

**Notice of Meeting for the  
Parks and Recreation Advisory Board  
of the City of Georgetown  
June 10, 2021 at 6:00 PM  
at 1101 N. College Street, Georgetown, TX 78626**

The City of Georgetown is committed to compliance with the Americans with Disabilities Act (ADA). If you require assistance in participating at a public meeting due to a disability, as defined under the ADA, reasonable assistance, adaptations, or accommodations will be provided upon request. Please contact the City Secretary's Office, at least three (3) days prior to the scheduled meeting date, at (512) 930-3652 or City Hall at 808 Martin Luther King Jr. Street, Georgetown, TX 78626 for additional information; TTY users route through Relay Texas at 711.

**The Parks and Recreation Advisory Board is now meeting in person. A quorum of the Parks and Recreation Advisory Board will be in attendance at the Parks and Recreation Administration Building at 1101 N. College Street. It is possible that one or more board members may attend via video Conference using the Zoom client.**

**To allow for as much citizen participation as possible, citizen comments are accepted either in person or via the Zoom client. Face masks are encouraged. Use of profanity, threatening language, slanderous remarks or threats of harm are not allowed and will result in you being immediately removed from the meeting. If you have questions or need assistance, please contact Jill Kellum at [jill.kellum@georgetown.org](mailto:jill.kellum@georgetown.org) or at 512-930-8481 or Kimberly Garrett at [kimberly.garrett@georgetown.org](mailto:kimberly.garrett@georgetown.org) or at 512-930-3595.**

**To participate virtually, please copy and paste the following weblink into your browser:**

**[https://georgetowntx.zoom.us/j/94101870189?](https://georgetowntx.zoom.us/j/94101870189?pwd=ZTRsbVBKd1IxM2c2ZldleWh6ZGtZQT09)**

**[pwd=ZTRsbVBKd1IxM2c2ZldleWh6ZGtZQT09](https://georgetowntx.zoom.us/j/94101870189?pwd=ZTRsbVBKd1IxM2c2ZldleWh6ZGtZQT09)**

**Meeting ID: 941 0187 0189**

**Passcode: 369525**

**One tap mobile: +13462487799,,94101870189# US (Houston)**

**+16699006833,,94101870189# US (San Jose)**

**Dial by your location:**

**+1 346 248 7799 US (Houston)**

**+1 669 900 6833 US (San Jose)**

**+1 253 215 8782 US (Tacoma)**

**+1 301 715 8592 US (Germantown)**

**+1 312 626 6799 US (Chicago)**

**+1 929 205 6099 US (New York)**

**888 475 4499 US Toll-free**

**833 548 0276 US Toll-free**

**833 548 0282 US Toll-free**

**877 853 5257 US Toll-free**

**Find your local number: <https://georgetowntx.zoom.us/j/acR7zFjDGz>**

**Citizen comments are accepted in the following formats:**

- **Submit written comments to [jill.kellum@georgetown.org](mailto:jill.kellum@georgetown.org) or [kimberly.garrett@georgetown.org](mailto:kimberly.garrett@georgetown.org) by 1:00 p.m. on the date of the meeting and the Recording Secretary will forward your comments to the board before the meeting.**
- **Log onto the meeting at the link above and “raise your hand” during the item, or attend the meeting and sign-up to speak in-person for an item posted on the agenda.**

**To join a Zoom meeting, click on the link provided and join as an attendee. You will be asked to enter your name and email address. This is so we can identify you when you are called upon. To speak on an item, click on the “Raise your Hand” option at the bottom of the Zoom meeting webpage once that item has opened. When you are called upon by the Recording Secretary, your device will be remotely un-muted by the Administrator and you may speak for three minutes. Please state your name clearly, and when your time is over, your device will be muted again.**

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## **Regular Session**

(This Regular Session may, at any time, be recessed to convene an Executive Session for any purpose authorized by the Open Meetings Act, Texas Government Code 551.)

- A Call to Order - Katherine Kainer, Parks and Recreation Advisory Board Chair
- B Roll Call - Katherine Kainer, Parks and Recreation Advisory Board Chair
- C Parks and Recreation staff member introduction and presentation - Kimberly Garrett, Parks and Recreation Director
- D Update from the Friends of Georgetown Parks and Recreation - Peter Bahrs, Parks and Recreation Advisory Boardmember Liaison
- E Capital Project Updates - Eric Nuner, Assistant Director of Parks and Recreation
- F Director Report - Kimberly Garrett, Parks and Recreation Director

## **Legislative Regular Agenda**

- G Consideration and possible action to recommend approval of a five (5) year extension with PerfectMind, Inc. for parks and recreation management software in an amount not to exceed \$184,185. - Eric Nuner, Assistant Parks and Recreation Director

H Consideration and possible action to approve minutes from the May 13, 2021 meeting - Jill Kellum,  
Administrative Supervisor

## **Adjournment**

Adjourn - Katherine Kainer, Parks and Recreation Advisory Board Chair

### **Certificate of Posting**

I, Robyn Densmore, City Secretary for the City of Georgetown, Texas, do hereby certify that this Notice of Meeting was posted at City Hall, 808 Martin Luther King Jr. Street, Georgetown, TX 78626, a place readily accessible to the general public as required by law, on the \_\_\_\_\_ day of \_\_\_\_\_, 2021, at \_\_\_\_\_, and remained so posted for at least 72 continuous hours preceding the scheduled time of said meeting.

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Robyn Densmore, City Secretary

City of Georgetown, Texas  
Parks and Rec Advisory Board  
June 10, 2021

**SUBJECT:**

Capital Project Updates - Eric Nuner, Assistant Director of Parks and Recreation

**ITEM SUMMARY:**

**FINANCIAL IMPACT:**

N/A

**SUBMITTED BY:**

Eric Nuner, Assistant Director of Parks and Recreation

**ATTACHMENTS:**

Description		Type
	Capital Project Report	Backup Material



## Parks and Recreation

## Capital Improvement Projects – June 10, 2021

**ADA Trail Reconstruction** – Bids were received for the ADA Trail Reconstruction on February 23rd. Six contractors submitted bids for the project. The project will go to City Council on June 8, 2021 for approval. The start of construction will be July with completion scheduled by the end of September.

**Heritage Gardens (Community Garden)** – Final drawings have been submitted to Planning for approval. Comments were received and are being addressed by consultants. Park staff will serve as general contractor for the project to extend the budget and provide as many amenities as possible for the project. Restrooms have been ordered.

**University Park** – Staff has begun the planning process for redevelopment of University Park to include playground replacement, landscape improvements and additional site amenities. A survey was sent to neighborhood residents and is currently being reviewed by staff. A neighborhood public meeting will be scheduled to discuss the survey results in July. No change.

University Location Map



**Park ADA Modifications** – Staff bid four park projects listed in the ADA Transition Plan. Summercrest, Old Town, Edwards and Bark Park will be receiving updates to provide ADA accessibility. The project is scheduled to begin in June pending rain delays.

**Wolf Crossing Trail** – 90% drawings have been submitted to park staff for review. The project will be presented to Planning for P&Z approval and permitting. Parks staff and consultants are working out final easement agreements with landowners for trail right of way. Bid schedules have not been determined to date.

## South San Gabriel River Trail



**Parks, Recreation and Open Space Master Update** – The Master Plan kick off meeting was held on April 20th. There are 5 Stakeholder Meetings scheduled between May 12 -19. A virtual public project kick-off meeting was held on May 24. GreenPlay has developed a community needs assessment survey that will be mailed to 4000 random residents. There will also be an open link for anyone who does not receive a paper copy.



City of Georgetown, Texas  
Parks and Rec Advisory Board  
June 10, 2021

**SUBJECT:**

Director Report - Kimberly Garrett, Parks and Recreation Director

**ITEM SUMMARY:**

**FINANCIAL IMPACT:**

NA

**SUBMITTED BY:**

Kimberly Garrett, Parks and Recreation Director

**ATTACHMENTS:**

	<b>Description</b>	<b>Type</b>
▣	Director Report	Backup Material
▣	Statistics	Backup Material
▣	Carey Park	Backup Material



