



A handwritten signature in black ink that reads 'Jane C. Shelhorse'.

MEMORANDUM

TO: Timothy J. Baroody, City Manager
FROM: Jane Shelhorse, Director Parks, Recreation and Events
DATE: January 19, 2021 for the January 26, 2021 Council Meeting
SUBJECT: Lease Renewal with Mayfield Civic Association

ISSUE

Should the City renew the lease agreement with the Mayfield Civic Association for the parcels of land used as a public park known as the W.L Harris Playground?

RECOMMENDATION

Staff recommends that the City renew the lease agreement with the Mayfield Civic Association to keep the parcels of land as a public park known as the W.L. Harris Playground.

DISCUSSION

The Mayfield Civic Association owns the parcels GPINS 7788-19-9209, 7788-19-9320, 7788-19-9350, 7788-19-9370, 7788-19-9200, 7788-19-9230, 7788-19-9260, 7788-19-9189 and a portion of 7788-29-0137. These parcels, which are adjacent to the Mayfield Civic Association's Community Center, have been combined to form a public park known as the W.L Harris Playground. The park contains a lighted basketball court, a lighted picnic pavilion, small covered stage with lights, playground equipment, and an open grass play space. There is no public restroom in the park, but the City does lease a porta john that is placed within the park year round.

In early 2020, using a grant from the Sunshine Lady Foundation, the Mayfield Civic Association, working with Parks, Recreation and Events Department, installed new playground equipment within the park. Parks, Recreation and Events maintains the park including this new equipment and all of the other playground equipment and other amenities, and landscaping.

The Mayfield Civic Association schedules park usage, but the City is given priority for sponsored events.

The property has been leased by the City since at least 1981. The latest renewal term began on September 20, 1999 and ended on June 20, 2009. The City and the Association have continued to operate in a hold over status as though the lease was still in effect. The City pays the Association \$1 per year in rent for the properties, as long as the Association is exempt from City real property taxes.

The new lease begins December 1, 2020 and expires November 30, 2030. The lease provides for a maintenance agreement to be executed by the Director of Parks, Recreation, and Events that further describes the maintenance responsibilities of the City and the Civic Association's responsibilities with respect to the Association building and Association-sponsored events. A copy of this agreement is attached.

FISCAL IMPACT

The City maintains the park which includes weekly grass cutting, trash collection, porta john rental, ongoing repairs and maintenance, as well as the charges for park utilities. The City also pays for engineered wood fiber for the playground equipment. Recently, the City paid to have the basketball goals repainted.

All of these items are included in Parks, Recreation and Events Departments operational budget request.

Attachments: Mayfield Lease agreement December 2020



January 26, 2021
Regular Meeting
Resolution 21-__

MOTION:

SECOND:

RE: Authorizing the City Manager to Renew a Lease with Mayfield Civic Association for the W.L. Harris Playground

ACTION: APPROVED: Ayes: 0; Nays: 0

Since the early 1980s, the City has leased several parcels adjacent to the Mayfield Community Center from the Mayfield Civic Association for use as a public park and playground. The latest renewal term began on September 20, 1999 and expired on June 20, 2009. Since that time, the City and the Civic Association have continued to operate in a holdover status as if the lease were still in effect, with the City assuming maintenance responsibilities for the area.

The Civic Association and the City wish to enter into a formal agreement to renew the lease for a period of 10 years and to create a maintenance agreement that outlines the responsibilities of the parties with respect to maintenance of the property and management of park facilities and events.

Therefore, the Fredericksburg City Council hereby resolves that City Council authorizes the City Manager to enter into the attached agreement with the Mayfield Civic Association for the lease of GPIN parcels 7788-19-9209, 7788-19-9320, 7788-19-9350, 7788-19-9370, 7788-19-9200, 7788-19-9230, 7788-19-9260, 7788-19-9189 and a portion of 7788-29-0137, also known as W.L. Harris Playground, for use as a public park.

Votes:

Ayes:

Nays:

Absent from Vote:

Absent from Meeting:

Clerk's Certificate

I certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Resolution No. 21-__, adopted at a meeting of the City Council held January 26, 2021, at which a quorum was present and voted.

