

**FARMERSVILLE CITY PARKS AND RECREATIONS BOARD**

**AGENDA**

**NOVEMBER 3RD, 2022, AT 5:00 P.M.**

**CITY COUNCIL CHAMBERS**

**205 S. MAIN ST.**

**FARMERSVILLE, TX 75442**

**WATCH THE LIVE BROADCAST**

This meeting will be broadcast live through the City's website and by telephone. Members of the public who wish to watch this meeting, and not speak or participate in the discussion, may watch the live broadcast by

1. Going to the City's website.
2. Clicking on "GOVERNMENT."
3. Clicking on "AGENDAS AND MINUTES."
4. Clicking on the "[click here](#)" link that is located to the right of "LIVE STREAMING."

**I. PRELIMINARY MATTERS**

- A. Call to Order, Roll Call, Prayer, and Pledge of Allegiance

**II. PUBLIC TESTIMONY REGARDING AGENDA ITEMS**

- A. If you wish to address the Parks and Recreations Board, please fill out a "Speaker Sign-Up Card" and present it to Staff Liaison, preferably before the meeting begins. Pursuant to Section 551.007 of the Texas Government Code, any person wishing to address the Parks and Recreation Board for items listed as public hearings will be recognized when the public hearing is opened. Anyone wishing to address the Parks and Recreation Board regarding any non-public hearing item on the agenda for this meeting is asked to speak at this time with a time limit of 3 minutes per person per item.

**III. APPROVE MINUTES**

- A. September 1st, 2022 (date was not changed on previous agenda)
- B. October 6th, 2022

**IV. INFORMATIONAL ITEMS**

These Information Items are intended solely to keep the Board apprised of information related to board events and actions. Board members who serve as a liaison to a particular board or commission may report to the Board regarding the body's most recent and/or upcoming meetings and activities. Board members may

also deliberate and/or request further information or clarification regarding any one or more of the items contained in this provision. Board approval of, or action on, these items is not required or requested. **Matters that require Board action shall be considered and acted on only if an item related thereto is included in the Regular Agenda.**

#### **PARKS AND RECREATIONS BOARD ACTIVITIES**

- **Winter Series Music in the Park** / December 2nd, 2022, at 7:00 P.M.
- **Little League Baseball contract expires** / January 31st, 2023.
- **Opening Day of Rails to Trails (Trail Day)** / April 22nd, 2023.
- **Arbor Day** / April 28th, 2023.
- **Summer Series Music in the Park** / June 2nd, July 7th, and August 4th, 2023.

#### **V. REGULAR AGENDA**

- A. Consider, discuss, and act upon presentation from Aaron DeStefano Old City Park Revitalization Project Planning.
- B. Consider, discuss, and act upon using funds raised by the Little League to make improvements to re-do dug outs.
- C. Consider, discuss, and act upon Little League Football and Cheer contract.
- D. Consider, discuss, and act upon Little League Baseball contract.
- E. Consider, discuss, and act upon repairing or/ replacement of the fencing at the back stop at JW Spain Complex.
- F. Consider, discuss, and act upon Opening Day of Rails to Trails. (Trail Day)
- G. Consider, discuss, and act upon Music in the Park. (Winter and Summer Series)
- H. Consider, discuss, and act upon Arbor Day. (Tree seeding purchase) ([www.arborday.org](http://www.arborday.org)) typically take 3 months to receive after order placed
- I. Consider, discuss, and act upon coordinating future projects with city entities / Chamber of Commerce.

#### **VI. CITY UPDATE FROM BEN WHITE CITY MANAGER / MIKE SULLIVAN ASSISTANT CITY MANAGER**

**Parks and Recreations Board Agenda November 3rd, 2022**

- Related to Parks and Recreations Board activities.
- Update status on Open Space Grants.
- Update status on 380 Loop / Expansion Plans.
- JW Spain Concession Projects.

## **VII. DISCUSSION OF PLACING ITEMS ON FUTURE AGENDAS**

## **VIII. ADJOURNMENT**

No action may be taken on comments received under "Recognition of Visitors." The Board may vote and/or act upon each of the items listed on the agenda.

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodation or interpretive service must be made 48 hours prior to this meeting. Please contact me at 972-782-6151 or fax 972-782-6604 for further information.

I, the undersigned authority, do hereby certify that this Notice of Meeting was posted on the front window of the City Hall building for Farmersville, Texas, in a place and manner convenient and readily accessible to the public always, and said Notice was posted on October 31st, 2022, by 5:00 PM and remained so posted continuously at least 72 hours proceeding the scheduled time of said meeting.

**Dated this 31st, day of October 2022.**

*Audrey Rubadue*

Audrey Rubadue, City Staff Liaison



**FARMERSVILLE CITY PARKS AND RECREATIONS BOARD  
MINUTES**

**OCTOBER 6TH, 2022, AT 5:00 P.M.**

**CITY COUNCIL CHAMBERS**

**205 S. MAIN ST.**

**FARMERSVILLE, TX 75442**

**I. PRELIMINARY MATTERS**

- Call to Order by Bryan Wood at 5:04PM
- Roll Call Present: Bryan Wood, Misty Wiebold, Beverly Mondy, Jason Casada, Marty Shelton, and Lynn McCrary. Absent: Kiel Cathey. Also, present Council Liaison Ted Wagner, City Manager Ben White, and Staff Audrey Rubadue.
- Prayer was led by Beverly Mondy, and Pledge of Allegiance was led by Bryan Wood.

**II. PUBLIC TESTIMONY REGARDING AGENDA ITEMS**

- No one spoke under this item.

**III. APPROVE MINUTES**

- A. August 4<sup>th</sup>, 2022 (these minutes were approved at the September 1st, meeting therefore they did not need approval at this meeting. This was a clerical error.) The correct date for minutes that still need approval is for September 1<sup>st</sup>, 2022, and this will be included on the next agenda with approval for the minutes for October 6th, meeting minutes.

**IV. REGULAR AGENDA**

**A. "Consider a recommendation to the City Council of an Eagle Scout Project presented by Gavin Dillon."**

Mr. White introduced Gavin Dillon.

Gavin Dillon gave a presentation explaining his project for Chaparral Trail workout stations with slides, prices, and time frame for his Eagle Scout project and answered questions from the Parks and Recreations Board.

- **Jason Casada** made a motion to approve.
- **Lynn McCrary** seconded motion to approve.
- Motion carried.

**B. "Consider a recommendation to the City Council for a Historical Monument Gussie Nell Davis to be placed on the town square west of the gazebo presented by Councilman Williams."**

Mr. Willimas gave the history and background of Gussie Nell Davis and answered questions from the Parks and Recreations Board.

- **Misty Wiebold** made a motion to approve.
- **Jason Casada** seconded the motion to approve.
- Motion carried.

**C. “Consider, discuss, and act upon placement of the Old School house on City Property.”**

Mr. White updated the Parks and Recreations Board on this matter and suggested getting a sponsor from 4B to come to a meeting and give more information about the project.

- **Jason Casada** made motion to table the discussion until 4B sponsor can attend meeting.
- **Bryan Wood** stated we will table item C until we have 4B sponsor.

**D. “Consider, discuss, and act upon JW Spain Concession.”**

Mr. White updated the Parks and Recreations Board on this matter and confirmed the budget for JW Spain Concession is \$35,700.00.

Mr. McCray gave information on the price of hood vent, fryer, window, and painting of the building etc.

Mr. White stated that Mike Sullivan, Assistant City Manager, will work with Mr. McCrary, purchasing the items moving forward.

- **Beverly Mondy** made a motion to move forward with purchases.
- **Jason Casada** seconded the motion to approve.
- Motion carried.