Director's Monthly Report  
Parks and Recreation  
June 2021

**June Highlights**

- Repairs to the natatorium continue, we are still on track to open the indoor pool the end of June.
- Low water crossings were closed temporarily the week of May 24<sup>th</sup> due to heavy rains. Blue Hole pedestrian bridge remains closed, but the park is open.
- At the City Council meeting on Tuesday, May 25<sup>th</sup>, the Council gave direction to spend up to \$20,000 for lifeguard expense related to River Ridge Pool. At this time due to staffing shortages, we will be able to open River Ridge Pool on Sundays and Mondays from 1-7 pm starting June 6<sup>th</sup>.
- Parks and Recreation staff that worked the winter storm event will be recognized at City Council on June 8<sup>th</sup> at 6:00 pm. Staff helped run a warming center, cleared tree limbs from City streets and parks, provided assistance to the Communications Department in getting messaging out via the website and social media, and helped with bulk water and bottle distribution.
- Parks and Recreation 5 year CIP was presented to City Council at June 8<sup>th</sup> workshop. This CIP was presented to the board on March 11<sup>th</sup>.
- Staff met with representatives of the Georgetown Trail Foundation. Their organization is interested in developing formal mountain biking trails near the hike and bike trail and on other land the City has that is close to the river. A parkland improvement agreement will need to be executed to allow them to work on City property. This agreement would come to the Parks Board and then to City Council for approval.
- Master Plan public forum was held on May 24<sup>th</sup>. The webinar is on the project website if you were not able to attend. <https://gtxparkplan.com/>. The questionnaire was taken down off the website on May 29<sup>th</sup>. The survey will go out to 4,000 residents the week of June 14<sup>th</sup> and then about two weeks later an open link will be on the website and social media.
  - Participation numbers:
    - Attendance for staff SWOT: 62
    - Attendance for stakeholder focus group meetings: 38
    - Number registered for public forum: 121
    - Number in attendance at public forum: 56
    - GTX Questionnaire participants as of 5/29: 206
    - GTXparkplan site visits as of 6/7: 828
    - GTXparkplan registrations as of 6/7: 45
    - Public Forum Video Views: 53
  - Staff from GreenPlay were on site collecting park data the week of May 24<sup>th</sup>. BRS will be on site Thursday, June 10<sup>th</sup> looking at our recreation facilities.
- Staff attended a Shelter Manager training hosted by the Williamson County Emergency Operations Center. The training was to prepare for shelter of evacuees from the coast in the event of a hurricane. The plan this year will be to use non congregate sheltering (hotels) rather than large gymnasiums or schools.

- The Tennis Center is a host site for the Texas Slam. It is the largest junior tournament in the United States with around 1,000 kids ages 11-18 competing in the annual tournament. The Covid-19 pandemic cancelled the event last year. Dates for this year's tournament are June 19 – 27. Georgetown won a 3 year bid to host the tournament. <https://www.thetxslam.com/>

#### Athletics:

- The Spring 2021, Youth Soccer League had 670 participants.
- Manchester School of Soccer will be hosting a new soccer camp in June which will be a more technical and skill-based camp.
- This Fall/Winter our Indoor Adult Volleyball leagues will be starting again.

#### Fitness:

- Included Group Fitness Classes have increased approximately 20% since masks have not been required within the facility.

#### Summer Programming

- Outdoor pools opened to the public on May 29<sup>th</sup>.
- Swim lessons started on June 7<sup>th</sup> and will run through August 6<sup>th</sup>. We are offering 152 classes, currently we have 448 enrollees out of 498 available spots. Ages range from 6 months to adult.
- Camp Enrollment Numbers

Camp Goodwater ( breakdown by age)					
Week	Lower (5-7)	Upper (8-10)	Upper (11-12)	Total	% Full
June 7-11	28	29	10	67	88%
June 14-18	30	31	11	72	95%
June 21-25	31	34	12	77	101%*
June 28-2	30	32	12	74	97%
July 6-9	30	35	12	77	101%*
July 12-16	29	35	12	76	100%
July 19-23	31	35	12	78	103%*
July 26-30	30	35	11	76	100%
August 2-6	28	35	12	75	99%
August 9-13	31	34	12	77	101%*

\*overbooked due to cancellations that typically occur during the summer

Tennis Camp		
Dates	Registrations	Percent Full
June 7-11	18	100%
June 14-18	18	100%
June 21-25	No Camp	host site for the Texas Slam
June 28-2	17	94%
July 6-9	15	83%
July 12-16	18	100%
July 19-23	12	67%
July 26-30	16	89%
August 2-6	14	78%
August 9-13	12	67%

Adventure Camp		
Dates	Registrations	Percent Full
June 7-11	5	50%
June 14-18	6	60%
June 21-25	7	70%
June 28-2	6	60%
July 6-9	No Camp	4 <sup>th</sup> of July week
July 12-16	7	70%

Adaptive Camp		
Dates	Registrations	Percent Full
June 21-25	23	96%
June 28-2	24	100%
July 6-9	No Camp	4 <sup>th</sup> of July week
July 12-16	24	100%
July 19-23	21	88%

	OCT	NOV
Memberhips sold (sum of members)	812	641
Corporate Rec Center Memberships	1	0
Corporate Rec Center/Tennis Memberships	0	0
Recreation Center Membership - Resident	300	222
Recreation Center Membership - Non Resident	106	91
Recreation/Tennis Center Membership - Resident	43	23
Recreation/Tennis Center Membership - Non Resident	23	2
Day Passes	290	273
Recreation Center Patron Visits (door count)	17,593	14,024
Department Revenues (Recreation, Tennis and Garey Park)	\$ 132,485	\$ 112,162

Cemetery Sales		
5'X10' Plot - Single	5	0
10'X10' Plot - Double	0	3
2'X2' Plot - Urn burial	0	0
Niche - Columbarium Sale	1	0
Plot Markings	7	7

Park Pavilion Rentals (not including Garey Park)		
Georgetown Community Center Rentals		
Community Room Rentals		
Community Room – Hosting Camp Program		
Conference Room Rentals (not including department and city rentals)		

Georgetown Parks and Recreation

DEC	JAN	FEB	MAR	APR	MAY
919	1193	652	779	954	1367
0	4	0	0	0	7
0	0	0	0	0	0
224	316	216	296	370	451
128	124	78	117	124	156
23	54	39	10	58	31
12	8	11	11	14	16
478	476	267	329	341	636
15,080	14,896	12,877	14,903	16,582	17,545
\$ 77,138	\$ 104,182	\$ 86,679	\$ 156,221	\$ 172,284	\$ 176,453

1	5	0	0	2	2
2	1	1	2	1	1
0	0	0	0	0	0
0	1	1	1	1	0
4	4	4	3	6	5

					103
					18
					9
					1
					2

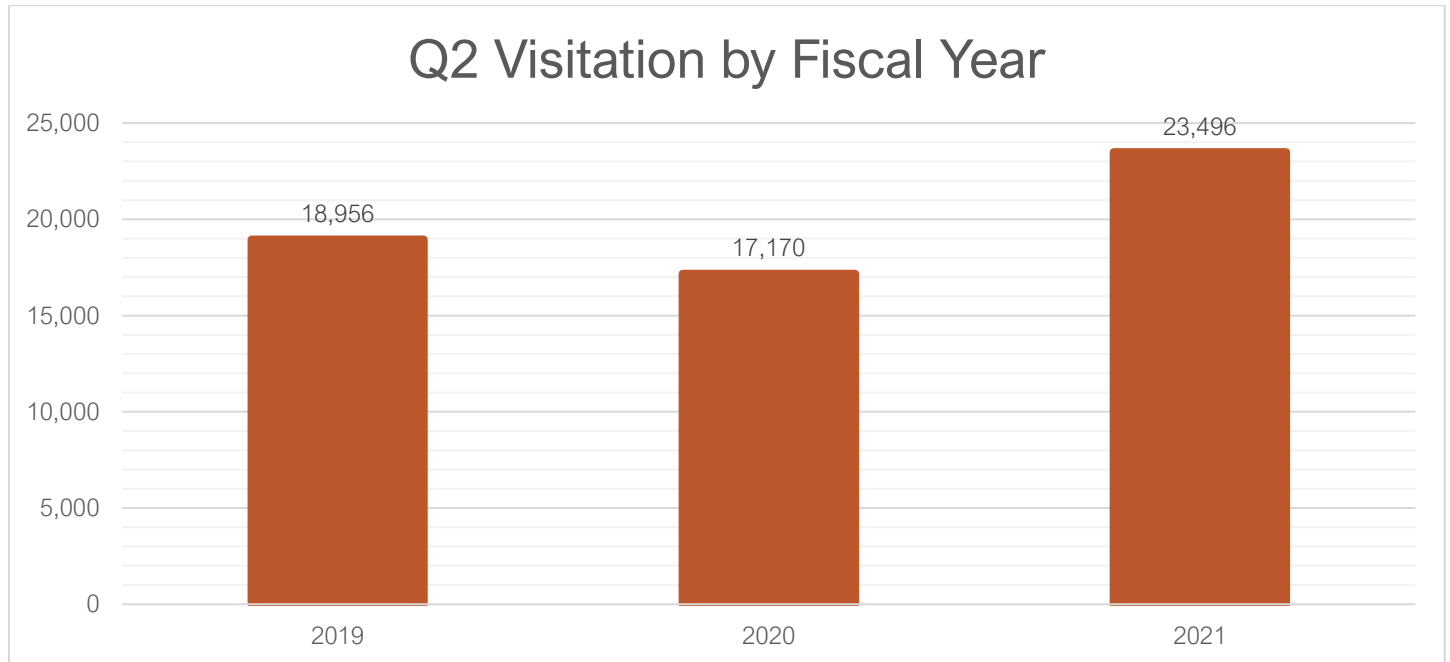


JUN	JUL	AUG	SEP	Annual Total
				7,317
				12
				-
				2,395
				924
				281
				97
				3,090
				123,500
				\$ 1,017,604

