

Addendum #1

To Agenda Packet

September 23, 2021– 6:00 pm

Date of Addendum

September 22, 2021

The following item has been added to the September 23, 2021 agenda packet.

Item 8A under Old Business :

RESOLUTION NO. 3183 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EAST RIDGE, TENNESSEE, TO APPROVE THE AGREEMENT WITH CHATTANOOGA RED WOLVES ACADEMY (CWRA) FOR CAMP JORDAN SOCCER FIELD UTILIZATION AND PROGRAMMING

Attachments:

Agenda Memo

Resolution No. 3183

Soccer Field Utilization and Programming Agreement



City of East Ridge

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East Ridge, Tennessee 37412
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RESOLUTION NO. 3183

AGENDA MEMO

TO: Mayor and Council

FROM: Chris Dorsey, City Manager

SUBJECT: Agreement with Chattanooga Red Wolves Academy for Camp Jordan Soccer Field Utilization and Programming

DATE: September 22, 2021

Mayor and Council,

The City of East Ridge solicited Requests for Proposals for the above, and the Council approved the proposal by the Chattanooga Red Wolves Academy at the July 22, 2021 meeting. The agreement runs for 5 years and is automatically renewable. Summary is below:

Compensation

\$300,000 minimum investment- field use 5-year term
9 fields= \$6,667/field/year

CIP

Playing Surface enhancements \$5,000/yr.
\$10,000 in year 1 for lawn mowing upgrade/other equipment

Assume responsibility and operate the recreational soccer league

Public/Private partnership for field enhancements/improvements- also bring in turf specialist

East Ridge Schools to use fields for home games.

Other pieces of the proposal are included, all of which will help transform the Camp Jordan Soccer fields into a championship caliber facility.

Approval of this agreement is contingent upon review and acceptance by the Tennessee Department of Environment and Conservation.

Respectfully,

Chris Dorsey

RESOLUTION NO. 3183

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EAST RIDGE, TENNESSEE, TO APPROVE THE AGREEMENT WITH CHATTANOOGA RED WOLVES ACADEMY (CWRA) FOR CAMP JORDAN SOCCER FIELD UTILIZATION AND PROGRAMMING

WHEREAS, the City of East Ridge solicited Requests for Proposals for Camp Jordan Soccer Field Utilization and Programming; and

WHEREAS, the City Council voted to accept the Proposal from CWRA on July 22, 2021; and

WHEREAS, an agreement with CWRA has been drafted and is being presented to the City Council for approval.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of East Ridge, Tennessee, that the attached agreement with the Chattanooga Red Wolves Academy be and is hereby approved, contingent upon review and acceptance by the Tennessee Department of Environment and Conservation.

BE IT FURTHER RESOLVED that this resolution shall take effect immediately after its passage, the public welfare of the City requiring it.

Adopted this _____ day of _____ 2021.

Brian W. Williams, Mayor

Attest:

Christopher J. Dorsey, City Manager

Approved as to Form:

Mark W. Litchford, City Attorney

This AGREEMENT of September 1, 2021, between the City of East Ridge, a Tennessee municipal corporation, hereinafter “City”, and MSE Amateur Group LLC, a Utah limited liability company and operator of the Chattanooga Red Wolves Academy (hereinafter “CRWA”), an amateur sports organization, details the terms and conditions of field usage at Camp Jordan, located on Camp Jordan Parkway, East Ridge, TN, hereinafter the “Complex”.

WHEREAS, City holds a lawful right to lease use of the Complex containing 13 soccer fields, parking areas, concessions and restroom facilities; and

WHEREAS, CRWA is a Professional Youth Academy with multiple youth teams in need of field space for practices, training, tournaments and games; and

WHEREAS, CRWA wishes to use the Complex soccer fields for its practices, training, games and tournaments, and City wishes to supply part, or all of the Complex to CRWA to utilize its fields for said purposes.

