the taxes from the assessed valuation of said property will, within a reasonable time after it is made, pay for said extension or extensions.
<b>Proposed Amendment</b>
<b>Section 8.03 Development of property</b>
No expenditure of public funds shall be authorized by the council for the development of privately owned property within the corporate limits of the city, except <u>for public infrastructure improvements, which may include</u> , the extension of water and sewer to such areas, and then only if it can be shown to the satisfaction of the council that the taxes from the assessed valuation of said property will, within a reasonable time after it is made, pay for said <del>extension or extensions</del> <u>improvements</u> .

<b>Current Charter</b>
<b>Section 2.06. Procedure to enact legislation (e)</b>
The requirements for reading ordinances on three (3) several days may be dispensed with where an ordinance relating to the immediate preservation of the public peace, health, safety or welfare is adopted and contains a statement of the nature of the emergency
<b>Proposed Amendment</b>
The requirement for reading ordinances on three (3) three several days is eliminated.
<b>Section 2.06. Procedure to enact legislation (e)</b>



## Legislation Details (With Text)

**File #:** DIS 18-159    **Version:** 1    **Name:**  
**Type:** Discussion    **Status:** Agenda Ready  
**File created:** 10/31/2018    **In control:** City Council Workshop  
**On agenda:** 11/6/2018    **Final action:**  
**Title:** Discussion of issues relating to a professional services agreement with Brinkley Sargent Wigington Architects for a needs assessment study for a new Community Center.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** [DPCC Needs Contract 2018-10-31 \(002\)](#)

Date	Ver.	Action By	Action	Result
11/6/2018	1	City Council Workshop		

Discussion of issues relating to a professional services agreement with Brinkley Sargent Wigington Architects for a needs assessment study for a new Community Center.

**Summary:**

In 2016, after receipt and review of Statements of Qualifications from several firms, the DPCDC recommended, and the City Council approved a Prime (or master) agreement with Halff Associates and separate task orders for the seven (7) Type B funded projects. Task Order No. 16-005-A was for Phase I Programming for the exiting Community Center and Gymnasium. The DPCDC met on October 22, 2018 and recommended that Task Order No. 16-005-A to Halff Associates related to the existing Community Center be terminated and to instead explore options for a new Community Center facility. Mr. Stephen Springs, Senior Principal of Brinkley, Sargent, Wigington Architects served as the architectural subconsultant to Halff Associates for the evaluation of the Community Center. Brinkley, Sargent, Wigington has an extensive background in the programming and architectural services of recreational and city facilities.

Attached is a proposed professional services agreement with Brinkley, Sargent, Wigington Architects. The scope of the agreement would include:

- 1.) Develop a Needs Assessment for a new community recreation center.
- 2.) Develop a Needs Assessment for an indoor pool.
- 3.) Evaluate existing pool facility for continued use and potential year-round operation.
- 4.) Develop a complete project budgets for three conceptual project options within Dow Park.
- 5.) Develop conceptual site plan for the selected option within Dow Park.

The proposed fees are summarized below:

Basic Service Compensation:

- Architectural Fees \$50,000
- Existing Pool Assessment \$11,225
- \*Reimbursable allowance (estimated) \$ 6,000

Total Fees & Reimbursable Costs \$67,225

\* Reimbursable expenses will be billed at cost plus 10% for administrative purposes.

Additional Services Upon Request: Estimated operations model on community center \$20,000

Fiscal/Budgetary Impact:

Basic Services Cost: \$67,225. Additional Services upon request: \$20,000. Type B funds are available for this purpose.

Discussion only at Workshop. An agenda item is also on the November 6, 2018 Regular Council Agenda to consider action on authorizing a professional services agreement with Brinkley Sargent Wigington Architects for a needs assessment for a new Community Center.

## **AGREEMENT FOR ARCHITECTURAL SERVICES**

### **DEER PARK COMMUNITY CENTER NEEDS ASSESSMENT**

This Agreement is made and entered into in Deer Park, Harris County, Texas on the \_\_\_\_ day of \_\_\_\_\_, 2018; by and between

**The City of Deer Park**, a Municipal Corporation in the State of Texas

And

**Brinkley Sargent Wiginton Architects, Inc.**, [ARCHITECT] duly licensed, and practicing under the laws of the State of Texas.

Said Agreement being executed by the City pursuant to the City Charter, Ordinances, and Resolutions of the City Council, and by the ARCHITECT for ARCHITECTURAL services hereinafter set forth in connection with the above-designated Project for the City of Deer Park.