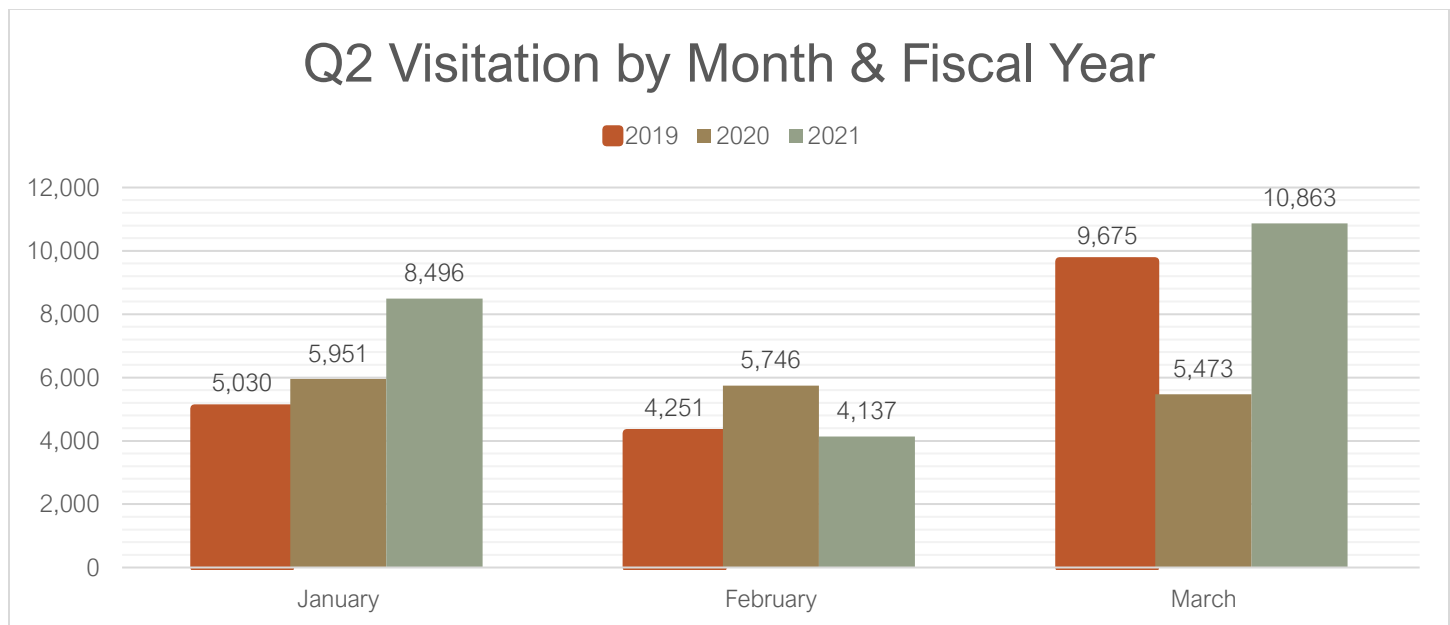
				15
				11
				0
				5
				40


## FY 21: Q2 Summary (Jan.-Mar. 2021)

### Park Visitation



Overall, visitation numbers for FY21:Q2 exceed even pre-COVID totals in FY19.

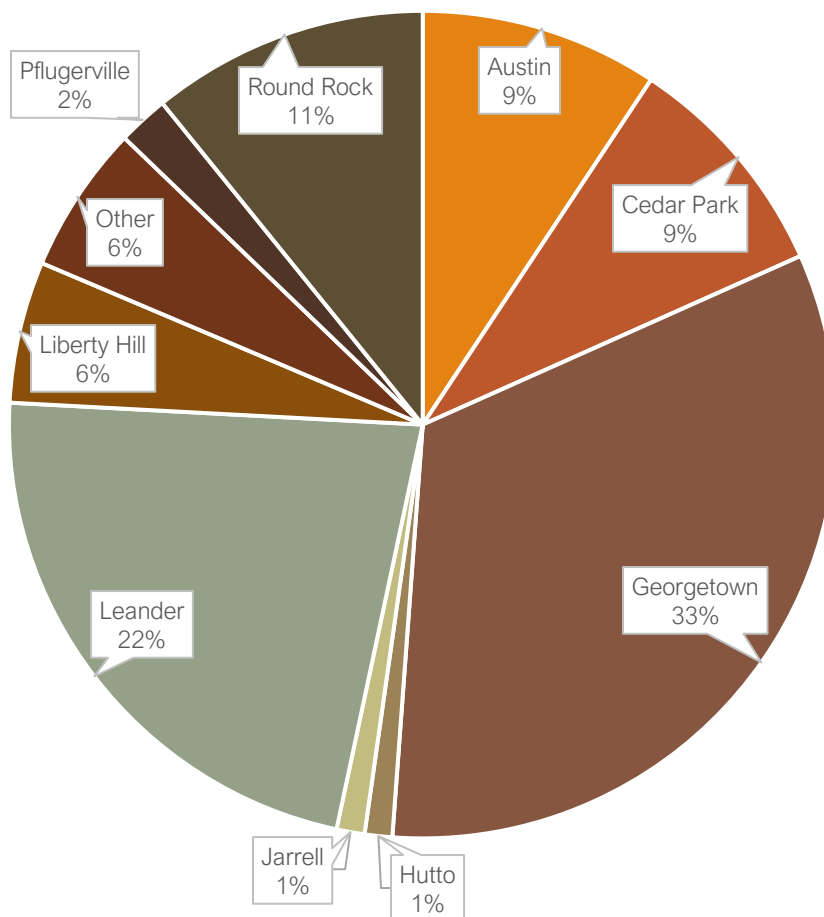


\*COVID began affecting park entry in March of FY20 resulting in lower-than-normal visitation numbers. The Garey Park Gatehouse closed on March 25, 2020 until May 18, 2020.

\*Garey Park closed due to severe ice and storms Feb. 12-20, 2021 resulting in lower-than-normal visitation numbers that month.

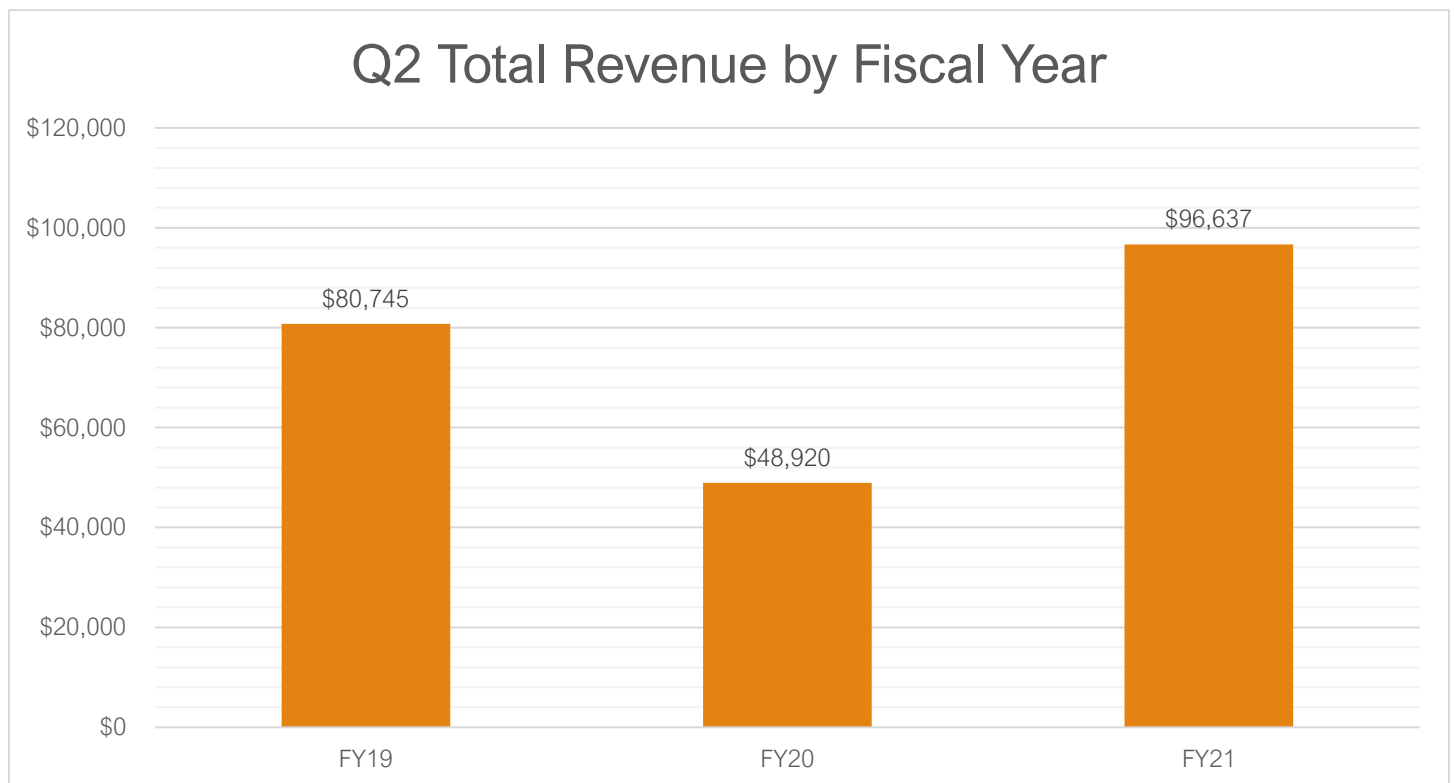
## Zip Codes

FY21: Q2 Park Entrance by City (Zip Code)