1. **TERM** – The initial Term of this Agreement shall be for five (5) years, commencing on September 1, 2021, and shall expire on August 31, 2026. Thereafter, the Agreement shall automatically renew in increments of five (5) years unless terminated in writing by CRWA or the City one (1) year prior to the end of the initial or renewal Term. This agreement is non-transferrable.
2. **USAGE** – CRWA shall be entitled to use nine (9) soccer fields including the stadium field at Camp Jordan. Fields will be rotated among all 13 fields at the complex to ensure fields have adequate time to rest or go offline for upgrades. Hereinafter, which may be referred to individually as a “Field” or collectively as the “Fields”, during the Term of this Agreement. CRWA may be permitted to sell field naming rights and work with city on additional soccer complex naming rights. CRWA will dedicate a minimum of two (2) fields to recreational soccer use with CRWA assisting recreational soccer with coaching education, player development, and parent education. Fields 7 and 8 will be designated for recreational soccer with Field 4 used as overflow as space allows. By fall of 2022 CRWA will pursue a recreational soccer operating agreement with the city. CRWA agrees to allow East Ridge High School and East Ridge Middle School to play home games at Camp Jordan with advance notice of season schedules to be received 14 days in advance of first home game. Any make-up games may be rescheduled as fields allow. Any final determination to close fields due to inclement weather will be made by the City Manager.
 - a. **CITY USE OF FIELDS** – City shall be entitled to use of the Fields when they are not being utilized by CRWA or in the event of the advancement of City Sponsored Programs.
 - i. As a courtesy, if possible, City shall request in writing, email being the agreed upon form of communication for such notices, to CRWA to use the Fields with a minimum fourteen (14) days notice. This is not a requirement but should be followed to avoid conflict in field usage.
 - ii. Camp Jordan Events – CRWA acknowledges that Camp Jordan will host Complex-wide events from time to time that will require the City to utilize the Fields. The City and CRWA shall work with each other to accommodate these Events in conjunction with maximizing use of the Fields for soccer practices and training during times leading up to and immediately following these Events.

iii. Discrimination on the basis of disability. Title VI of Civil Rights Act, Section 504 of the Rehabilitation Act, Americans with Disabilities Act) of 1973 requires no qualified person shall, on the basis of disability, be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination under any program or activity that receives or benefits from federal financial assistance. The city will ensure signage will be posted in visible public areas, along with statements in public information brochures.

iv. The facility shall be kept open for public outdoor recreational purposes at reasonable hours and times of the year, according to the type of area or facility, and in accordance with the provisions of Land Water Conservation Fund(LWCF) (36 C.F.R. Part 59). The city will ensure signage will be posted in visible public areas, along with statements in public information brochure that the property is publicly owned and operated as a public outdoor recreation facility and is partially operated by MSA Amateur Group, LLC.

3. **QUIET POSSESSION** - City covenants that it has fee simple title to the Complex and City covenants and agrees with CRWA that so long as CRWA keeps and performs all the covenants and conditions to be kept and performed by CRWA under this Agreement, CRWA shall have quiet, undisturbed and continued use and access, free from all claims of any kind, nature and description, other than is set out herein.
4. **PARKING** – CRWA shall be entitled to use of the Complex roads and parking areas at all times during the Term of this Agreement for the parking areas north of Camp Jordan Parkway. The City recognizes that sufficient parking space is a critical component to the value of this Agreement to CRWA. The City shall make reasonable efforts to reserve or allow CRWA to reserve sufficient parking spaces in the parking areas as described above for its practices, training, games and tournaments at the Complex. The City further agrees CRWA shall be entitled to charge for parking at the Complex in the parking areas as described above when hosting or operating tournaments and events as a host at the Complex and that CRWA shall retain said parking charges. CRWA may, upon 30 days notice to the City, make use of additional parking areas if required for the hosting of regional or national tournament events.
5. **RENT** – CRWA shall pay the City rent in the Sixty Thousand Dollars (\$60,000) per year, for the use of the Complex as defined herein. Payments shall be made initially in the amount of \$60,000 annually, or in equal \$5,000 monthly installments, by CRWA to the City on or before the first day of each year or month during the Term. If the Fields are not available due to city scheduling conflicts on days that CRWA would otherwise intend to use them, CRWA will be entitled to a credit of \$50.00 penalty per field (per day of unavailability) on its next rent payment. If fields are not available due to weather issues on days that CWRA would otherwise intend to use them, CWRA will be entitled to a credit of \$27.00 per field impacted (per day of unavailability) on its next rent payment. Partial evening closures for weather are excluded. In order to determine field availability impacted, CWRA will give the City a schedule of field usage within the first week of each month. If fields are not being used according to the schedule, notations will be made and amounts adjusted accordingly. CRWA and city will work on revenue share opportunities for field usage in pursuit of outside tournaments and other events.