DEER PARK retains [ARCHITECT] to perform ARCHITECTURAL services related to the study of a proposed new Community Center project in Dow Park in return for consideration to be paid by DEER PARK under terms and conditions set forth below.

#### **ARTICLE 1. SCOPE OF WORK**

- 1.1 ARCHITECT will provide ARCHITECTURAL, design, consultation, project management, and other services as required to perform and complete the Scope of Work & Services specifically identified in Attachment A of this Agreement. The Services Scope of Work (the “Work”) and the time schedules set forth in Attachment A are based on information provided by DEER PARK and ARCHITECT. The schedule of milestones and deliverables are essential terms of this Agreement.
- 1.2 If this information is incomplete or inaccurate, or if site conditions are encountered which materially vary from those indicated by DEER PARK, or if DEER PARK directs ARCHITECT to change the original Scope of Work shown in Schedule A, a written amendment equitably adjusting the costs, performance time and/or terms and conditions, shall be executed by DEER PARK and ARCHITECT.
- 1.3 DEER PARK reserves the right to retain ARCHITECT to proceed into design and construction phases of project, with fees to be agreed upon at that time. Should design work proceed as contemplated by the study outcome without significant changes,

ARCHTECT will credit a commiserate portion of the schematic design fee, as agreed upon by both parties.

## **ARTICLE 2. COMPENSATION**

- 2.1 ARCHTECT bills for its services on a time and materials basis using the Schedule of Rates and Terms entitled Estimated Level of Effort ("Schedule of Rates") attached as Schedule B of this Agreement. As requested, ARCHTECT has provided fee proposal for the Work, attached as "Exhibit A". ARCHTECT will not exceed that fee without prior approval from DEER PARK. ARCHTECT will notify DEER PARK, for approval, of any proposed revisions to the Schedule of Rates and effective date thereof which shall not be less than thirty (30) days after such notice.
- 2.2 ARCHTECT will submit monthly invoices for Services rendered, and DEER PARK will make payment within thirty (30) days of receipt of ARCHTECT'S invoices. If DEER PARK objects to all or any portion of an invoice, it will notify ARCHTECT of the same within fifteen (15) days from the date of receipt of the invoice and will pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion of the invoice. Prices or rates quoted do not include state or local taxes.

## **ARTICLE 3. DEER PARK'S RESPONSIBILITIES**

- 3.1 DEER PARK will designate in writing the person or persons with authority to act on DEER PARK's behalf on all matters concerning the work to be performed.
- 3.2 DEER PARK will furnish to ARCHTECT all existing studies, reports, data and other information available to DEER PARK necessary for performance of the Work, authorize ARCHTECT to obtain additional data as required, and furnish the services of others where necessary for the performance of the Work. ARCHTECT will be entitled to use and rely upon all such information and services.
- 3.3 Where necessary to performance of the Work, DEER PARK shall arrange for ARCHTECT to have access to any site or property.

## **ARTICLE 4. PERFORMANCE OF SERVICE**

- 4.1 ARCHTECT's services will be performed within the schedule and time period set forth in Exhibit A.
- 4.2 ARCHTECT shall perform the Work, and any additional services as may be required, for the development of the Project to completion.

- 4.3 If required, additional services will be performed and completed within the time period agreed to in writing by the parties at the time such services are authorized.
- 4.4 If any time period within or date by which any of ARCHITECT's services are to be performed is exceeded for reasons outside of ARCHITECT's reasonable control, all rates, measures and amounts of compensation and the time for completion of performance shall be subject to equitable adjustment.

## **ARTICLE 5. CONFIDENTIALITY**

- 5.1 ARCHITECT will hold confidential all information obtained from DEER PARK, not previously known by ARCHITECT or in the public domain.