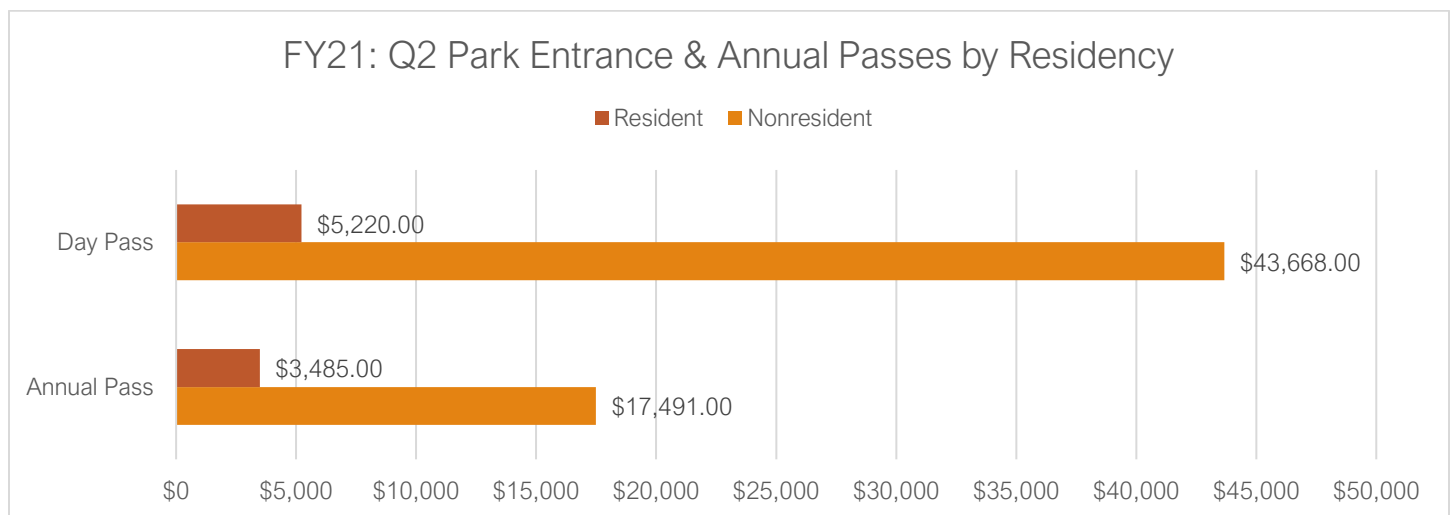


People with Georgetown zip codes continue to be around 1/3 of park visitors, however, please note this includes both Resident and Nonresident addresses. Of all Day Passes sold in Q2, about 19% were Residents inside the City Limits.

## Revenue

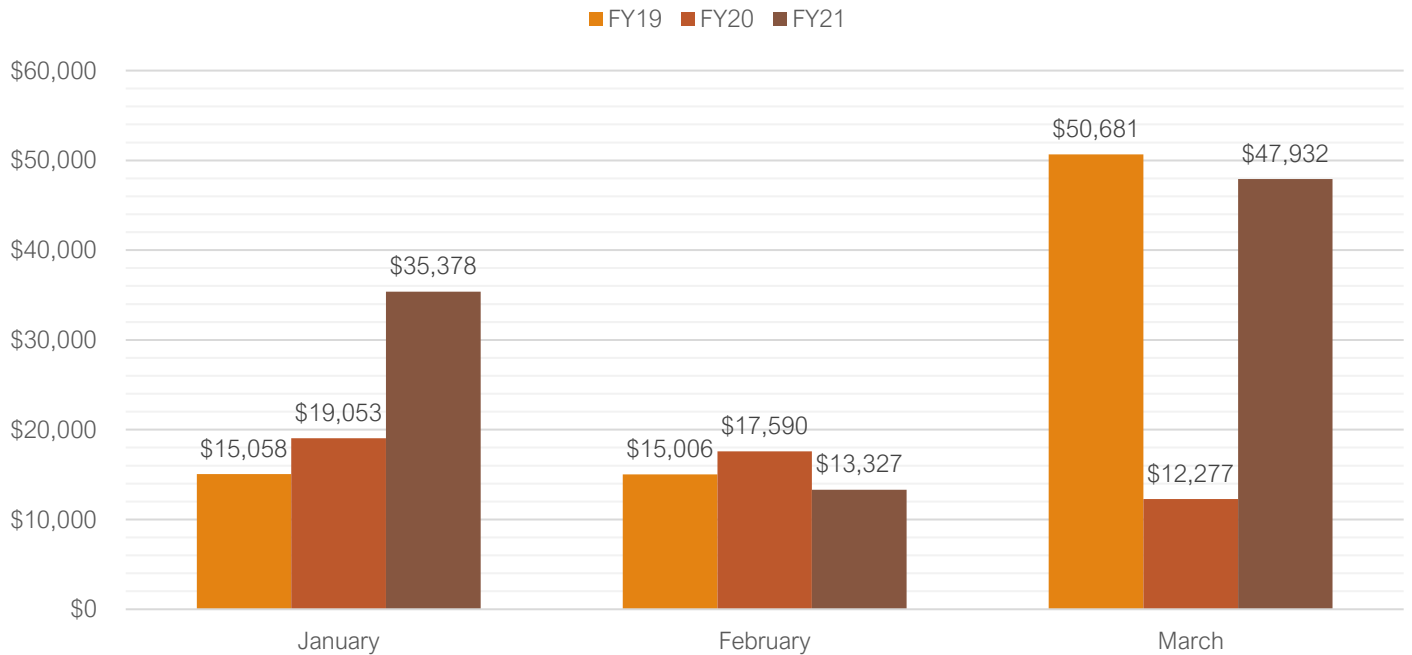


Total Revenue for FY21: Q2 was ~20% higher than our pre-COVID revenue total in Q2 of FY19.

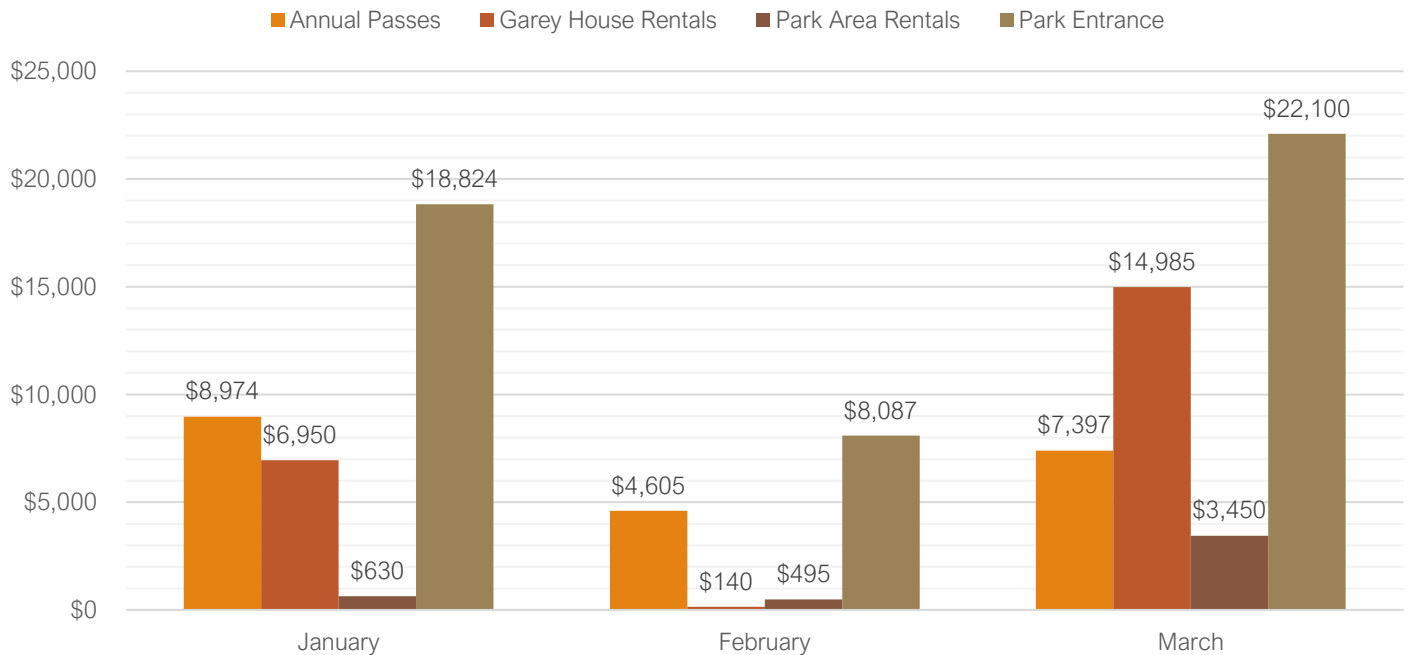


We continue to see a higher percentage of Nonresident park visitors. Revenue from Day Passes sold was 11% Resident & 89% Nonresident and revenue from Annual Passes sold was 17% Resident & 83% Nonresident.