***Tonya B. Lacey, MMC
Clerk of Council***

MAINTENANCE AGREEMENT

This maintenance agreement, dated December 1, 2020 is between the Mayfield Civic Association, Inc., a Virginia Corporation (the "Association"), and the City of Fredericksburg, Virginia, a municipal corporation (the "City").

RECITALS

The City and the Association have entered into an agreement, dated December 1, 2020 (the "Lease"), for lease by the City of several parcels of land from the Association for use as a public park and playground.

The Lease provides for the parties' maintenance obligations to be set forth in a separate maintenance agreement.

The parties intend to provide for maintenance of the park in accordance with the following terms.

AGREEMENT

City Responsibilities. The City hereby agrees to perform the following general maintenance services for the leased area (as shown on the map attached to the Lease and labeled Exhibit A):

1. Perform routine groundskeeping, to include cutting, trimming, and blowing grass, planting and maintaining flower beds, maintaining trees and shrubs, and removing trash, in a manner equivalent to maintenance levels at all other parks in the City that are maintained by the City Parks and Recreation Department.
2. Maintain the basketball court facilities, the pavilion, the stage, and the playground equipment in a clean and safe manner, making necessary repairs as needed.
3. Clean up after City-sponsored events, and ensure the park is clean and free from trash and debris after events held by other parties reserving use of the park through the Parks and Recreation Department.
4. Provide at least one portable toilet year-round for use by park visitors.
5. Be responsible for any electrical maintenance and utility charges associated with the use and operation of the park.

Association Responsibilities.

1. The Association will be solely responsible for the interior and exterior maintenance of the Mayfield Civic Association building (GPIN #7788-29-0137).
2. The Association shall clean up after Association-sponsored events, ensuring the park is free of trash and debris.

Term. This Agreement shall remain in force and effect as long as the City continues to lease the premises from the Association. Termination of this agreement by either party without providing a reasonable alternative maintenance plan that is acceptable to the other party shall constitute noncompliance for the purpose of the Termination provision of the Lease.

Amendment. This maintenance agreement may be amended by agreement between the President of the Association or other authorized representative and the City Director of Parks, Recreation, and Events or her designee. Any amendments shall be in writing.

Mayfield Civic Association, Inc.

Judy Smith, President

By: [NAME, TITLE]

City of Fredericksburg, Virginia

A municipal corporation

By: Jane Shelhorse, Director of Parks, Recreation, and Events

This lease agreement, dated December 1, 2020 is between the Mayfield Civic Association, Inc., a Virginia Corporation (the "Association"), and the City of Fredericksburg, Virginia, a municipal corporation (the "City").

RECITALS:

The City has leased several parcels of land from the Mayfield Civic Association, for use as a public park known as the W. L. Harris Playground. This lease dates back to at least 1981.

The latest lease renewal term began on September 20, 1999 and ended on June 30, 2009. The City and the Association have continued to operate in a holdover status as though the lease was still in effect, and they now intend to formally renew the lease under the following terms.

AGREEMENT:

Premises:

The Association shall lease to the City the following property:

GPINs: 7788-19-9209, 7788-19-9320, 7788-19-9350, 7788-19-9370, 7788-19-9200, 7788-19-9230, 7788-19-9230, 7788-19-9260, 7788-19-9189, and a portion of 7788-29-0137. This area is shown on the map attached to this agreement as Exhibit A.

Term:

This lease begins on December 1, 2020 and ends on November 30, 2030. The City may renew this agreement for one additional ten-year term if it notifies the Association of its intent to do so in writing at least 30 days before the expiration of the initial term.

Rent:

For as long as the Association is exempt from City real property taxes, the City shall pay the Association \$1 per year in rent. The Association shall file timely applications with the Commissioner of the Revenue for renewal of its tax-exempt status whenever that status is set to expire.

If the Association loses its exemption from City real property taxes, the Association shall notify the City, and the City shall pay as rent an amount equal to the total real property taxes paid by the Association for the premises. The Association shall provide the City with a receipt for payment of those taxes, and the City shall promptly reimburse the Association for the amount of taxes paid. The City shall not reimburse the Association for any penalties or interest.