## **ARTICLE 6. STANDARD OF CARE & WARRANTY**

- 6.1 Standard of Care. In performing services, ARCHITECT agrees to exercise professional judgment, made on the basis of the information available to ARCHITECT, and to perform its ARCHITECTURAL services with the professional skill and care of competent design professionals practicing in the same or similar locale and under the same or similar circumstances and professional license. ARCHITECT also agrees to perform its ARCHITECTURAL services as expeditiously as is prudent considering this standard of care. This standard of care shall be judged as of the time and place the services are rendered, and not according to later standards.
- 6.2 Warranty. If any failure to meet the foregoing standard of care Warranty appears during one year from the date of completion of the service and ARCHITECT is promptly notified thereof in writing, ARCHITECT will at its expense re-perform the nonconforming work.
- 6.3 The foregoing Warranty is the sole and express warranty obligation of ARCHITECT and is provided in lieu of all other warranties, whether written, oral, implied or statutory, including any warranty of merchantability. ARCHITECT does not warrant any products or services of others. ARCHITECT, however, expressly acknowledges that these warranty obligations do not eliminate the applicability of the standard of care to all of its work and that the OWNER may still retain remedies against ARCHITECT following the expiration of the warranty period in contract, tort, or otherwise as the law allows.

## **ARTICLE 7. INSURANCE**

- 7.1 ARCHITECT will procure and maintain insurance as required by law. At a minimum, ARCHITECT will have the following coverage:
  - (1) Workers compensation and occupational disease insurance in statutory amounts.

- (2) Employer's liability insurance in the amount of \$1,000,000.
- (3) Automobile liability in the amount of \$1,000,000.
- (4) Commercial General Liability insurance for bodily injury, death or loss of or damage to property of third persons in the amount of \$1,000,000 per occurrence, \$2,000,000 in the aggregate.
- (5) Professional errors and omissions insurance in the amount of \$1,000,000.

7.2 ARCHITECT has provided a Statement of Insurance to DEER PARK demonstrating and reflecting that ARCHITECT has procured and maintains insurance coverage in accordance with the requirements stated above. That Statement of Insurance is Attachment C of this Agreement.

## **ARTICLE 8. INDEMNITY**

8.1 TO THE FULLEST EXTENT PERMITTED BY LAW, ARCHITECT SHALL INDEMNIFY, AND HOLD HARMLESS THE CITY OF DEER PARK, ITS OFFICERS, OFFICIALS, AGENTS, DIRECTORS, AND EMPLOYEES, FROM AND AGAINST ALL CLAIMS, CAUSES OF ACTION, DAMAGES, LOSSES, LAWSUITS, JUDGMENTS, FINES, PENALTIES, OR LIABILITY OF ANY CHARACTER, TYPE OR DESCRIPTION INCLUDING WITHOUT LIMITATION, ALL EXPENSES OF LITIGATION, INCLUDING EXPERT OR CONSULTANT FEES, COURT COSTS, AND ATTORNEY'S FEES, ARISING OUT OF OR RESULTING FROM BODILY INJURY OR DEATH OF ANY PERSON, OR PROPERTY DAMAGE, OR OTHER HARM TO THE EXTENT SUCH BODILY INJURY, PROPERTY DAMAGE, OR HARM ARISES OUT OF OR IS OCCASIONED BY THE NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY THE ARCHITECT OR THE ARCHITECT'S AGENT, CONSULTANT UNDER CONTRACT, OR ANOTHER ENTITY OVER WHICH THE INDEMNITOR EXERCISES CONTROL.

IF THE CITY DEFENDS AN ACTION, CLAIM, LAWSUIT OR OTHERWISE INCURS ATTORNEY'S FEES AS A RESULT OF AN INDEMNIFIED CLAIM AS STATED ABOVE, ARCHITECT AGREES TO REIMBURSE THE CITY IN PROPORTION TO THE ARCHITECT'S LIABILITY.

8.2 ARCHITECT agrees to and shall contractually require its consultants and subcontractors of any tier to assume the same indemnification obligations to Indemnities as stated herein.

## **ARTICLE 9. OWNERSHIP OF DOCUMENTS**

9.1 As long as DEER PARK is current in the payment of all undisputed invoices, all work product prepared by the ARCHITECT pursuant to this Agreement, including, but not



limited to, all Contract Documents, Plans and Specifications and any computer aided design, shall be the sole and exclusive property of DEER PARK, subject to the ARCHITECT's reserved rights.

- 9.2 ARCHITECT's technology, including without limitation customary techniques and details, skill, processes, knowledge, and computer software developed or acquired by ARCHITECT or its Consultants to prepare and manipulate the data which comprises the instruments of services shall all be and remain the property of the ARCHITECT.

## **ARTICLE 10. INDEPENDENT CONTRACTOR**

- 10.1 The ARCHITECT is an independent contractor and shall not be regarded as an employee or agent of the DEER PARK.