**E. “Consider, discuss, and act upon Master plan for JW Spain and bids.”**

Mr. Wood gave background information on the master plan with timelines and asked about having to get bids.

Mr. White stated if the purchase is below \$50,000 can move forward based on a 3-bid scenario anything above that amount has to go through a formal bid process.

Mr. McCrary agreed to work with Mr. Sullivan and bring in bid proposals for the next meeting.

Mr. White went over the cost for the Parks Master Planning that was provided by Mark Bowers from Kimley-Horn.

**F. “Consider, discuss, and act upon Winter series Music in the Park”**

- **Jason Casada** made a motion to contract Blandelles Band to perform Friday December 2nd, 2022, for \$1,150.00.
- **Lynn McCrary** seconded the motion to approve.
- Motion carried.

**G. “Consider, discuss, and act upon 4B grants.”**

- Little League Improvement
- JW Spain Concession Improvements and Equipment
- Arbor Day
- Music in the Park
- Opening Day of Rails to Trails
- Open Space Grants

Mr. White and the members of the Parks and Recreations Board discussed the items above and no action was taken.

**H. “Consider, discuss, and act upon review of Little League Football and Cheer contract.”**

Brittany Jones came forward to speak on this item.

No action was taken on this item.

**I. “Consider, discuss, and act upon review of Little League Baseball Contract.”**

No action was taken on this item.

**V. CITY UPDATE FROM BEN WHITE**

No update given.

**VI. DISCUSSION OF PLACING ITEMS ON FUTURE AGENDAS**

- Repairing or / Replacement of the fencing at JW Spain Complex
- Coordinating future projects with city entities / Chamber of Commerce
- Opening Day of Rails to Trails
- Contract for Little League Football / Cheer contract
- Contract for Little League Baseball

**VII. ADJOURNMENT**

- **Jason Casada** made a motion for adjournment.
- **Lynn McCrary** seconded motion.
- Motion carried adjourned the meeting at 6:52 p.m.

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City Staff Liaison

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Bryan Wood, Chairman



**ATHLETIC COMPLEX JOINT USE AGREEMENT BETWEEN  
THE CITY OF FARMERSVILLE,  
AND  
THE FARMERSVILLE PEE WEE FOOTBALL / CHEER ASSOCIATION**

This Athletic Complex Joint Use Agreement ("Agreement") is entered into by and between the **CITY OF FARMERSVILLE, TEXAS** ("City") and **FARMERSVILLE PEE WEE FOOTBALL / CHEER ASSOCIATION**, an unincorporated entity (the "Association") (each a "Party" and collectively the "Parties"), acting by and through their authorized representatives.

**WHEREAS** the City of Farmersville owns the Spain Athletic Complex located at the intersection of Murchison Street and Merit Street known as the J. W. Spain Athletic Complex; and,

**WHEREAS** the City of Farmersville wishes to maximize the use of the Complex for the benefit of Farmersville and area citizens by entering into an agreement with the Farmersville Pee Wee Football / Cheer Association by defining and enumerating the duties and responsibilities of each entity regarding the maintenance and use of the Complex.

**NOW THEREFORE**, the City of Farmersville (City), and the Farmersville Pee Wee Football / Cheer Association (Association) agree to the following user regulations concerning the J. W. Spain Athletic Complex (Complex):

**Section 1. Designation of Fields and Field Use**

For purposes of clarity in this agreement, the football (or soccer) field is located in the southeast section of the Complex on Field 6. Fields constructed after the date of this Agreement will be numerically designated at the time of construction. Field 6, and any additional fields that may hereafter be constructed will hereafter be referred to singly and collectively as the "Playing Fields".

The Association's season begins in July and ends in November. The Association will have priority access to Field 6 during all scheduled league games and team practices. The Association must provide the Association's game schedule to the City Manager, or his designee as soon as the Association's schedule becomes available in each year (or season) of this Agreement. The Association must also provide the Association's practice schedule to the City Manager, or his designee, prior to practices beginning before and during each year (or season) of this Agreement. At all other times the Complex is open for the public's use on a first come first-use basis. Any scheduling should be brought to the attention of the City Manager as soon as practicable after any such conflict is discovered.

The Association may begin preparation of the playing fields for the playing season at any time before the beginning of the playing season after the City Manager, or his designee, has the final authority for the new playing scheduling of all Complex events.

## **Section 2. Grounds Maintenance**

The Association shall prepare and maintain all playing fields for Association events. All Playing Field(s) must meet high-quality standards and presentable playing condition from the beginning to the end of the playing season.

Trash and litter will be picked up and removed from the Playing Field(s) and bleacher areas at the end of each day on which the Association hosts or holds one or more scheduled games and/or team practices (each such day being a "Playing Day"). In addition, periodic cleaning shall be performed by the Association at intervals between Playing Days, if necessary, to prevent buildup of trash and litter. If the Association does not comply and allows trash and litter to be left on the Playing Field(s) after any use, the city will impose a charge not to exceed \$200 per incident. Association will be responsible to pay said trash and litter removal fees. If the City charges the Association a third time for the same incident or a similar type of incident, the City may at its discretion, terminate the Agreement and not allow the Association to use all or part of the facilities at the Complex.

The city will provide adequate trash receptacles and trash removal for the purpose of keeping the complex clean. Association shall be responsible to have a designated area for trash pickup. Association will be billed for labor and material for any needed follow-up cleaning provided by the city

The city is responsible to provide for mowing, weed control, edging, and watering of the entire complex including Playing Fields and common areas.

The Association shall provide the City Manager a list of organization members with contact information that will be granted keyed lock and combination lock access to the Complex and its facilities. This access list will be posted on the City's website to facilitate access to and the use of the Complex. Association activities shall not be conducted without the presence of a member that is on the access list.

## **Section 3. Concession Stand Operation and Proceeds**

The Association is responsible to provide concession services during all scheduled Association events at the Complex. All expenses associated with the Concession Stand for scheduled Association events will be the responsibility of the Association. The Association shall retain all proceeds, after expenses, from concession stand sales for all scheduled Association events. The concession stand must be cleaned by the Association after each use, specifically including, but not limited to, the grill/stove. The grease must be removed by the Association and disposed of in a proper manner. (The Association must remove all trash and garbage from the concession stand and placed in the appropriate trash receptacles provided by the city. The floors must be mopped and cleaned by the Association.)

## **Section 4. Restroom and Concession Maintenance**

Restrooms are also under the control and maintenance of the Association during their respective playing seasons. The Association will open the restrooms on Playing



Days for games and practice times but must keep the restrooms locked at all other times. The Association is responsible to the city for safeguarding, supplying, and thoroughly cleaning the restroom facilities.

Winterizing of restrooms and concession stand will be the responsibility of the city as well as normal maintenance, repairs, and replacements.

The concession stand will be kept clean and sanitary **at all times** by the Association when it is under its use and control and all equipment used will meet applicable regulatory standards of the city. If conditions exist in the restroom or concession stand that require work by the City or if the City is required to hire a third-party to repair, maintain or replace any equipment or facilities the associated cost of such repair, maintenance or replacement will be the responsibility of the City.

### **Section 5. Equipment, Supplies, and Storage Facilities**

In recognition of the Association's need to protect and maintain its equipment and supplies, the city grants use of the detached storage facility located next to the south gate. The City will share the use of the storage room located on the south side of the Concession Building with the Association. The city will have exclusive use of one storage room inside the Concession Building.