## Q2 Total Revenue by Month & Fiscal Year

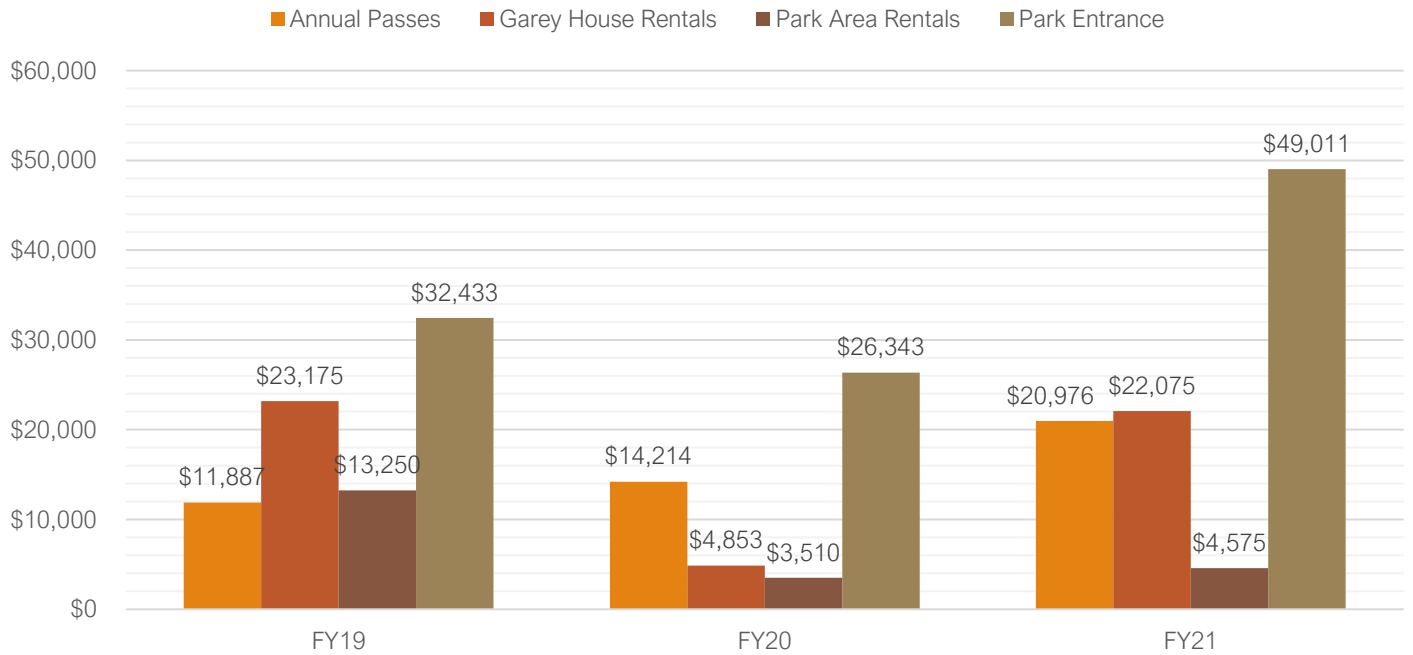


## FY21: Q2 Monthly Revenue by Source



\*Pavilion rentals were open at limited capacity and Garey House had limited capacity and COVID restrictions during all of FY21:Q2.

## Q2 Total Revenue by Source & Fiscal Year



City of Georgetown, Texas  
Parks and Rec Advisory Board  
June 10, 2021

**SUBJECT:**

Consideration and possible action to recommend approval of a five (5) year extension with PerfectMind, Inc. for parks and recreation management software in an amount not to exceed \$184,185. - Eric Nuner, Assistant Parks and Recreation Director

**ITEM SUMMARY:**

Parks and Recreation entered a five (5) year agreement with PerfectMind to provide Parks and Recreation management software after City Council approval on September 13, 2016. This agreement will expire on September 30<sup>th</sup>, 2021.

The software has proven to be an asset to the department as it provides recreation program registration, membership sales, point of sale, facility management, financial system integration, online customer access, integration with the City's website and reporting. In addition, the software has GIS capabilities, 24/7 customer service support, PCI compliance, dashboard reporting, digital signatures, and the ability to store online documents like camp registration forms.

Staff recommends extending the agreement for the additional five (5) year period with an option to renew for an additional two (2) year term.

**FINANCIAL IMPACT:**

Funds are budgeted in Fund 570, Cost Center 0652, Spend Category – Software Maintenance Subscriptions and Support Services

**SUBMITTED BY:**

Eric Nuner, Parks and Recreation Assistant Director

**ATTACHMENTS:**

<b>Description</b>		<b>Type</b>
<input type="checkbox"/>	PerfectMind Original Contract	Backup Material
<input type="checkbox"/>	PerfectMind Extension Agreement	Backup Material

**SOFTWARE AS A SERVICE & PROFESSIONAL SERVICES AGREEMENT**

**BETWEEN**

**PERFECTMIND INC.**

**AND**

**CITY OF GEORGETOWN, TEXAS**

**DATED: September 13, 2016**

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**Exhibits:**

- Exhibit A – Platform Use Fees
- Exhibit B – Statement of Work
- Exhibit C – PerfectMIND Rates for Professional Services
- Exhibit D – Service Levels
- Exhibit E – Platform Features and Functionalities



## SOFTWARE AS A SERVICE & PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is dated September 13, 2016

### BY AND BETWEEN:

**PerfectMIND Inc.**  
("PerfectMIND"), a British Columbia  
corporation having an office at:

110-980 West First Street  
North Vancouver, British Columbia  
V7P 3N4

AND

**City of Georgetown**  
("Customer"), a Texas home-rule  
municipality having an office at:

300-1 Industrial Ave.  
Georgetown, Texas  
78627

**WHEREAS** PerfectMIND wishes to license to Customer, and Customer wishes to use and license from PerfectMIND, the Platform (as defined herein) on the terms and conditions set out in this Agreement;

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

### PART 1—DEFINITIONS AND INTERPRETATION

**1.1 Definitions.** In this Agreement, unless the context otherwise requires, capitalized terms will have the meaning assigned to them herein, including the following:

- (a) "**Account**" has the meaning set out in §5.6;
- (b) "**Account-holder**" means an individual designated by Customer to whom an Account is issued;
- (c) "**Applicable Laws**" means all applicable laws and regulations, including all applicable local, provincial, state, national and foreign laws, treaties and regulations as well as orders of courts or laws, regulations, by-laws or ordinances of applicable governmental agencies;
- (d) "**Claims**" means liabilities, actions, proceedings, claims, causes of action, demands, debts, losses, damages, charges and costs, including reasonable legal costs, any amount paid to settle any action or to satisfy a judgment and expenses of any kind and character whatsoever incurred in connection therewith;
- (e) "**Confidential Information**" has the meaning set out in §8.1;
- (f) "**Content**" means all materials and content, including designs, editorials, text, graphics, audiovisual materials, multimedia elements, photographs, videos, music, sound recordings, reports, documents, software, information, formulae, patterns, data and any other work, and

**“Customer Content”** is Content entered, uploaded or inputted into the Platform by or on behalf of Customer;

(g) **“Customer Data”** means information, materials, or data, including Customer Content, entered, uploaded or inputted into the Platform by or on behalf of Customer;

(h) **“Enhancement”** means enhancements, developments, modifications, updates, additions and improvements made to the Platform, other than New Features and Functions;

(i) **“Force Majeure”** means circumstances beyond a party’s reasonable control, including without limitation, acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labour problems, or Internet service provider failures or delays, or hosting service provider failures or delays;

(j) **“Intellectual Property Rights”** means any and all (i) proprietary rights provided under patent law, copyright law, trade-mark law, design patent or industrial design law, semi-conductor chip or mask work law, or any other applicable statutory provision or otherwise arising at law or in equity, including, without limitation, trade secret law, that may provide a right in works, software, source code, object code, marks, ideas, formulae, algorithms, concepts, methodologies, techniques, inventions, or know-how, or the expression or use thereof, (ii) applications, registrations, licenses, sublicenses, agreements, or any other evidence of a right in any of the foregoing, and (iii) past, present, and future causes of action, rights of recovery, and claims for damage, accounting for profits, royalties, or other relief relating, referring, or pertaining to any of the foregoing;

(k) **“New Features and Functions”** means any update, revision, new version, new module or upgrade of the Platform made available by PerfectMIND from time to time (i) that adds new functions or features to the Platform and (ii) for which PerfectMIND charges a fee to its customers in order to obtain same;

(l) **“PerfectMIND Privacy Policy”** means PerfectMIND’s privacy policy made available at <http://www.perfectmind.com/academy/privacy> as amended from time to time;

(m) **“PerfectMIND Technology”** means (i) any concepts, inventions, systems, processes, techniques, methodologies, know-how, data, tools, templates, technology (including software in executable code and source code), documentation or any other information, data or materials, and any expressions of the foregoing, developed by, owned by, or licensed to, PerfectMIND; and (ii) the Work Product;

(n) **“Permitted Purpose”** means managing and operating Customer’s facilities located in the City of Georgetown, Texas or its extraterritorial jurisdiction including customer relationship management, facility bookings, membership sales, point of sale transaction processing and scheduling;

(o) **“Platform”** means the software and supporting hardware platform known as “PerfectMIND” that is owned and operated by PerfectMIND, and that will be made available to Customer as a service under this Agreement via a designated website or websites as may be

designated by PerfectMIND, from time to time, together with the related documentation, Content (other than Customer Content and Customer Data) and end user materials delivered therewith;

(p) “**Professional Services**” has the meaning set out in §3.1;

(q) “**Statement of Work**” has the meaning set out in §3.1;

(r) “**Term**” has the meaning set out in §7.1; and

(s) “**Work Product**” means all improvements, enhancements and derivatives thereto developed by PerfectMIND for the purposes of providing the Professional Services under this Agreement or otherwise and any and all other work products developed by PerfectMIND for the purposes of providing the Professional Services under this Agreement.