- 6. LATE PAYMENT** – In the event that CRWA fails to make a scheduled Rent Payment by the fifth (5th) day of any given month, CRWA shall pay a LATE FEE of fifty dollars (\$50.00) per day for such delay, commencing on the sixth (6th) day with a maximum amount not to exceed twenty percent of the month’s Rent Payment.
- a. **TERMINATION** – In the event that CRWA fails to make a scheduled Rent Payment for more than forty-five (45) days beyond the initial due date, City shall have the right to Terminate this Agreement following seven (7) business days’ to CRWA written notice which shall be delivered by certified mail or express courier, at which time CRWA may make the said payment.
- 7. TOURNAMENTS** – CRWA shall have the right to host soccer tournaments at the Complex. In order for CRWA to host major soccer tournaments at the Complex, which both parties acknowledge significant benefit from their occurrence, City agrees to allow CRWA to lease the remaining four (4) soccer fields at the Complex as available (“Overflow Fields”) at a rental amount of five hundred dollars (\$500) total for remaining 4 fields for a period of five days’ use.
- a. CRWA shall give the City a minimum of forty-five (45) days written notice, email being the agreed upon form of communication for such notices, of its desire to lease the Overflow Fields at the Complex and twenty (20) days prior to the start of such tournament, CRWA shall make a refundable advance payment of five hundred dollars (\$500.00) to the City. City agrees that CRWA will be notified if another group requests use of any fields prior to 90 days. CRWA will support the request of non-soccer events at Camp Jordan so long as no CRWA events have been booked.
- b. City shall hold all parking adjacent to the soccer fields at the Complex for CRWA usage during a tournament. CRWA shall be entitled to charge for parking during tournaments and retain all proceeds therefrom.
- c. CRWA will make all efforts to ensure 6 events per year are held at the complex. These events may come in the form of tournaments, ID Camps, or other regional events that will draw out of town visitors to the area.
- 8. MAJOR FIELD REPAIRS AND EQUIPMENT PURCHASE** – In year one of this agreement CRWA shall invest a one-time purchase of a lawnmower not to exceed \$10,000. Hereafter, CRWA should invest Five thousand dollars (\$5,000) a year into the complex to improve and maintain its condition. Major Field Repairs shall consist of work such as turf enhancements, equipment purchases (soccer goal, benches, flags and net repairs), and like efforts.
- a. City agrees to top dress each field once per year during the Term. CRWA shall inform the city of the needed timing of such topdressing and field closures based on events and utilization needs of CRWA.
- b. CRWA shall be permitted work with outside turf consultants to ensure fields and the facility are in championship level condition. CRWA and the city will work together to enhance the performance of each field, and shall negotiate in good faith regarding cost-sharing relating to any such improvements.
- 9. COMPLEX POLICIES** – CRWA, its coaches, directors, staff, players and parents, agree to follow all City’s established Code of Conduct. A copy of the Code of Conduct is included hereunder in Exhibit 2.

- a. CRWA's failure to comply with the Code of Conduct may result in a suspension of CRWA's field usage rights hereunder, provided City has provided CRWA adequate notice and given CRWA a minimum of ten (10) days to cure. CRWA shall be responsible for any costs associated with its failure to adhere to this provision.
- b. Any events of non-compliance will be directed by the City to the CRWA Contact designee hereunder within forty-eight (48) hours from the time the city obtains knowledge of an occurrence of non-compliance.
- c. CRWA shall require all of its players, and their parents/guardians, to sign an agreement to comply with the Code of Conduct and additionally releasing the City from liability as it relates to their participation in practices, training and games at the Complex.

10. GOALS & EQUIPMENT – As a part of the field usage, CRWA will be utilizing City equipment at the Complex, including soccer goals and associated nets and anchors/sand bags. Upon termination or expiration of the Agreement, CRWA shall return all equipment, including goals, to the City in like condition, normal wear and tear excepted.