### **Section 6. Modifications or Improvements to Complex**

Any suggested modification or improvements to the Complex must be presented to the City Manager, or his designee, for consideration with the Parks and Recreation Board. Following the Board's review, recommendations will be forwarded to the City Council for final approval. Association will share the costs of such modifications or improvements as agreed upon, and approved by the City Council, prior to construction. The city will prepare invoices for Association's portion of the costs of such modifications or improvements. Payment is due within 15 days. Non-payment will result in a 10% surcharge and possible termination of this Contract.

### **Section 7. City Utilities**

Until further notice, the city will continue its practice of providing water, sewer, electricity, and information technology services to the Complex with no charge to Association. The City retains the right to assess future charges for these services after giving notice at the end of the playing season and prior to the next playing season for which such charges will begin to be assessed to and collected from the Association. If the City finds that utilities are being wasted, the City may, at its discretion, terminate the Agreement and not allow the Association to use all or part of the facilities at the Complex.

### **Section 8. Ancillary Financial Matters**

The Association shall provide to City copies of Association's year-end financial statement, ending December 31st, for each year during the term of, and prior to the

renewal of, this Agreement and any extension of this Agreement. All financial obligations contracted for by the Association in relation to its use of the Complex must be paid in return for the satisfactory delivery of goods and services, and failure to do so without just cause will be considered reason for the City to cancel the agreement with the Association. In no case will the City be responsible for expenses or obligations contracted by the Association for any reason unless by prior and specific agreement.

The City will not provide the Association with any insurance coverage including, but not limited, to, contents insurance coverage for the concession building. The Association will be obligated to determine and provide the types and levels of insurance coverage that it believes to be necessary for Association's use of the Complex beyond the insurance coverage required hereunder to protect the City.

All financial obligations contracted for by the Little League in relation to its use of the Complex must be paid in return for the satisfactory delivery of goods and services, (\$100 per team) and failure to do so without just cause will be considered reason for the City to cancel the agreement with the Little League.

## **Section 9. Insurance Required**

- A. Without limiting any of the other obligations or liabilities of the Association, the Association shall, at its own expense, procure, pay for, and maintain during the term of this agreement the hereinafter stipulated minimum insurance with companies duly licensed to write business in the State of Texas and approved by the City.
  - 1. Commercial General Liability insurance, including, but not limited to Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors and Contractual Liability, with minimum combined single limits of \$1,000,000 per-occurrence, \$3,000,000 Products/Completed Operations Aggregate and \$3,000,000 general aggregate. Such insurance shall cover, but not be limited to, the liability assumed under the indemnification provisions of this agreement, fully insuring the Association's liability for injury to or death of owners, employees and third parties, extended to include personal injury liability coverage, and for damage to property of third parties including damage to the Complex. Coverage must be written on an occurrence form.
  - 2. When applicable by law, Workers' Compensation insurance with statutory limits; and Employers' Liability coverage with minimum limits for bodily injury: a) by accident, \$100,000 each accident, b) by disease, \$100,000 per employee with a per policy aggregate of \$500,000.

The Association shall furnish to the City Manager certificates of insurance on an "ACCORD" form executed by the insurer or its authorized agent stating the coverage's, limits, expiration dates and compliance with all applicable required provisions prior to any use of the Complex by the Association. Certificates shall reference this agreement and be addressed as follows:

City of Farmersville, Texas c/o City Manager 205 S. Main Street Farmersville, TX 75442.

- B. With reference to the foregoing required insurance, the Association shall endorse applicable insurance policies as follows:
  - 1. In the event the Association is required by law to obtain, or has otherwise obtained, Workers' Compensation insurance and Employers' Liability coverage the Association and its insurer(s) shall provide a waiver of subrogation regarding such coverage in favor of the City of Farmersville and its officials, employees, and officers for losses arising from the activities under this contract.
  - 2. The City of Farmersville and its officials, employees and officers shall be named as additional insured on the Commercial General Liability policy and all other required insurance policies, by using endorsement CG2026 or broader.
  - 3. All insurance policies shall be endorsed to the effect that City of Farmersville will receive at least a thirty (30) day notice prior to cancellation, non-renewal, termination, or material change of the policies.
- C. All insurance shall be purchased from an insurance company that meets a financial rating of B+VI or better as assigned by the A.M. BEST Company or equivalent.
- D. Payment of any and all deductibles on each insurance policy shall be the responsibility of the Association.

#### **Section 10. Non-Association Events**

City approval is required for all Non-Association Events. Deposits and user fees generated from all non-Association events will be in accordance with assessed and collected in accordance with the Fee Schedule as set out in Appendix A and shall be made payable to the City of Farmersville.

Deposits will be returned to the users, provided the Complex has been cleaned to the satisfaction of the City Manager. If the condition of the Complex requires work by City personnel, a charge of \$200 per hour will be deducted from the deposit until the deposit is exhausted. The non-Association entity (team or private party) renting the Complex, will be billed for any additional costs that may incur due to misuse of the Complex and termination of all or partial use of the Complex may be enforced by the City.

#### **Section 11. Personal Conduct at Athletic Events**

The city recognizes that crowd noise is a part of any athletic activity and accepts a certain level of noise. However, the city requests that the Association make a good faith effort to discourage any undue harassment of neighbors by participants or spectators at any activity for which Association is responsible.

The Association will be responsible for the proper conduct of team members, coaches, fans, and other spectators during any activity sponsored or sanctioned by the Association at the Complex and, if necessary, will ask the City for assistance in



maintaining order.

The sale or consumption of alcohol, illegal drugs, or illegal chemical substances at the Complex is a violation of city ordinances, **will not be tolerated**, and will be punishable according to applicable law. The Complex is a non-smoking facility and **smoking shall not be allowed in, on and about the Complex**. Violators will be punished in accordance with the City's ordinances prohibiting smoking at the Complex. No Smoking Signs for Tobacco of all kinds and E-Cigarettes must remain posted

The City retains the right to restrict the times of use and conduct of all activities in and about the Complex. Such right may be exercised without notice in case of substantial violation of the City's regulations but must be authorized by official City Council action after thorough investigation and verification of said violation. A list of Association Board Members must be made available to the Parks and Recreation Board along with the Association's respective contact numbers and email addresses prior to the beginning of this Agreement and at least one time prior to the beginning of each calendar year during the term of this Agreement and any renewal terms. The Association will be provided with the City Manager's contact information should any issue arise with the Complex that needs immediate attention.

## **Section 12. Hold Harmless and Indemnification**

The Association does hereby agree to waive any and all claims, release, indemnify, defend and hold harmless City and all of its officials, officers, agents, and employees, in both their public and private capacities, from any and all liability, claims, suits, demands or causes of action which may arise by reason of injury to property or persons occasioned by willful misconduct, error, omission, or negligent act of the Association, its officers, agents, employees, invitees, or other persons, arising out of or in connection with this agreement or any and all activity or use pursuant to this agreement, or on or about the Complex and the Association will, at its own cost and expense, defend and protect City from any and all such claims and demands. Also, the Association agrees to and shall indemnify, defend and hold harmless City and all of its officials, officers, agents and employees, in both their public and private capacities, from and against any and all claims, losses, damages, causes of action, suits and liability of every kind, including all expenses of litigation, court costs and attorney fees for injury to or death of any person or for damage to any property arising out of or in connection with this agreement or any and all activity or use pursuant to this agreement, or on or about the Complex. Such indemnity shall apply whether the claims, losses, damages, causes of action, suits or liability arise from the negligence of the City, its officers, officials, agents, or employees and whether said negligence is contractual, comparative negligence, concurrent negligence, gross negligence, or any other form of negligence. City is responsible only for City's sole negligence.