## **ARTICLE 11. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS**

- 11.1 The ARCHITECT shall observe all applicable provisions of the federal, state and local laws and regulations, including those relating to equal opportunity employment.

## **ARTICLE 12. SAFETY**

- 12.1 DEER PARK shall inform the ARCHITECT and its employees of any applicable site safety procedures and regulations known to DEER PARK as well as any special safety concerns or dangerous conditions at the site. The ARCHITECT and its employees will be obligated to adhere to such procedures and regulations once notice has been given.
- 12.2 ARCHITECT shall not have any responsibility for overall job safety at the site. If in ARCHITECT's opinion, its field personnel are unable to access required locations or perform required services in conformance with applicable safety standards, ARCHITECT may immediately suspend performance until such safety standards can be attained. If within a reasonable time site operations or conditions are not brought into compliance with such safety standards, ARCHITECT may in its discretion terminate its performance, in which event, DEER PARK shall pay for services and termination expenses as provided in Article 18.

## **ARTICLE 13. LITIGATION**

- 13.1 At the request of DEER PARK, ARCHITECT agrees to provide testimony and other evidence in any litigation, hearings or proceedings to which DEER PARK is or becomes a party in connection with the work performed under this Agreement, unless DEER PARK and the ARCHITECT are adverse to one-another in any such litigation.

- 13.2 Any litigation arising out of this Agreement between DEER PARK and ARCHITECT shall be heard by the state district courts of Harris County.

#### **ARTICLE 14. NOTICE**

- 14.1 All notices to either party by the other shall be deemed to have been sufficiently given when made in writing and delivered in person, by electronic mail, facsimile, certified mail or courier to the address of the respective party or to such other address as such party may designate.

#### **ARTICLE 15. TERMINATION**

- 15.1 The performance of work may be terminated or suspended by DEER PARK, for any reason. Such suspension or termination shall be subject to notice of DEER PARK's election to either suspend or terminate the Agreement fifteen (15) days' prior to the effective suspension or termination date. The Notice shall specify the extent to which performance of work is suspended or terminated and the date upon which such action shall become effective. In the event work is terminated or suspended by DEER PARK prior to the completion of services contemplated hereunder, ARCHITECT shall be paid for (i) the services rendered to the date of termination or suspension and reasonable services provided to effectuate a professional and timely project termination or suspension.

#### **ARTICLE 16. SEVERABILITY**

- 16.1 If any term, covenant, condition or provision of this Agreement is found by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of this Agreement shall remain in full force and effect, and shall in no way be affected, impaired or invalidated thereby.

#### **ARTICLE 17. WAIVER**

- 17.1 Any waiver by either party or any provision or condition of this Agreement shall not be construed or deemed to be a waiver of a subsequent breach of the same provision or condition, unless such waiver is so expressed in writing and signed by the party to be bound.

#### **ARTICLE 18. GOVERNING LAW**

- 18.1 This Agreement will be governed by and construed and interpreted in accordance with the laws of the State of Texas.

## ARTICLE 19. CAPTIONS

- 19.1 The captions contained herein are intended solely for the convenience of reference and shall not define, limit or affect in any way the provisions, terms and conditions hereof or their interpretation.

## ARTICLE 20. ENTIRE AGREEMENT

- 20.1 This Agreement, its articles, provision, terms, and attached Schedules represent the entire understanding and agreement between DEER PARK and ARCHITECT and supersede any and all prior agreements, whether written or oral, and may be amended or modified only by a written amendment signed by both parties.

This Agreement is effective on the last day signed.

**Brinkley Sargent Wiginton Architects, Inc.**

**The City of Deer Park**

By

By\_\_\_\_\_

\_\_\_\_\_  
Name

Name\_\_\_\_\_

\_\_\_\_\_  
Stephen Springs, AIA

Title

Title\_\_\_\_\_

\_\_\_\_\_  
Senior principal

Date

Date\_\_\_\_\_

\_\_\_\_\_  
October 31, 2018

## **SCHEDULE A**

### **SCOPE OF SERVICES**

The proposed project consists of providing a needs assessment for a proposed new Community Center project as outlined in attached Exhibit A.

## **SCHEDULE B**

### **COMPENSATION AND RATES**

Fees for the scope of services shall be as proposed in attached Exhibit A. Any adjustments to scope and fee shall be as mutually agreed upon by both parties. Any adjustments based on hourly rates shall be based on Exhibit B (architectural) and Attachment II (aquatic consultant).