**1.2 Interpretation.** In this Agreement, unless expressly stated otherwise or the context otherwise requires, (a) headings and captions are for convenience only and will not be deemed to explain, limit or modify the provisions hereof, (b) the word “**including**”, when following a general statement or term, is not to be construed as limiting the general statement or term (whether or not used in connection with phrases such as “without limitation” or “but not limited to”) and the word “**or**”, when connecting two or more matters, will not imply an exclusive relationship between the matters, (c) a reference to a “**person**” or “**entity**” means an individual, corporation, body corporate, firm, limited liability company, partnership, syndicate, joint venture, society, association, trust or unincorporated organization or governmental authority or trustee, executor, administrator or other legal representative, including any successor to that person, (d) a word importing the masculine gender includes the feminine and neuter, a word in the singular includes the plural, a word importing a corporate entity includes an individual, and vice versa, (e) words, phrases and acronyms not otherwise defined herein that have a meaning commonly understood and accepted by persons familiar with the Internet and computing services professionals will be interpreted and understood to have that meaning herein, and (f) in the event of any conflict or inconsistency between the terms of this Agreement and the terms of the Exhibits hereto, the terms of the Exhibits hereto will prevail to the extent necessary to resolve such conflict or inconsistency.

## **PART 2—LICENSE**

**2.1 License.** PerfectMIND grants to Customer a non-exclusive, non-transferable, right and limited license, only during the Term, to access and use the Platform for the Permitted Purposes only. All rights not expressly granted to Customer are reserved by PerfectMIND and, if applicable, its licensors.

**2.2 Complete Software; Enhancements.** Upon completion of the Professional Services described in the Statement of Work attached to this Agreement as Exhibit B, the Platform with the features and functionalities described in Exhibit E attached to this Agreement will be configured and made available to Customer for access and use by Account-holders. Customer agrees that its entry into this Agreement is not contingent on the delivery of any future functionality or features by PerfectMIND. PerfectMIND may, from time to time and at its sole discretion, update the Platform (including the underlying server software or hardware) or otherwise offer Enhancements, which Enhancements will form part of the Platform being licensed and provided

hereunder without further payment by Customer. PerfectMIND will use commercially reasonable efforts to (a) ensure that such Enhancements are compatible with and will not adversely affect or reduce the functionality, performance, availability and accessibility of the Platform, (b) to the extent that such Enhancements do so adversely affect the Platform and Customer notifies PerfectMIND of same, restore or reinstate the Platform or parts of it causing the adverse effects to its or their status prior to the Enhancement, as soon as may be reasonable and practicable in the circumstances, and (c) notify customers six (6) weeks in advance of any changes that have the potential to adversely affect the Customer's use of the Platform . Notwithstanding any Enhancements or other changes to the Platform, PerfectMIND will maintain the functionality of the Platform so it is always materially equal to or better than the functionality of the Platform as of the date that Customer first commences using the Platform.

**2.3 New Features and Functions.** PerfectMIND may, from time to time and in its sole discretion, develop and offer New Features and Functions that will not form part of the Platform licensed hereunder and may be provided and licensed separately to Customer for an additional fee. For clarity, in no event will PerfectMIND be obligated to provide any New Features and Functions free of charge other than those features made generally available to other PerfectMIND parks and recreation customers without additional charges.

### **PART 3—PROFESSIONAL SERVICES**

**3.1 Professional Services.** Customer may, from time to time, request PerfectMIND to provide customization and deployment services and other related professional services in relation to Customer's use of the Platform (the "**Professional Services**") and PerfectMIND may, in its discretion, agree to provide the Professional Services. Upon agreement on the particulars of the Professional Services, including the fees payable by Customer to PerfectMIND for the Professional Services, such particulars shall be included in a statement of work (a "**Statement of Work**"), which shall be signed by PerfectMIND and Customer, and which shall form a schedule to and be incorporated into and form part of this Agreement. To the extent that there is any inconsistency between any provision in any Statement of Work and the rest of this Agreement, the terms of such Statement of Work will prevail. Each Statement of Work may contain, unless the parties agree otherwise, a description of the work to be conducted, the functional requirements and technical specifications applicable to the work, the work schedule and milestones, the deliverables and delivery schedule, acceptance criteria, cost, and such other information and additional terms and conditions as the parties may mutually agree upon. As of the date of this Agreement, PerfectMIND and Customer have agreed upon the Professional Services described in the Statement of Work attached to this Agreement as Exhibit B.

**3.2 Change Orders.** Customer may, from time to time, request changes to the scope of the Professional Services described in a Statement of Work. In response to any such request from Customer, PerfectMIND shall determine the feasibility of providing such changes and shall estimate the increase in the total fees payable for providing such changes to the Professional Services. Following receipt of PerfectMIND's response to Customer's request, the parties shall negotiate an amended Statement of Work which sets out the changes to the Professional Services and the additional fees payable in respect thereof.



**3.3 Customer's Responsibilities.** The work functions and tasks relating to the Professional Services for which Customer or a third party shall be responsible shall be described in the Statement of Work. Customer agrees to perform and cause the third party to perform such work functions and tasks in a timely fashion. Customer agrees to provide or make available and cause any third party identified in the Statement of Work as being responsible for any function or task in any way related to the Professional Services to provide or make available all information reasonably requested by PerfectMIND to perform the Professional Services. PerfectMIND will not be liable for loss or damage arising from reliance on any such information.

**3.4 Project Teams.** Each party will be solely responsible for staffing its project team for the performance of the Professional Services by PerfectMIND and relating work functions and tasks by Customer as described in a Statement of Work. Each member of a project team will possess skills and knowledge appropriate to the work functions to be performed by that team member. Either party may, by way of replacement or addition, make changes to the personnel assigned to its project team, provided that each replacement team member shall possess skills and knowledge at least equivalent to the project-related skills and knowledge of the team member being replaced. The Customer reserves the right to review PerfectMIND project team changes. Delays in the project that are the result of changes to the PerfectMind project team will be reimbursed through the addition of time at no cost to Customer to the project timeline outlined in Scope of Work. Each party shall appoint a project manager in respect of its project team. The project managers shall be available for weekly meetings to review the progress of the Professional Services.

**3.5 Use of Customer's Facilities.** For Professional Services to be performed at the Customer premises, Customer will provide all work space, facilities and support that are reasonably requested by PerfectMIND to perform such Professional Services, including without limitation, secretarial support, telephone, and computer facilities.

**3.6 No Liability for Others' Failure to Perform.** Customer agrees and acknowledges that PerfectMIND's performance of the Professional Services will be conditional upon, and subject to, Customer's performance of its obligations hereunder and the performance by any third party identified in the Statement of Work of its functions and task to the extent that such functions and task relate to the Professional Services, and that PerfectMIND will not be liable or responsible, in any manner or to any extent, for any failure of PerfectMIND to perform all, or any part of, the Professional Services to the extent that any such failure is caused by a failure of Customer to perform its obligations or the third party to perform its functions and tasks.

**3.7 Third Party Hardware/Software.** Customer will be solely responsible for the evaluation, selection, installation, implementation, compatibility, use and performance of and results obtained from any hardware, systems software, utility software, security software, telecommunication equipment or software, and applications software used in connection with the Professional Services, unless (and only to the extent) otherwise expressly agreed in this Agreement. Except as expressly provided in this Agreement, Customer and/or the third party vendors of the software packages selected for use by Customer will be responsible for the installation, acceptance and performance of the selected software packages.

**3.8 Third Party Products.** Where the Professional Services to be provided by PerfectMIND involve the acquisition by Customer of products of third parties, PerfectMIND will not be responsible for delays in the delivery of such products by third parties or for such product's faulty quality, defective performance, or failure to perform in accordance with published specifications or accepted standards. PerfectMIND will transfer to Customer any transferable warranties provided to PerfectMIND by third parties. PerfectMIND makes no independent representations or warranties with respect to products provided by third parties. Any third party warranties are the exclusive remedies of Customer with respect to such products. PerfectMIND will notify the Customer of any third party products required to deliver the features and functionality listed in Exhibit E prior to initiating the Scope of Work.