### **Section 13. Term**

This agreement will be in force for a term of two years from January 31, 2023 until January 31, 2025. Either party may cancel participation in this contract with a thirty-day written notice. However, a bona fide effort must be made to resolve any misunderstandings or disagreements leading to the cancellation.

Two (2) months prior to the expiration of this Agreement and provided no proposal has been offered by the Association, it shall be the responsibility of the administrative staff of the City of Farmersville to initiate action to review the Agreement, taking into consideration any proposals from the Association, and forward proposals to alter or cancel the Agreement to the Parks and Recreation Board for consideration. Following consideration, the Parks and Recreation Board shall make recommendation to the City Council regarding any proposed modification or cancellation of the Agreement. Cancellation or modification to the Agreement must be in writing and approved by the City Council.

### **Section 14. Notice**

For the purposes of Notice, the addresses of the Parties will, until changed as provided below, be as follows:

Developer:

Farmersville Pee Wee Football/  
Cheer Association

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

City of Farmersville:

Ben White  
City Manager  
205 S. Main Street  
Farmersville, Texas 75442

The Parties will have the right from time to time to change their respective addresses upon written notice to the other Party. If any date or notice period described in this Agreement ends on a Saturday, Sunday or legal holiday, the applicable period for calculating the Notice will be extended to the first business day following such Saturday, Sunday, or legal holiday.

**This Athletic Joint Use Agreement has been approved by the governing bodies of each Party, as follows.**

City of Farmersville

\_\_\_\_\_  
Bryon Wiebold, Mayor

Dated: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Tabathia Monk, City Secretary

Date: \_\_\_\_\_

Farmersville Pee Wee Football/  
Cheer Association:

\_\_\_\_\_  
Director

Date: \_\_\_\_\_

## APPENDIX A

### SCHEDULE OF USER FEES

#### Applicable to all Non-Association Events

Activity Description	Resident	Non-
Deposit, any Combination of Fields	\$250	\$350
Use of Field 1, 2, or 3	\$100	\$250
Use of Field 4 or 5	\$50	\$200
Use of Field 6 (Football Field)	\$150	\$200
Lights, Hourly Rate (per field)	\$20	\$40

All fees must be paid at the time the reservation is made or at least two weeks prior to the reserved date.

Deposit is refundable if the fields, restrooms, and concession area is clean and in working order.

**ATHLETIC COMPLEX JOINT USE AGREEMENT BETWEEN  
THE CITY OF FARMERSVILLE  
AND  
THE FARMERSVILLE LITTLE LEAGUE BASEBALL ASSOCIATION**

This Athletic Complex Joint Use Agreement ("Agreement"), is entered into by and between the **CITY OF FARMERSVILLE, TEXAS** ("City") and **FARMERSVILLE LITTLE LEAGUE BASEBALL ASSOCIATION**, an unincorporated entity (the "Little League") (each a "Party" and collectively the "Parties"), acting by and through their authorized representatives.

**WHEREAS** the City of Farmersville owns the athletic facility located at the intersection of Murchison Street and Merit Street that is known as the J. W. Spain Athletic Complex ("Complex"); and,

**WHEREAS** the City of Farmersville wishes to maximize the use of the Complex for the benefit of Farmersville and area citizens by entering into this Agreement with the Farmersville Little League Baseball Association by defining and enumerating the duties and responsibilities of each entity regarding the maintenance and use of the Complex;

**NOW THEREFORE**, the City of Farmersville and the Farmersville Little League Baseball Association agree to the following user regulations concerning the J. W. Spain Athletic Complex:

**Section 1. Designation of Fields and Field Use**

**A. Designation of Playing Fields**

For purposes of clarity in this Agreement, the south field in the Complex (located closest to the intersection of Merit Street and Murchison Street) will be designated Field 1. The middle field of the Complex located immediately adjacent to the third-base side of Field 1 will be designated as Field 2. The north field of the Complex located immediately adjacent to the third-base side of Field 2 and closest to Merit Street will be designated as Field 3. The baseball fields on the northeastern most side of the Complex will be known as Fields 4 and 5, respectively, with the third-base line of Field 4 being adjacent to the outfield of Field 3 and the third-base side of Field 5 being adjacent to the first-base side of Field 4. Fields constructed after the date of this Agreement will be numerically designated at the time of construction. Fields 1 through 5, and any additional fields that may hereafter be constructed will hereafter be referred to singly and collectively as the "Playing Fields."

**B. Scheduling of Playing Fields for Little League Usage**

The Little League Baseball regular season begins in February and runs through November (the "Playing Season"). The Little League will have priority access to Fields 1 through 5 during all scheduled Little League games and team practices that are approved in advance and calendared on the City's schedule for the Complex by the City Manager or his designee.

At least thirty (30) days prior to the beginning of any Playing Season during which this Agreement is in full force and effect, the Little League shall provide the



following information to the City Manager, or his designee, for the City's concurrence and approval:

- (1) The Little League must provide the Little League's game schedule.
- (2) The Little League must also provide the Little League's practice schedule.

It will be the Little League's responsibility to meet with the City to discuss the scheduling of all league games, practices, and league related tournaments, if any.

C. The City's Scheduling Rights and Responsibilities

1. The City Manager, or his designee, has the final authority for scheduling all Complex and Playing Field events, and such decisions by the City are final.
2. The City will work with the Little League to schedule time periods for use of the Complex and the Playing Fields by the Little League for the Playing Season. Any scheduling conflicts should be brought to the attention of the City Manager, or his designee, as soon as practicable after any such conflict is discovered.
3. The City will communicate with the Little League regarding the closure of the Complex due to inclement weather or any outside factor that may hinder the Little League from utilizing the Complex or a specific Playing Field. Decisions by the City are final. The City will work with the Little League, at the Little League's request, to reschedule games, and league related events during the Playing Season for events impacted by the closure of the Complex or one or more Playing Fields under this clause.
4. At all times when the Complex or any of the Playing Fields are not scheduled for Little League use or are not then actually being used by the Little League for a Little League event the Complex and the Playing Fields not so in use shall be open for the public's use on a first-come first-use basis.
5. City specifically reserves the right to remove or exclude any person, group or organization from the Complex or City-owned or operated facilities based on conduct that the City determines, in its sole discretion, to be objectionable or violative of the City's ordinances, policies, rules or regulations and any State or Federal rule, regulation, law or statute.

D. Preparation of Playing Fields

The Little League may begin preparation of the Playing Fields for the Playing Season at any time before the beginning of the Playing Season after notifying the City Manager, or his designee, of the Little League's intent to begin such work.

**Section 2. City Fees**

The Little League shall collect and pay to the City an amount equal to One Hundred Dollars (\$100.00) for each team that signs up to participate in the then current Little

League Playing Season. The annual fee per team participating in a Playing Season shall be due and owing to the City no later than sixty (60) days after the first regularly scheduled game of the applicable Playing Season. Supporting documentation regarding the participating teams shall be made available to the City no later than sixty (60) days after the first regularly scheduled game of the applicable Playing Season.