# EXHIBIT A

October 31, 2018

Charlie Sandberg  
Director of Parks and Recreation  
City of Deer Park  
710 East San Augustine  
Deer Park, Texas 77536

RE: Community Recreation Center and Aquatic Study

Dear Charlie:

We are pleased to submit this Consulting Services Proposal for the development of a Community Center Needs Assessment: This agreement is between the City of Deer Park, Texas ("City") and Brinkley Sargent Wiginton Architects, Inc. ("BSW").

## A. Scope of Work

- 1.) Develop a Needs Assessment for a new community recreation center.
- 2.) Develop a Needs Assessment for an indoor pool.
- 3.) Evaluate existing pool facility for continued use and potential year-round operation.
- 4.) Develop a complete project budgets for three conceptual project options within Dow Park.
- 5.) Develop conceptual site plan for the selected option within Dow Park.
- 6.) Reference Exhibit B for a more complete description of tasks.

## B. Study Final Deliverables:

- 1.) Needs assessment documentation.
- 2.) Project budgets for new building options.
- 3.) Conceptual site plan of selected option meeting City needs.
- 4.) One conceptual rendering of building.
- 5.) Operational cost analysis of proposed building (Optional).

## C. Study Assumptions:

- 1.) Environmental assessment of existing buildings is not included in these services.
- 2.) A city-led steering committee will guide the Needs Assessment process.
- 3.) Consultant is not required to host general public input meetings.
- 4.) Consultant will present status updates at project milestones to public bodies.
- 5.) Scope of work is limited to development of activities defined in Exhibit B.

## D. City Provided Data

- 1.) Survey data to be provided by City.
- 2.) Existing programming and operational data to be provided by City.

## E. Schedule

- 1.) Initial meeting will occur within two weeks of BSW receipt of executed contract.

<u>Meeting</u>	<u>Activities</u>
1.)	1 day of meetings with department and steering committee to prioritize anticipated programming needs.
2.)	1 day of meeting(s) to confirm and rank programmatic needs with staff and city designated representatives.
3.)	1 day of meeting(s) to review scoping options and site test fits.
4.)	1 day of meeting(s) to review refinement of option(s) and project budget(s).
5.)	1 day of meeting(s) to present report to Council, Parks & Recreation Commission and Deer Park CDC.
6.)	1 additional meeting day (TBD) for use as may be required by City for any reason.
7.)	Monthly meetings during course of effort (via web meeting or conference call as needed).

- 2.) Schedule assumes 14 weeks from receipt of contract to issuance of draft report. This schedule assumes a two-week dead period to accommodate holiday season. Final report will be issued within one week following receipt of City draft report comments.

3.) Basic Service Compensation:

Architectural Fees	\$50,000
Existing Pool Assessment	\$11,225
*Reimbursable allowance (estimated)	\$ 6,000
Total Fees & Reimbursable Costs	\$67,225

\* Reimbursable expenses will be billed at cost plus 10% for administrative purposes.

4.) Additional Services Upon Request:

Estimated operations model on community center	\$20,000
--	----------

We look forward to working with the City on this exciting and important project!

Stephen Springs, AIA

Senior Principal

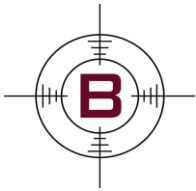
**BRINKLEY SARGENT WIGINTON ARCHITECTS**

**EXHIBIT B**

**BILLING RATES  
2018**

<b><u>TITLE</u></b>	<b><u>RATE/hr.</u></b>
<b>Senior Principal</b>	<b>270.00</b>
<b>Principal</b>	<b>210.00</b>
<b>Project Manager</b>	<b>200.00</b>
<b>Project Architect</b>	<b>165.00</b>
<b>Senior Designer</b>	<b>145.00</b>
<b>Staff Architect</b>	<b>130.00</b>
<b>Architectural Designer II</b>	<b>125.00</b>
<b>Architectural Designer I</b>	<b>95.00</b>
<b>Senior Interior Designer</b>	<b>125.00</b>
<b>Interior Designer</b>	<b>110.00</b>
<b>Construction Administrator</b>	<b>140.00</b>
<b>Senior Programmer</b>	<b>140.00</b>
<b>Senior Planner</b>	<b>105.00</b>
<b>Administration</b>	<b>80.00</b>

*Billing Rates are reviewed by Architects yearly. Rates are subject to adjustment July 1<sup>st</sup> of each year*



# THE C.T. BRANNON CORPORATION

AQUATIC CONSULTANTS | CIVIL ENGINEERS | AIRPORT CONSULTANTS

## Attachment II

### Current Hourly Charges for Professional Services

#### PERSONNEL

Charges include all salaries, salary expense, overhead and profit.