**3.9 Use of Subcontractors.** Customer acknowledges that PerfectMIND may engage agents and subcontractors to perform any of the Professional Services described in a Statement of Work. PerfectMIND shall be responsible for the fulfilment of its obligations hereunder, notwithstanding the performance of any of its obligations by its agents and subcontractors. The Customer shall review the qualifications of subcontractors and reserves the right to, acting reasonably, approve or deny their engagement in the project.

**3.10 No Recruitment.** Customer agrees that during the term of this Agreement, and for a period of one (1) year thereafter, it will not, without the prior written consent of PerfectMIND, hire, retain or engage, or make an offer in respect of same to, any employee, independent contractor or consultant of PerfectMIND.

## **PART 4—FEES AND PAYMENTS**

**4.1 Platform Use Fees.** Customer will pay all fees and charges in connection with the use of the Platform in accordance with Exhibit A, which forms an integral part hereof and is incorporated herein by reference.

**4.2 Platform Use Billing.** The fees payable by Customer for use of the Platform in each twelve (12) month period is payable in advance at the beginning of such period. PerfectMIND will invoice Customer for such fees at the beginning of each 12 month period, and Customer will pay each invoice within thirty (30) days after the date of receipt of a correct invoice; provided that the entire fee for the first twelve-month period in the Term is payable and due upon the signing of this Agreement. All amounts due by Customer hereunder will be paid, unless otherwise expressly set out herein, without any deduction, adjustment or set-off whatsoever.

**4.3 Professional Services Fees.** If the Professional Services are to be provided on a fixed price basis, the Statement of Work will set out the total contract price, a payment schedule, including the fees payable in respect of each deliverable and/or milestone, as applicable. If the Professional Services are to be provided by PerfectMIND on a time and materials basis, the rate(s) in Exhibit C attached hereto will apply. Per diem rates shall be based on a 7.5 hour day. Once a Statement of Work is signed by the parties, the rates structure in effect at the time of the signing of the Statement of Work shall apply for the duration of the project described in the Statement of Work. PerfectMIND's fees for Professional Services (whether fixed or based on time and materials) do not include any travel, living or any other out-of-pocket expenses incurred by

PerfectMIND or its subcontractors in providing Professional Services. Customer will reimburse PerfectMIND for all reasonable travel, living and other out-of-pocket expenses incurred by PerfectMIND's employees and subcontractors in providing the Professional Services. All such expenses for which PerfectMIND seeks reimbursement will be supported by documentation in a form reasonably acceptable to Customer.

**4.4 Taxes.** Fees for use of the Platform do not include any taxes, and Customer agrees to pay all applicable sales, use, value-added and other taxes or similar nature based on or due as a result of any amounts paid to PerfectMIND under this Agreement.

**4.5 Late Payments.** Any payment to be made by Customer to PerfectMIND will be made within thirty (30) days of the date Customer receives a correct invoice as provided in Sections 4.2 and 4.3. PerfectMIND may charge interest on an overdue payment at the "rate in effect" on September 1 of the fiscal year in which the payment becomes overdue, in accordance with V.T.C.A., Texas Government Code, Section 2251.025(b). This Prompt Payment Policy does not apply to payments made by Customer in the event:

- (a) There is a bona fide dispute between Customer and PerfectMIND, about the invoice that cause the payment to be late; or
- (b) The invoices are not mailed to Customer in accordance with the stages and payments set forth in Exhibit "B" incorporated herein.

**4.6 Payment of Invoices.** Customer reserves the right to correct any calculation/numerical error that may be discovered in any invoice that may have been paid to PerfectMIND and to adjust same to meet the requirements of this Agreement. Following receipt of an invoice, Customer shall endeavor to pay PerfectMIND promptly, but no later than the time period described in Section 4.4 herein. Under no circumstances shall Customer be entitled to receive interest on payments which are late because of a good faith dispute between PerfectMIND and Customer or because of amounts which Customer has a right to withhold under this Agreement or state law. Customer shall be responsible for any sales, gross receipts or similar taxes applicable to the services as set forth in Section 4.9 herein, but not for taxes based upon PerfectMIND's net income.

**4.7 Professional Fee Billing.** PerfectMIND will invoice Customer for the Professional Services according to the payment terms specified in the Statement of Work, or if no payment term is specified in the Statement of Work, on a monthly basis, and Customer will pay each invoice within thirty (30) days after receipt of invoice, unless the parties agree otherwise in writing. The fees for the Professional Services to be performed pursuant to the Statement of Work attached hereto as Exhibit B are set out and shall be due and payable to PerfectMIND in accordance with the "Fee payment schedule" section of Exhibit B, upon Customer's receipt of PerfectMIND's invoices.

**4.8 Travel Expenses.** Reimbursement of any travel, lodging, and per diem expenses associated with providing Professional Services must be specified in the Statement of Work. All travel expenses are subject to review by the customer and documentation of actual itemized expenses may be requested.

**4.9 Taxes and Duties Relating to Professional Fees.** All amounts payable in respect of the Professional Services rendered by PerfectMIND to Customer under this Agreement will be exclusive of all shipping charges, customs duties, sales taxes, value-added taxes, and any other like charges or taxes. Customer will be responsible for paying all such charges and taxes in connection with the provision of the Professional Services under this Agreement.

**4.10 Currency.** All prices in this Agreement are in United States (US) dollars.

## **PART 5—USE OF THE PLATFORM**

### **5.1**

**PerfectMIND Responsibilities.** PerfectMIND will provide the Platform in accordance with the service levels set out in Exhibit D. PerfectMIND will provide to Customer, at no additional charge, the support for the Platform described in Exhibit D. PerfectMIND will comply with all Applicable Laws in the performance of this Agreement. PerfectMIND has used its best commercially reasonable efforts through quality assurance procedures to ensure that there are no Computer Viruses or undocumented features in the Platform, and the Platform does not contain any embedded device or code (e.g., time bomb) that is intended to obstruct or prevent use of the Platform. Notwithstanding any rights granted under this Agreement or at law, PerfectMIND hereby waives under any and all circumstances any right it may have or may hereafter have to exercise Electronic Self-Help. PerfectMIND agrees that Client may pursue all remedies provided under law in the event of a breach or threatened breach of this Section, including injunctive or other equitable relief. The term “Computer Virus” means any malicious code, program, or other internal component (e.g., computer virus, computer worm, computer time bomb, or similar component), which could damage, destroy, alter or disrupt any computer program, firmware, or hardware or which could, in any manner, reveal, damage, destroy, alter or disrupt any data or other information accessed through or processed by such software in any manner. The term “Electronic Self-Help” means any use of electronic means to exercise PerfectMIND’s license termination rights, if allowable pursuant to this Agreement, upon breach or cancellation, termination or expiration of this Agreement. PerfectMIND warrants that the Platform does not and shall not contain any lock, counter, CPU reference, virus, worm or other device capable of halting operations or erasing or altering data or programs. PerfectMIND further warrants that neither PerfectMIND, or its agents, employees or subcontractors shall insert any such device after execution of this Agreement. For the avoidance of doubt, termination of Client’s access to the Platform in accordance with this Agreement will not be considered Electronic Self-Help. During the term of this Agreement, PerfectMIND shall carry errors and omissions insurance coverage in the amount of \$3,000,000 or more, and such other insurance relating to the Platform and its business operations as is reasonable and customary in this industry.

**5.2 Training.** PerfectMIND will provide training to Customer’s staff during the implementation period as provided in Exhibit B. This training may be in the form of in-person/on-site training or remote/online training. Customer’s staff will also have access to all on-line training materials made available by PerfectMIND to its customers including live and pre-recorded webinars. Customer may purchase additional training at PerfectMIND’s posted standard hourly rate for professional services. For additional on-site training purchased by Customer, Customer



will reimburse PerfectMIND for all reasonable travel and other out-of-pocket expenses in accordance with Exhibit C.

**5.3 Customer Responsibilities.** Customer will (a) be responsible for Account-holders' compliance with all of the terms and conditions of this Agreement; (b) be solely responsible for the accuracy, quality, integrity and legality of Customer Data, including Customer Content, and of the means by which Customer Data is acquired and used, including compliance with all personal information privacy laws and regulations and ensuring that no third party Intellectual Property Rights are infringed; (c) use commercially reasonable efforts to prevent unauthorized access to or use of the Platform, and notify PerfectMIND promptly of any such unauthorized access or use; and (d) use the Platform only for Permitted Purposes and in accordance with the documentation therefor and all Applicable Laws.