### **Section 3. Grounds and Complex Maintenance**

- A. In consideration of the privilege of using the Complex, the Little League agrees to be solely responsible for the inspection of the Complex and the Playing Fields for all Little League events. The Little League shall use its best efforts to prevent damage to any part or portion of the Complex and the Playing Fields. If, however, any part or portion of the Complex and/or the Playing Fields becomes damaged during the Little League's use of the Complex, Little League shall immediately notify the City Manager, or his designee, of such damage and cooperate with the City to arrange for the prompt repair of the Complex and/or the Playing Fields. The Little League shall also promptly notify the City Manager, or his designee, of any existing or developing hazardous or dangerous condition within and about the Complex and/or the Playing Fields.
- B. In further consideration for the privilege of using the Complex, the Little League specifically assumes any and all liability that may arise due to premises defects upon any or all improvements which exist within the Complex and the Playing Fields that are known to or become known to the Little League, or are related to or arise out of Little League's use of the Complex, excluding normal wear and tear. The Little League agrees to accept the Complex in the condition in which it is found. City hereby disclaims and the Little League hereby accepts City's disclaimer of any warranty, express or implied, of the conditions or fitness for use of any portions of the Complex and Playing Fields for other than outdoor recreational activities.
- C. The Little League shall prepare and maintain all Playing Fields for Little League events. All Playing Fields must meet high-quality, safe, and presentable playing conditions from the beginning to the end of the Playing Season.
- D. The Little League shall pick up and remove trash and litter from the Playing Fields and bleacher areas at the end of each day on which the Little League hosts or holds one or more scheduled Little League games and/or team practices (each such day being a "Playing Day"). In addition, periodic cleaning shall be performed by the Little League at intervals between Playing Days, if necessary, to prevent a buildup of trash and litter at and about the Complex. If the Little League does not comply with these requirements and allows trash and litter to be left on the Playing Fields after any Little League use, the City will impose a charge not to exceed \$200 per incident to the Little League. The Little League will be responsible to pay said trash and litter removal fees within thirty days after receipt of notice of such charge. If the City charges the Little League a third time for the same incident or a similar type of incident, the City may at its discretion, immediately terminate this Agreement and not allow the Little League to use all

or part of the facilities at the Complex for the remainder of the Playing Season and any subsequent Playing Season.

1. The City will provide adequate trash receptacles and trash removal for the purpose of keeping the Complex clean. Little League shall be responsible to have a designated area for trash pickup. The Little League will be billed for labor and materials for any needed follow-up cleaning provided at the Complex by the City.
- E. The City is responsible to provide for mowing, weed control, edging, and watering of the entire Complex including the Playing Fields and common areas.
- F. The Little League shall provide the City Manager a list of organization members with contact information that will be granted keyed lock and combination lock access to the Complex and its facilities (the "Access List"). This Access List will be posted on the City's website to facilitate access to and the use of the Complex. Little League activities shall not be conducted without the presence of at least one member who is identified on the Access List.

#### **Section 4. Concession Stand Operation and Proceeds**

The Little League is responsible to provide concession services during all scheduled Little League events at the Complex. All expenses associated with the operation of the concession stand for scheduled Little League events will be the responsibility of the Little League. The Little League shall retain all proceeds, after expenses, from concession stand sales for all scheduled Little League events. The concession stand must be cleaned by the Little League after each use specifically including, but not limited to, the grill/stove. All cooking oils and grease must be removed from the concession stand by the Little League and disposed of in a proper manner. The grill/stove and grease drip tray(s) and all counters must be totally cleaned and free from any remnants of cooking oils and grease after each use of the concession stand by Little League. The Little League must remove all trash and garbage from the concession stand and placed it in the appropriate trash receptacles provided by the City. The concession stand floors must be swept, mopped and cleaned by the Little League following each Little League use of the concession stand.

#### **Section 5. Restroom and Concession Maintenance**

- A. Restrooms are also under the control and maintenance of the Little League during their Playing Season. The Little League will open the restrooms on Playing Days for games and practice times, but must keep the restrooms locked at all other times. The Little League is responsible to the City for safeguarding, supplying, and thoroughly cleaning the restroom facilities after each Little League use of the Complex.

Winterizing of restrooms and the concession stand will be the responsibility of the City. The City will also be responsible for the normal maintenance, repair, and replacement of the City-owned facilities and equipment contained in the concession stand and the restrooms.

- B. The concession stand will be kept clean and sanitary **at all times** by the Little League when it is under the Little League's use and control and all equipment



used will meet applicable health and regulatory standards of the City and the County. If conditions exist in the restrooms or concession stand that require work by the City or if the City is required to hire a third-party to repair, maintain or replace any equipment or facilities as a result of ordinary wear and tear, the associated cost of such repair, maintenance, or replacement will be the responsibility of the City. Any costs related to or arising out of any intentional or wrongful conduct during a Little League event shall be the responsibility of the Little League.

#### **Section 6. Equipment, Supplies, and Storage Facilities**

In recognition of the Little League's need to protect and maintain its equipment and supplies, the City grants use of the detached storage facility located next to the south gate and one storage room inside the concession building to the Little League. The City will share the use of the storage room located on the south side of the concession building with the Little League. The City will have exclusive use of one storage room inside the concession building.

#### **Section 7. Modifications or Improvements to Complex**

Any suggested modification or improvements to the Complex must be presented to the City Manager, or his designee, for review and recommendation by the City's Parks & Recreation Board ("Board"). Following the Board's review, the Board will forward a recommendation to the City Council for its consideration and action. The Little League will share the costs of any modifications or improvements as may be agreed upon, and approved by the City Council, prior to the beginning of construction. The City will prepare invoices for the Little League's portion of the costs of such modifications or improvements and submit them to the Little League in advance of the City incurring any costs related to such expenditure. The Little League's payment is due to the City within 15 days. Non-payment will result in a 10% surcharge and possible termination of this Agreement.

#### **Section 8. City Utilities**

Until further notice, the City will continue its practice of providing water, sewer, electricity, and information technology services to the Complex at no charge to the Little League. The City retains the right to assess future charges for these services after giving notice at the end of the then current Playing Season and prior to the beginning of the next Playing Season for which such charges will begin to be assessed to and collected from the Little League. If the City finds that utilities are being wasted because the Little League failed to turn off all of the field lights or failed to turn off any of the water spigots in the Complex following a Little League event, the City may, in the City's sole discretion, charge the Little League for such incident on an hourly basis for each hour on each field that such incident continues after the Little League's last use of the Complex or the Playing Fields on any given day of the Playing Season based on the hourly rates for use of the lights as set forth in Appendix A of this Agreement for each such incident regardless of whether the incident involves field lighting or running water. Following the third type of this incident during any Playing Season, the City may in its sole discretion terminate this Agreement and not allow the Little League to use all or part of the facilities at the Complex.



### **Section 9. Ancillary Financial Matters**

The Little League shall provide to City copies of the Little League's year-end financial statement ending January 31<sup>st</sup> for each year during the term of, and prior to the renewal of this Agreement and/or any extension of this Agreement. All financial obligations contracted for by the Little League in relation to its use of the Complex must be paid in return for the satisfactory delivery of goods and services, and failure to do so without just cause will be considered reason for the City to cancel this Agreement with the Little League. In no case will the City be responsible for expenses or obligations contracted for by the Little League for any reason unless by prior and specific agreement approved in writing by the City.

The City will not provide the Little League with any insurance coverage including, but not limited to, contents insurance coverage for the concession building. The Little League will be obligated to determine and provide the types and levels of insurance coverage that it believes to be necessary for Little League's use of the Complex beyond the insurance coverage required hereunder to protect the City.