Alterations and Improvements:

The City may make any alterations and improvements to the premises with written permission from the Association, which permission shall not be unreasonably withheld. The City is solely responsible

for the cost of all alterations and improvements it makes. Upon termination or expiration of this agreement, all alterations and improvements become the property of the Association.

The Association may make alterations and improvements to the premises with written permission from the City, which shall not be unreasonably withheld. The Association will be responsible for the cost of all alterations and improvements it makes, unless the City and the Association agree otherwise in writing.

Scheduling:

The City shall have priority over the use of the park for City-sponsored events. The Association will manage reservations from the general public for use of areas within the park, but shall be required to keep the City informed of scheduled use. Any additional equipment or portable toilet facilities required for park users other than the City shall be the responsibility of the user or the Association.

Maintenance:

The City's and the Association's maintenance obligations for the park shall be described in a separate Maintenance Agreement. This Maintenance Agreement may be executed and further amended by agreement between an authorized representative of the Association and the City Director of Parks, Recreation, and Events.

Insurance and Indemnification:

The City shall maintain liability and casualty insurance for damages or injuries suffered by third parties arising out of the City's use of the premises.

Pursuant to Section 29.1-509(E) of the Code of Virginia, the City shall hold the Association harmless from all liability and provide or pay the cost of all reasonable legal services required by any person entitled to the benefit of this provision as the result of a claim or suit arising out of the City's use of the premises. Nothing contained in this provision shall be construed to constitute a waiver of the City's sovereign immunity.

Termination:

The City may terminate this agreement upon 30 days written notice to the Association.

The Association may terminate this agreement if it notifies the City that the City is not in compliance with any provision of this agreement, and the City has not cured the noncompliance within 30 days of receipt of that notice.

Surrender of Premises:

Upon termination or expiration of this agreement, the City shall leave the property in good and clean condition, except for ordinary wear and tear.

Right of First Refusal:

The City shall have the right of first refusal on any proposed sale of any portion of the premises by the Association. The Association will submit any proposed sale to the City in writing, and the City may buy the property on the same terms as those of the proposed sale. If the premises are being sold as part of a larger tract, the City must meet the terms of the sale of the entire tract in order to exercise its right of first refusal. The City shall have 30 days from receipt of notice of the proposed sale to enter into a contract with the Association for purchase of the property.

Holding Over:

If, after expiration of this lease (or any renewal term), the City remains in possession of the premises without a written agreement to do so, this lease shall continue from month-to-month until terminated by either party.

Taxes:

The Association shall pay any personal property and any general or special improvement taxes assessed on the premises during the term of this lease. This does not apply to any taxes for which the Association is exempt under federal, state, or local law.

Assignment:

The City shall not assign or transfer its rights under this agreement, in whole or in part, or sublet any portion of the premises without advance written permission from the Association.

Quiet Enjoyment:

The City shall have the peaceful and quiet use of the premises and all rights, servitudes, and privileges belonging to, or in any way appertaining to, without hindrance or interruption by the Association or any person lawfully claiming by, through, or under the Association.

Notices:

Any notices pertaining to this agreement shall be either hand-delivered or mailed to:

<u>To the Association:</u> Mayfield Civic Association Larry Silver Mayfield Community Center 311 Glover St. Fredericksburg, VA 22401	<u>To the City:</u> City Manager P.O. Box 7447 Fredericksburg, Virginia 22404-7447
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Entire Agreement:

The agreement is the entire understanding between the parties, and there are no collateral or oral agreements or understandings. This agreement may only be amended by written agreement signed by both parties.

Choice of Law, Venue:

This contract is governed by Virginia law. The Circuit Court of Fredericksburg, Virginia is the exclusive venue for any litigation regarding this contract.

Mayfield Civic Association, Inc.


By: Trudy Smith, President

City of Fredericksburg, Virginia
A municipal corporation

By: Timothy J. Baroody, City Manager

Approved as to form:

Attest:

Dori E. Martin, Assistant City Attorney

Deputy Clerk of Council