Sr. Principal, C. Terry Brannon, P.E.....	\$ 225.00
Principal (Rea Boudreaux, P.E., Bob Breedlove, P. E. Kirk Bynum, P.E.) .....	\$ 175.00
Jr. Principal (Travis Bozick, P.E.) .....	\$ 150.00
Senior Project Manager .....	\$ 145.00
Project Manager .....	\$ 125.00
Licensed Engineer.....	\$ 110.00
Graduate Engineer III .....	\$ 90.00
Graduate Engineer II .....	\$ 85.00
Graduate Engineer I .....	\$ 80.00
Intern .....	\$ 45.00
Civil Technician .....	\$ 85.00
CAD Draftsman .....	\$ 80.00
Resident Project Representative .....	\$ 90.00
Construction Services Manager .....	\$ 95.00
Construction Services Technician .....	\$ 75.00
Office Technician.....	\$ 80.00
Marketing Director.....	\$ 65.00
Clerical .....	\$ 60.00

#### EXPENSES

Reproduction .....	
B/W 8.5x11 per each .....	\$ 0.15
Colored prints 8.5x11 per each .....	\$ 1.00
Colored prints 11x17 per each .....	\$ 1.50
"C", "D" or "E" size Bond per each.....	\$ 5.00
"C", "D" or "E" size Vellum per each .....	\$ 15.00
"C", "D" or "E" size Mylar Film per each.....	\$ 10.00
Travel per mile.....	\$ 0.55
Lodging and meals (Out of town trips).....	Actual Cost
Scanning .....	
"C", "D" or "E" sized Scanning of original per sheet (does not include plot).....	\$ 2.00

Special contracted services such as reproduction, aerial photography, GPS (Global Positioning Satellite) surveys, contract surveying, geotechnical investigations, project models and artists renderings, and contract project representation is billed at the amount invoiced to us plus ten percent (10%).

January 18, 2018



1321 SOUTH BROADWAY  
P.O. BOX 7487  
TYLER, TX 75711  
PHONE (903) 597-2122  
FAX (903) 597-3346

WWW.BRANNONCORP.COM  
TEXAS REGISTERED ENGINEERING FIRM  
TEXAS REGISTRATION #F-242  
REGISTERED IN: AL, AR, CO, FL, GA, LA, MO  
MS, NE, NM, NV, OK, TN, VA





## Legislation Details (With Text)

**File #:** PRE 18-030    **Version:** 1    **Name:**  
**Type:** Presentation    **Status:** Agenda Ready  
**File created:** 10/12/2018    **In control:** City Council Workshop  
**On agenda:** 11/6/2018    **Final action:**  
**Title:** Presentation and discussion of issues relating to the sale of Certificates of Obligation, Series 2018.  
**Sponsors:** City Manager's Office, Finance  
**Indexes:**  
**Code sections:**  
**Attachments:**

Date	Ver.	Action By	Action	Result
11/6/2018	1	City Council Workshop		

Presentation and discussion of issues relating to the sale of Certificates of Obligation, Series 2018.

**Summary:** On September 25, 2018, City Council approved Resolution No. 2018-12 authorizing the publication of the City's intention to issue certificates of obligation. The proceeds of these certificates are planned for repair and renovation projects on the City's water treatment plant, rehabilitation and construction projects on the City's waterworks and sanitary sewer systems, and rehabilitation of a ground storage tank. The related professional services and issuance costs will also be paid from the proceeds of these certificates. The tentative schedule of events presented by the City's Financial Advisor, John Robuck, from BOK Financial Services, Inc. at the September 18, 2018 workshop, included the sale of these certificates on November 6, 2018. Mr. Robuck and the City's Bond Counsel, Jonathan Frels, from Bracewell LLP will be in attendance at the November 6, 2018 workshop to present the results of the sale and to answer any questions related to this debt issuance.

### Fiscal/Budgetary Impact:

Payment of the debt service and issuance costs related to these certificates are "payable from ad valorem taxes and from a limited pledge of a subordinate lien on the net revenues of the City's waterworks and sanitary sewer system."

Discussion only in workshop.