### **Section 10. Insurance Required**

- A. Without limiting any of the other obligations or liabilities of the Little League, the Little League shall, at its own expense, procure, pay for and maintain during the term of this agreement the hereinafter stipulated minimum insurance with companies duly licensed to write business in the State of Texas and approved by the City.
1. Commercial General Liability insurance, including, but not limited to Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors and Contractual Liability, with minimum combined single limits of \$1,000,000 per-occurrence, \$1,000,000 Products/Completed Operations Aggregate and \$1,000,000 general aggregate. Such insurance shall cover, but not be limited to, the liability assumed under the indemnification provisions of this agreement, fully insuring the Little League's liability for injury to or death of owners, employees and third parties, extended to include personal injury liability coverage, and for damage to property of third parties including damage to the Complex. Coverage must be written on an occurrence form.
  2. When applicable by law, Workers' Compensation insurance with statutory limits; and Employers' Liability coverage with minimum limits for bodily injury: a) by accident, \$100,000 each accident, b) by disease, \$100,000 per employee with a per policy aggregate of \$500,000.
  3. Umbrella or Excess Liability insurance with minimum limits of \$1 million each occurrence and annual aggregate for bodily injury and property damage, that follows form and applies in excess of the above indicated primary coverage (1, 2 and 3). The total limits required may be satisfied by any combination of primary, excess or umbrella liability insurance provided all policies comply with all requirements. The Little League may maintain reasonable deductibles, subject to approval by the City of Farmersville.

The Little League shall furnish to the City Manager certificates of insurance on an "ACCORD" form executed by the insurer or its authorized agent stating the coverages, limits, expiration dates and compliance with all applicable required provisions prior to any use of the Complex by the Little League. Certificates shall reference this agreement and be addressed as follows:

City of Farmersville, Texas  
c/o City Manager  
205 S. Main Street  
Farmersville, TX 75442

- B. With reference to the foregoing required insurance, the Little League shall endorse applicable insurance policies as follows:
1. In the event the Little League is required by law to obtain, or has otherwise obtained, Workers' Compensation insurance and Employers' Liability coverage the Little League and its insurers) shall provide a waiver of subrogation regarding such coverage in favor of the City of Farmersville and its officials, employees, and officers for losses arising from the activities under this contract.
  2. The City of Farmersville and its officials, employees and officers shall be named as additional insureds on the Commercial General Liability policy and all other required insurance policies.
  3. All insurance policies shall be endorsed to the effect that City of Farmersville will receive at least a thirty (30) day notice prior to cancellation, non-renewal, termination, or material change of the policies.
- C. All insurance shall be purchased from an insurance company that meets a financial rating of B+VI or better as assigned by the A.M. BEST Company or equivalent.
- D. Payment of any and all deductibles on each insurance policy shall be the responsibility of the Little League.

#### **Section 11. Non-League Events**

City approval is required for all Non-Little League events. Deposits and user fees generated from all non-Little League events will be assessed and collected in accordance with the Fee Schedule as set out in Appendix A of this Agreement, and shall be made payable to the City of Farmersville.

Deposits will be returned to the users, provided the Complex has been cleaned to the satisfaction of the City Manager. If the condition of the Complex requires work by City personnel, a charge of \$200 per hour will be deducted from the deposit until the deposit is exhausted. The non-league entity (team or private party) renting the Complex, will be billed for any additional costs that City may incur due to misuse of the Complex and termination of all or partial use of the Complex may be enforced by City.



## **Section 12. Personal Conduct at Athletic Events**

- A. The City recognizes that crowd noise is a part of any athletic activity and accepts a certain level of noise. However, the City requests that the Little League make a good faith effort to discourage any undue harassment of neighbors by participants or spectators at any activity for which Little League is responsible.
- B. The Little League will be responsible for the proper conduct of team members, coaches, fans, and other spectators during any activity sponsored or sanctioned by the Little League at the Complex and, if necessary, will ask the City for assistance in maintaining order.
- C. The sale or consumption of alcohol, illegal drugs, or illegal chemical substances at the Complex is a violation of city ordinances, **will not be permitted**, and will be punishable according to applicable law. The Complex is a non-smoking facility and **smoking shall not be allowed in, on and about the Complex**. Violators will be punished in accordance with the City's ordinances prohibiting smoking at the Complex.
- D. The City retains the right to restrict the times of use and conduct of all activities in and about the Complex. Such right may be exercised without notice in the case of substantial violation of the City's regulations but must be authorized by official City Council action after thorough investigation and verification of said violation. A list of Little League Board Members must be made available to the City Amenities Board along with the Little League Board Members' respective contact numbers and email addresses prior to the beginning of this Agreement and at least one time prior to the beginning of each calendar year during the term of this Agreement and any renewal terms. The Little League will be provided with the City Manager's contact information should any issue arise with the Complex that needs immediate attention.

## **Section 13. Hold Harmless and Indemnification**

The Little League does hereby agree to waive any and all claims, release, indemnify, defend and hold harmless City and all of its officials, officers, agents and employees, in both their public and private capacities, from any and all liability, claims, suits, demands or causes of action which may arise by reason of injury to property or persons occasioned by willful misconduct, error, omission, or negligent act of the Little League, its officers, agents, employees, invitees or other persons, arising out of or in connection with this agreement or any and all activity or use pursuant to this agreement, or on or about the Complex and the Little League will, at its own cost and expense, defend and protect City from any and all such claims and demands. Also, the Little League agrees to and shall indemnify, defend and hold harmless City and all of its officials, officers, agents and employees, in both their public and private capacities, from and against any and all claims, losses, damages, causes of action, suits and liability of every kind, including all expenses of litigation, court costs and attorney fees for injury to or death of any person or for damage to any property arising out of or in connection with this agreement or any and all activity or use pursuant to this agreement, or on or about the Complex. Such indemnity shall apply whether the claims, losses,

damages, causes of action, suits or liability arise from the negligence of the City, its officers, officials, agents or employees and whether said negligence is contractual, comparative negligence, concurrent negligence, gross negligence or any other form of negligence. City is responsible only for City's sole negligence.

#### **Section 14. Term**

- A. This agreement will be in force for a term of two years beginning on February 1, 2021 and running through January 31, 2023. Either party may cancel this Agreement by providing the other party at least thirty days' written notice of termination. However, a bona fide effort must be made to resolve any misunderstandings or disagreements leading to the cancellation.
- B. Two (2) months prior to the expiration of this Agreement, and provided no proposal has been offered by the Little League, it shall be the responsibility of the administrative staff of the City of Farmersville to initiate action to review the Agreement, taking into consideration any proposals from the Little League, and forward proposals to alter, amend, extend or cancel the Agreement to the City Parks & Recreation Board for consideration. Following consideration, the City Parks & Recreation Board shall make a recommendation to the City Council regarding any proposed modification or cancellation of the Agreement. The City Council shall consider the recommendation of the Parks & Recreation Board and make such determination as the City Council deems to be in the best interest of the City. Any cancellation or modification of this Agreement must be in writing and approved by the City Council.

#### **Section 15. Notices**

For the purposes of Notice, the addresses of the Parties will, until changed as provided below, be as follows:

Developer:

Farmersville Little League  
Baseball Association

City of Farmersville:

Ben White  
City Manager  
205 S. Main Street  
Farmersville, Texas 75442

The Parties will have the right from time to time to change their respective addresses upon written notice to the other Party. If any date or notice period described in this Agreement ends on a Saturday, Sunday or legal holiday, the applicable period for calculating the Notice will be extended to the first business day following such Saturday, Sunday or legal holiday.

*[Signatures begin on following Page.]*



This Athletic Joint Use Agreement has been approved by the governing bodies of each Party, as follows.

**City of Farmersville**



Bryon Wiebold, Mayor

Dated: 1/26/21



Attest:



Sandra Green, TRMC, City Secretary

Date: 1-26-2021

**Farmersville Little League**



Marvin Smith, Director

Date: 2-3-21

## APPENDIX A

### SCHEDULE OF USER FEES

Applicable to all Non-Little League events

Activity Description	Resident	Non-Resident
Deposit, any Combination of Fields	\$250	\$350
Use of Field 1, 2, or 3	\$100	\$250
Use of Field 4 or 5	\$50	\$200
Use of Field 6 (football field)	\$150	\$200
Lights, Hourly Rate (per field)	\$20	\$40

All fees must be paid at the time the reservation is made or at least two weeks prior to the reserved date.