- a. CRWA shall be responsible for any and all additional equipment required for its use of the Fields during the term of this Agreement.
- b. CRWA at its sole cost shall be allowed to erect, or place, a storage facility for its equipment, which structure shall be approved by the City in advance, at the Complex in an area within the Complex convenient to the Fields that shall be agreed upon between the parties. CRWA shall be entitled to exclusive use of the storage facility. The storage facility, and all CRWA equipment, shall be removed by CRWA from the Complex within (30) days of initiation of any proceeding to Terminate this Agreement.
- c. CRWA shall be responsible for locking up all goals when not in use. City shall provide CRWA with locks for this purpose and shall retain keys to said locks for access as needed.

11. CLEANING FIELDS – CRWA agrees to pick up all trash on the fields they utilize for practice, training or games, following the completion of each and place in place in a trash receptacle provided by the City at the Complex.

12. FIELD MAINTENANCE – City agrees to perform all necessary maintenance on the Fields and to keep them in good playing condition during the Term of this Agreement at its sole cost. Maintenance shall include mowing, weed removal, weed treatment/prevention, aerating, fertilizing, top dressing, and pest control.

- a. **Field Paint** – City shall be responsible for the purchase and cost of all necessary “Field Paint” and paint application equipment during the Term of this Agreement, and shall make the Field Paint and application equipment accessible to CRWA at all times for its use. CRWA shall be responsible for the application of the Field Paint and all costs associated with lining the Fields. CRWA shall provide City reasonable notice of the color of Field Paint required and when additional Field Paint is needed to be purchased. The parties agree that Field Paint shall be intended for field striping or lining and does not include logo, branding, or symbols.

b. **Electricity & Water** – City shall be responsible for all costs of electricity and water required for the Fields during the Term. City shall also be responsible for light maintenance, bulb replacement and irrigation system repairs and maintenance during the Term.

c. **Control** – CRWA shall provide City with the times and dates it needs the lights on for the Fields during the Term, and City shall ensure the lights will be turned on as requested.

d. **Conservation** – CRWA shall be diligent in the minimization of electricity and water usage.

e. **Trash Service** – City shall be responsible for the placement of sufficient trash cans, and the removal and hauling off of trash from the Complex on a weekly schedule during the Term.

f. **CRWA Right to Cure** – In the event that the City shall fail to fulfill its obligations contained in this Section of the Agreement, CRWA shall promptly notice the City who shall have seventy-two (72) hours to cure. In the event that the City fails to cure within the allotted time, CRWA shall take all reasonable steps to cure with the cost of the required remedy being treated as a Rent Off-Set in the subsequent month.

13. FUTURE CONVERSION – The Parties acknowledge that the City Council of City has approved, and City has commenced the process of, a “conversion” of a portion of the Property subject to requirements of the State of Tennessee and the United States National Parks Service (the “Conversion”), such that the converted portion of the Property may be used for purposes other than exclusive “public outdoor recreational use.” The Parties agree that a principal purpose of the Conversion is to allow CRWA and other entities to exercise exclusive use of the Stadium field facility. Upon the completion of the Conversion (defined as the date the Parties receive final approval of the Conversion from the State of Tennessee), CRWA’s tenancy interest in the Stadium field shall become exclusive while an ancillary agreement is drafted to include the ground lease of the converted property.

14. NOTIFICATION – All notifications pertaining to this Agreement shall be addressed to the designated Contacts herein via email or in the case of notices related to Default or Termination, shall include notice by certified US Mail or express courier in addition to email.

15. DEFAULT – In the event of a default by either party of the Terms and Conditions herein the following rules shall apply.

a. All disputes regarding Rent, and payment thereof, shall be governed by paragraph 5 of this Agreement.

b. All other incidents of default shall require the claimant to provide written notice to the other of the issue of default providing details and information supporting the claim of default. In the event either party issues a notice of default, a right to cure shall exist providing a ten (10) day period to cure. Failure to cure within the allotted ten (10) day period shall trigger the right of the claimant to seek other remedies available to them by law.

16. LIABILITY – CRWA shall ensure that all of its coaches, directors, employees, and players are registered with Tennessee State Soccer or US Club Soccer and are in full compliance with the requirements imposed in course of this registration. CRWA assumes all liability associated for its failure to comply with this provision.