Deposit is refundable if the fields, restrooms and concession area is clean and in working order.

**ATHLETIC COMPLEX JOINT USE AGREEMENT BETWEEN  
THE CITY OF FARMERSVILLE,  
AND  
THE FARMERSVILLE PEE WEE FOOTBALL / CHEER ASSOCIATION**

This Athletic Complex Joint Use Agreement ("Agreement"), is entered into by and between the **CITY OF FARMERSVILLE, TEXAS** ("City") and **FARMERSVILLE PEE WEE FOOTBALL / CHEER ASSOCIATION**, an unincorporated entity (the "Association") (each a "Party" and collectively the "Parties"), acting by and through their authorized representatives.

**WHEREAS**, the City of Farmersville owns the Spain Athletic Complex located at the intersection of Murchison Street and Merit Street known as the J. W. Spain Athletic Complex; and,

**WHEREAS**, the City of Farmersville wishes to maximize the use of the Complex for the benefit of Farmersville and area citizens by entering into an agreement with the Farmersville Pee Wee Football / Cheer Association by defining and enumerating the duties and responsibilities of each entity regarding the maintenance and use of the Complex;

**NOW THEREFORE**, the City of Farmersville (City), and the Farmersville Pee Wee Football / Cheer Association (Association) agree to the following user regulations concerning the J. W. Spain Athletic Complex (Complex):

**Section 1. Designation of Fields and Field Use**

For purposes of clarity in this agreement, the football (or soccer) field is located in the southeast section of the Complex on Field 6. Fields constructed after the date of this Agreement will be numerically designated at the time of construction. Field 6, and any additional fields that may hereafter be constructed will hereafter be referred to singly and collectively as the "Playing Fields".

The Association's season begins in July and ends in November. The Association will have priority access to Field 6 during all scheduled league games and team practices. The Association must provide the Association's game schedule to the City Manager, or his designee, as soon as the Association's schedule becomes available in each year (or season) of this Agreement. The Association must also provide the Association's practice schedule to the City Manager, or his designee, prior to practices beginning before and during each year (or season) of this Agreement. At all other times the Complex is open for the public's use on a first-come first-use basis. Any scheduling should be brought to the attention of the City Manager as soon as practicable after any such conflict is discovered.

The Association may begin preparation of the playing fields for the Playing Field(s) for the playing season at any time before the beginning of the playing season after notifying the City Manager, or his designee, of the Association's intent to begin such work. The City Manager, or his designee, has the final authority for scheduling of all Complex events.



## **Section 2. Grounds Maintenance**

The Association shall prepare and maintain all playing fields for Association events. All Playing Field(s) must meet high-quality standards and presentable playing condition from the beginning to the end of the playing season.

Trash and litter will be picked up and removed from the Playing Field(s) and bleacher areas at the end of each day on which the Association hosts or holds one or more scheduled games and/or team practices (each such day being a "Playing Day"). In addition, periodic cleaning shall be performed by the Association at intervals between Playing Days, if necessary, to prevent buildup of trash and litter. If the Association does not comply and allows trash and litter to be left on the Playing Field(s) after any use, the City will impose a charge not to exceed \$200 per incident. Association will be responsible to pay said trash and litter removal fees. If the City charges the Association a third time for the same incident or a similar type of incident, the City may at its discretion, terminate the Agreement and not allow the Association to use all or part of the facilities at the Complex.

The City will provide adequate trash receptacles and trash removal for the purpose of keeping the complex clean. Association shall be responsible to have a designated area for trash pickup. Association will be billed for labor and material for any needed follow-up cleaning provided by the City.

The City is responsible to provide for mowing, weed control, edging, and watering of the entire complex including Playing Fields and common areas.

The Association shall provide the City Manager a list of organization members with contact information that will be granted keyed lock and combination lock access to the Complex and its facilities. This access list will be posted on the City's website to facilitate access to and the use of the Complex. Association activities shall not be conducted without the presence of a member that is on the access list.

## **Section 3. Concession Stand Operation and Proceeds**

The Association is responsible to provide concession services during all scheduled Association events at the Complex. All expenses associated with the Concession Stand for scheduled Association events will be the responsibility of the Association. The Association shall retain all proceeds, after expenses, from concession stand sales for all scheduled Association events. The concession stand must be cleaned by the Association after each use, specifically including, but not limited to, the grill/stove. The grease must be removed by the Association and disposed of in a proper manner. The grease drip tray must be totally cleaned and free from any remnants of grease after each use of the concession stand by the Association. The Association must remove all trash and garbage from the concession stand and placed in the appropriate trash receptacles provided by the City. The floors must be mopped and cleaned by the Association.



#### **Section 4. Restroom and Concession Maintenance**

Restrooms are also under the control and maintenance of the Association during their respective playing seasons. The Association will open the restrooms on Playing Days for games and practice times, but must keep the restrooms locked at all other times. The Association is responsible to the City for safeguarding, supplying, and thoroughly cleaning the restroom facilities.

Winterizing of restrooms and concession stand will be the responsibility of the City as well as normal maintenance, repairs, and replacements.

The concession stand will be kept clean and sanitary at all times by the Association when it is under its use and control and all equipment used will meet applicable regulatory standards of the City. If conditions exist in the restroom or concession stand that require work by the City or if the City is required to hire a third-party to repair, maintain or replace any equipment or facilities the associated cost of such repair, maintenance or replacement will be the responsibility of the City.

#### **Section 5. Equipment, Supplies, and Storage Facilities**

In recognition of the Association's need to protect and maintain its equipment and supplies, the City grants use of the detached storage facility located next to the south gate and one storage room inside the Concession Building. The City will share the use of the storage room located on the south side of the Concession Building with the Association. The City will have exclusive use of one storage room inside the Concession Building.

#### **Section 6. Modifications or Improvements to Complex**

Any suggested modification or improvements to the Complex must be presented to the City Manager, or his designee, for consideration with the City Amenities Board. Following the Board's review, recommendations will be forwarded to the City Council for final approval. Association will share the costs of such modifications or improvements as agreed upon, and approved by the City Council, prior to construction. The City will prepare invoices for Association's portion of the costs of such modifications or improvements. Payment is due within 15 days. Non-payment will result in a 10% surcharge and possible termination of this Contract.

#### **Section 7. City Utilities**

Until further notice, the City will continue its practice of providing water, sewer, electricity, and information technology services to the Complex with no charge to Association. The City retains the right to assess future charges for these services after giving notice at the end of the playing season and prior to the next playing season for which such charges will begin to be assessed to and collected from the Association. If the City finds that utilities are being wasted, the City may, at its discretion, terminate the Agreement and not allow the Association to use all or part of the facilities at the Complex.

## Section 8. Ancillary Financial Matters

The Association shall provide to City copies of Association's year-end financial statement, ending December 31st, for each year during the term of, and prior to the renewal of, this Agreement and any extension of this Agreement. All financial obligations contracted for by the Association in relation to its use of the Complex must be paid in return for the satisfactory delivery of goods and services, and failure to do so without just cause will be considered reason for the City to cancel the agreement with the Association. In no case will the City be responsible for expenses or obligations contracted by the Association for any reason unless by prior and specific agreement.

The City will not provide the Association with any insurance coverage including, but not limited, to, contents insurance coverage for the concession building. The Association will be obligated to determine and provide the types and levels of insurance coverage that it believes to be necessary for Association's use of the Complex beyond the insurance coverage required hereunder to protect the City.

## Section 9. Insurance Required

- A. Without limiting any of the other obligations or liabilities of the Association, the Association shall, at its own expense, procure, pay for and maintain during the term of this agreement the hereinafter stipulated minimum insurance with companies duly licensed to write business in the State of Texas and approved by the City.
  - 1. Commercial General Liability insurance, including, but not limited to Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors and Contractual Liability, with minimum combined single limits of \$1,000,000 per-occurrence, \$3,000,000 Products/Completed Operations Aggregate and \$3,000,000 general aggregate. Such insurance shall cover, but not be limited to, the liability assumed under the indemnification provisions of this agreement, fully insuring the Association's liability for injury to or death of owners, employees and third parties, extended to include personal injury liability coverage, and for damage to property of third parties including damage to the Complex. Coverage must be written on an occurrence form.
  - 2. When applicable by law, Workers' Compensation insurance with statutory limits; and Employers' Liability coverage with minimum limits for bodily injury: a) by accident, \$100,000 each accident, b) by disease, \$100,000 per employee with a per policy aggregate of \$500,000.

The Association shall furnish to the City Manager certificates of insurance on an "ACCORD" form executed by the insurer or its authorized agent stating the coverage's, limits, expiration dates and compliance with all applicable required provisions prior to any use of the Complex by the Association. Certificates shall reference this agreement and be addressed as follows:



City of Farmersville, Texas c/o City Manager 205 S. Main Street Farmersville, TX 75442.

- B. With reference to the foregoing required insurance, the Association shall endorse applicable insurance policies as follows:
  - 1. In the event the Association is required by law to obtain, or has otherwise obtained, Workers' Compensation insurance and Employers' Liability coverage the Association and its insurer(s) shall provide a waiver of subrogation regarding such coverage in favor of the City of Farmersville and its officials, employees, and officers for losses arising from the activities under this contract.
  - 2. The City of Farmersville and its officials, employees and officers shall be named as additional insured's on the Commercial General Liability policy and all other required insurance policies, by using endorsement CG2026 or broader.
  - 3. All insurance policies shall be endorsed to the effect that City of Farmersville will receive at least a thirty (30) day notice prior to cancellation, non-renewal, termination, or material change of the policies.
- C. All insurance shall be purchased from an insurance company that meets a financial rating of B+VI or better as assigned by the A.M. BEST Company or equivalent.
- D. Payment of any and all deductibles on each insurance policy shall be the responsibility of the Association.

#### **Section 10. Non-Association Events**

City approval is required for all Non-Association Events. Deposits and user fees generated from all non-Association events will be in accordance with assessed and collected in accordance with the Fee Schedule as set out in Appendix A and shall be made payable to the City of Farmersville.

Deposits will be returned to the users, provided the Complex has been cleaned to the satisfaction of the City Manager. If the condition of the Complex requires work by City personnel, a charge of \$200 per hour will be deducted from the deposit until the deposit is exhausted. The non-Association entity (team or private party) renting the Complex, will be billed for any additional costs that may incur due to misuse of the Complex and termination of all or partial use of the Complex may be enforced by the City.

#### **Section 11. Personal Conduct at Athletic Events**

The City recognizes that crowd noise is a part of any athletic activity and accepts a certain level of noise. However, the City requests that the Association make a good faith effort to discourage any undue harassment of neighbors by participants or spectators at any activity for which Association is responsible.

The Association will be responsible for the proper conduct of team members, coaches, fans, and other spectators during any activity sponsored or sanctioned by the Association at the Complex and, if necessary, will ask the City for assistance in

maintaining order.

The sale or consumption of alcohol, illegal drugs, or illegal chemical substances at the Complex is a violation of city ordinances, **will not be tolerated**, and will be punishable according to applicable law. The Complex is a non-smoking facility and **smoking shall not be allowed in, on and about the Complex**. Violators will be punished in accordance with the City's ordinances prohibiting smoking at the Complex.

The City retains the right to restrict the times of use and conduct of all activities in and about the Complex. Such right may be exercised without notice in case of substantial violation of the City's regulations but must be authorized by official City Council action after thorough investigation and verification of said violation. A list of Association Board Members must be made available to the City Amenities Board along with the Association's respective contact numbers and email addresses prior to the beginning of this Agreement and at least one time prior to the beginning of each calendar year during the term of this Agreement and any renewal terms. The Association will be provided with the City Manager's contact information should any issue arise with the Complex that needs immediate attention.

## **Section 12. Hold Harmless and Indemnification**

The Association does hereby agree to waive any and all claims, release, indemnify, defend and hold harmless City and all of its officials, officers, agents, and employees, in both their public and private capacities, from any and all liability, claims, suits, demands or causes of action which may arise by reason of injury to property or persons occasioned by willful misconduct, error, omission, or negligent act of the Association, its officers, agents, employees, invitees, or other persons, arising out of or in connection with this agreement or any and all activity or use pursuant to this agreement, or on or about the Complex and the Association will, at its own cost and expense, defend and protect City from any and all such claims and demands. Also, the Association agrees to and shall indemnify, defend and hold harmless City and all of its officials, officers, agents and employees, in both their public and private capacities, from and against any and all claims, losses, damages, causes of action, suites and liability of every kind, including all expenses of litigation, court costs and attorney fees for injury to or death of any person or for damage to any property arising out of or in connection with this agreement or any and all activity or use pursuant to this agreement, or on or about the Complex. Such indemnity shall apply whether the claims, losses, damages, causes of action, suites or liability arise from the negligence of the City, its officers, officials, agents or employees and whether said negligence is contractual, comparative negligence, concurrent negligence, gross negligence or any other form of negligence. City is responsible only for City's sole negligence.



### **Section 13. Term**

This agreement will be in force for a term of two years from April 1, 2019 until March 31, 2021. Either party may cancel participation in this contract with a thirty day written notice. However, a bona fide effort must be made to resolve any misunderstandings or disagreements leading to the cancellation.

Two (2) months prior to the expiration of this Agreement, and provided no proposal has been offered by the Association, it shall be the responsibility of the administrative staff of the City of Farmersville to initiate action to review the Agreement, taking into consideration any proposals from the Association, and forward proposals to alter or cancel the Agreement to the City Amenities Board for consideration. Following consideration, the City Amenities Board shall make recommendation to the City Council regarding any proposed modification or cancellation of the Agreement. Cancellation or modification to the Agreement must be in writing and approved by the City Council.

### **Section 14. Notice**

For the purposes of Notice, the addresses of the Parties will, until changed as provided below, be as follows:

Developer:

Farmersville Pee Wee Football/  
Cheer Association

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_


City of Farmersville:

Ben White  
City Manager  
205 S. Main Street  
Farmersville, Texas 75442

The Parties will have the right from time to time to change their respective addresses upon written notice to the other Party. If any date or notice period described in this Agreement ends on a Saturday, Sunday or legal holiday, the applicable period for calculating the Notice will be extended to the first business day following such Saturday, Sunday or legal holiday.

**This Athletic Joint Use Agreement has been approved by the governing bodies of each Party, as follows.**

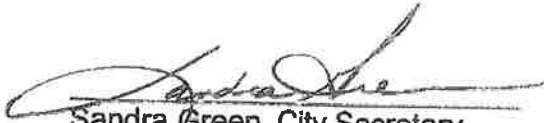
City of Farmersville



BENJAMIN L. WHITE, CITY MANAGER

Dated: 22 Aug 2019

Attest:

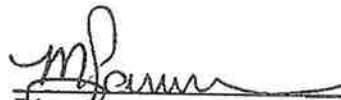


Sandra Green, City Secretary

Date: 8-22-19



Farmersville Pee Wee Football/  
Cheer Association:



Director

Date: 3-8-19