17. INDEMNIFICATION- CRWA acknowledges that the sport of soccer does contain elements of risk and possible injury and CRWA has, in writing, approval from a parent or legal guardian (the “Parent”) of any and all children (the “Player”) recognizing that the sport of soccer does contain elements of risk and possible injury and the Parent does hereby consent to and give approval for the Player to participate in any and all activities during the current seasonal year either sponsored by CRWA or held at the Complex (“Sponsored Activity”).

a. CRWA and the Parents of CRWA players assume all risks and hazards incidental to such participation in any and all Sponsored Activity during the current seasonal year including but not limited to transportation to and from the Sponsored Activity. CRWA and Parent of CRWA players do hereby waive, release, absolve, indemnify, and agree to hold harmless City, their officers, employees and staff, and any person acting by or on behalf of any of the above mentioned entities for any claim arising out of or in any way connected with injury or death occurring while a Player is participating in a Sponsored Activity. CRWA has, and CRWA Parents grant, permission for persons associated with above entities to authorize and obtain medical care from any licensed physician, hospital, or medical clinic should the Player become ill or injured while participating in a Sponsored Activity away from home or at any other event.

b. CRWA shall require parents/guardians of CRWA players to sign a written release of the City of East Ridge for all claims of injury and death prior to participating in any Sponsored Activity at the Complex.

18. CONTACTS

CRWA Derek Greene
EVP of CRWA
CRWA
6739 Ringgold Road, Suite B,C,D
Chattanooga Tn, 37412
Dgreene@redwolves-sc.com

CITY Adam Wilson
Director Parks & Recreation
323 Camp Jordan Parkway
Chattanooga, TN 37412
423-463-4391

19. ATTORNEY FEES – Any costs of litigation regarding the enforcement of the terms of this Agreement, including collections of any monies due hereunder, shall be recoverable by the prevailing party, as may be permitted by law.

20. ASSIGNMENT – CRWA shall not assign any of its rights under this Agreement without the express prior consent of City.

21. GOVERNANCE – This Agreement shall be governed by the Laws of Tennessee.

22. FORCE MAJURE – If it shall become impossible on account of Force Majeure for City or CRWA to fulfill its obligations under the Agreement, such party shall be excused from the performance of said obligation for the period that said performance is impossible. However, either party shall have the right to terminate this Agreement immediately upon the occurrence of a Force Majeure which prevents the other party from performing for thirty (30) or more consecutive days. The term "Force Majeure" as used in this paragraph shall include fire, earthquake, flood, tornado, acts of God, riot or civil commotion, failure of power, restrictive government laws or regulation, court order, insurrections, war or any other matter or situation of a like nature, including hostility, with or without formal declaration of war.

23. INVALIDITY OF PARTICULAR PROVISIONS - If any provisions of this Agreement or the application thereof to any person or circumstances shall be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and each provision of this Agreement shall be valid and be enforced to the full extent permitted by law. Notwithstanding the foregoing, if such judicial determination of some portion of this Agreement to be invalid or unenforceable frustrates the overall purpose of the Agreement by eliminating its primary benefits, the Agreement shall be terminated. In the event of a termination of this Agreement due to a determination of invalidity or unenforceability, as compensation to CRWA for its investment, opportunity cost and cost of securing alternative venues, the City shall: (1) refund current year rent payments received under Paragraph 5 hereunder, plus interest at the then-applicable maximum effective formula rate of interest published by the Tennessee Department of Financial Institutions ("Interest Rate"); (2) refund investments made by CRWA under Paragraph 8 hereunder, plus interest at the Interest Rate; and (3) reimburse CRWA for the cost of other services, equipment and/or improvements to the Fields made during the course of the Agreement, plus interest at the Interest Rate.

24. INSURANCE - CRWA shall be required to provide policies of insurance issued by companies authorized to do business in the State of Tennessee. CRWA must provide a certificate of insurance (liability) naming the Complex and the City of East Ridge as an additional insured under the policies in the following amounts: Commercial general liability insurance, with a combined single occurrence limit and aggregate of not less than \$1,000,000, the term of such coverage to coincide with the Term(s) of this Agreement. Upon request, CRWA shall provide a copy of the insurance policy(ies) required in this Agreement.

Approved by:

_____ Date: _____
CRWA

_____ Date: _____
City of East Ridge