**5.4 Prohibited Conduct.** Customer will not

- (a) make the Platform available to anyone, or permit anyone to access the Platform, other than Account-holders;
- (b) license, sublicense, sell, resell, publish, republish, transfer, assign, distribute, rent, lease or time-share the rights granted to Customer under this Agreement, or copy or otherwise commercially exploit the Platform or its components in any way except in accordance with the rights granted hereunder;
- (c) use the Platform in any manner or for any purpose (i) that violates this Agreement, (ii) that contravenes, facilitates the violation of, or violates any Applicable Laws; (iii) that extracts, gathers, collects, or stores personal information about individuals except in compliance with all applicable personal information privacy laws or that involves data mining, robots or similar data gathering or extraction methods on individual's personal information without their express consent, or (iv) that interferes with or disrupts the integrity or performance of the Platform, PerfectMIND's systems or networks or third-party data of Content contained therein;
- (d) attempt to gain unauthorized access to the Platform or its related systems or networks;
- (e) post, upload, reproduce, distribute or otherwise transmit on the Platform (i) pyramid schemes, (ii) any material that contains a virus, cancelbot, Trojan horse, worm or other harmful, disruptive or surreptitious component, (iii) defamatory, infringing, indecent or unlawful software, materials or information, or (iv) inappropriate, profane, or obscene software, materials or information without suitable or lawfully-required access controls;
- (f) alter, modify, reverse engineer, decompile, or disassemble, translate, extract data structures from or otherwise attempt to extract the source code from the Platform or any part thereof;
- (g) create derivative works based on the Platform or works containing a substantial part of the Platform;

- (h) copy, frame or mirror any part or content of the Platform;
- (i) disable or circumvent any access control or related process or procedure established with respect to the Platform;
- (j) remove any copyright or other proprietary or Intellectual Property Rights notices or labels on or in the Platform or any part, copy or report generated therefrom or thereof;
- (k) use the Platform to scan or probe another computer system, obstruct or bypass computer identification procedures or engage in unauthorized computer or network trespass without the express permission of the owners of such computer systems;
- (l) access the Platform in order to (i) build a competitive product or service, or (ii) copy any ideas, features, functions or graphics of the Platform;
- (m) forge headers or otherwise manipulate any protocols or identifiers used in any system or protocol in such a manner to disguise the origin of any Content transmitted using the Platform;
- (n) impersonate or falsely represent an association with any person, including a PerfectMIND representative, without the prior express, written permission of such person; or
- (o) permit any of the foregoing to be done by any person, including Customer's employees, contractors, agents, or representatives, including Account-holders.

**5.5 Commercial Electronic Messages.** All email messages that Customer sends using the Platform will comply with all applicable anti-spam laws and regulations, including those relating to commercial electronic messages. When using the Platform, Customer will represent itself and/or its organization accurately and will not impersonate any other person, whether actual or fictitious. Customer specifically agrees that (to the extent that the Platform permits it, and it is within Customer's control to do so) for all messages that Customer sends using the Platform (i) the "from" line of the message will accurately and in a non-deceptive manner identify Customer's organization; (ii) the "subject" line of the message will not contain any deceptive or misleading content regarding the overall subject matter of the message, and (iii) the message will include the contact information of the Account-holder who sends the message or another individual within Customer's organization who may be readily contacted by the recipient, and such contact information will remain valid for at least 60 days after the message is sent. Customer will ensure that every message sent using the Platform will contain an "unsubscribe" link that allows recipient to remove himself/herself/itself from Customer contact list and specify an electronic address on the World Wide Web that can be accessed by the recipient of the message for the purpose of unsubscribing. Customer will promptly, and in any event no later than 10 days after the receipt of the request, give effect to any unsubscription requests it receives. Customer may not charge a fee, require the recipient to provide any personally identifying information beyond an email address, or make the recipient take any step other than sending a reply email or visiting a single page on an Internet website as a condition for giving effect to an unsubscribe request. Customer acknowledges that Customer will be responsible for maintaining and giving effect to the list of unsubscribe requests following termination of this Agreement.

**5.6 Account Use.** PerfectMIND will issue Accounts, or permit Customer to issue Accounts, to individuals selected by Customer as Account-holders. Only Account-holders may access or use the Platform and each Account-holder's access to the Platform requires valid login credentials, including at least user identification and secure passwords (each an "**Account**"). The rights of an Account-holder may not be used by more than one individual, unless the Account of the Account-holder is reassigned in its entirety to another Account-holder, in which case the prior holder of the Account shall no longer have any right to access or use the Platform. Customer acknowledges and agrees that Customer:

- (a) is fully responsible for Accounts assigned by or at the request of Customer and the acts and omissions of each Account-holder, including the creation of Account credentials by any person, the maintenance, confidentiality and security of all passwords related to Accounts, and any and all activities that occur under Accounts (including persons who gain access to such Accounts, whether with or without permission);
- (b) will notify PerfectMIND as soon as practicable after obtaining or receiving any knowledge of (i) any unauthorized use of an Account or any password related to an Account, or (ii) any other breach of security with respect to an Account, provided that such notification will not negate Customer's liability for any unauthorized use of an Account or password until such time as PerfectMIND can be reasonably expected to take corrective measures; and
- (c) will provide true, current, accurate and complete information as prompted by the Account-creation process or as otherwise requested by PerfectMIND from time to time and to promptly update such information when any changes occur so as to keep such information held by PerfectMIND true, current, complete and accurate.

**5.7 Usage Limitations.** The following provisions apply with respect to the Platform:

- (a) **General Practices and Limits.** Customer acknowledges and agrees that PerfectMIND may establish from time to time general practices and limits concerning the use of the Platform, including: the maximum size of any Customer Data, including Customer Content, that may be stored on PerfectMIND servers (the "**Storage Limit**"); the maximum amount, speed and type of Customer Data, including Customer Content, that may be sent from or received using the Platform (the "**Usage Limit**"). Such general practices and limits may be posted on PerfectMIND's website or otherwise made available through the Platform. Customer agrees that Customer's usage may not exceed such limits, and that it is Customer's responsibility to monitor Account usage of the Platform. PerfectMIND covenants that the Storage Limit and the Usage Limit set for Customer will not be less than the following:

**Minimum Storage Limit**

- Storage: 80GB (\$160 per month for every additional 80GB blocks of storage)

**Usage Limit**

- Accountholders: Unlimited
- Email: 25,000 emails per month (\$200 per month for additional 50,000 emails)

(b) **Internet-based Software.** The Platform depends on the Internet, including networks, cabling, equipment and facilities that are not in PerfectMIND's control; accordingly (i) any representation made by PerfectMIND regarding access performance, speeds, reliability, availability, use or consistency of the Platform, to the extent that they are dependent on the underlying Internet services, are on a "commercially reasonable efforts" basis, (ii) PerfectMIND cannot guarantee any minimum level regarding actual user performance, speed, reliability, availability, use or consistency based on factors depending on the Internet, and (iii) content, data, messages, information or materials sent over the Internet may not be completely private, and anonymity is not guaranteed.

## **PART 6—CONTENT, INTELLECTUAL PROPERTY AND PRIVACY**

**6.1 Reservation of Rights.** All right, title and interest, including all Intellectual Property Rights, in and to the Platform and PerfectMIND Technology is and will at all times be fully vested in PerfectMIND or its licensors, as the case may be.

**6.2 Third-Party Content**—Content accessed or available through the Platform may be owned by third-parties other than PerfectMIND or Customer (collectively, "**Third Party Content**") and may be protected by applicable Intellectual Property Rights. During use of the Platform, Customer may enter into correspondence with, purchase goods, hardware or services from, or participate in promotions of advertisers or sponsors showing their goods or services through the Platform. Any such activities, and any terms, conditions, warranties or representations associated with such activities are solely between the applicable third party and Customer. PerfectMIND and its licensors shall have no liability, obligation or responsibility to Customer for any such correspondence, purchases or promotions. Customer acknowledges and agrees that Customer shall be solely responsible for obtaining necessary licenses, consent and permits from third-party providers with respect to any Third Party Content or ancillary software, hardware, or services that Customer may use in connection with its use of the Platform.

**6.3 Feedback.** From time to time during the term of this Agreement, Customer and Account-holders may provide PerfectMIND with comments, suggestions, ideas and impressions of the Platform ("**Feedback**"). Customer acknowledges and agrees that, by disclosing such Feedback to PerfectMIND, the provider thereof will be deemed to have granted to PerfectMIND a royalty-free, worldwide, transferable, sub-licensable, non-exclusive, irrevocable and perpetual license to use, modify, adapt, improve or incorporate such Feedback into the Platform. Customer acknowledges and agrees that the right to use the Platform is good and sufficient consideration for any contributions, through the Feedback or otherwise, to the design, improvement, or functionality of the Platform and the transfer to PerfectMIND thereof.

**6.4 Customer Data.** PerfectMIND does not claim ownership of, and assumes no liability or responsibility with respect to, any Customer Data, including Customer Content. As



between PerfectMIND and Customer, all right, title and interest (including Intellectual Property Rights) in and to Customer Data will at all times be fully vested in Customer, except that, by posting, uploading, inputting, providing, submitting, entering or otherwise transmitting Customer Data to PerfectMIND or any third party using the Platform, Customer agrees as follows:

- (a) Customer will have thereby granted PerfectMIND a royalty-free, non-exclusive, worldwide, fully paid-up limited license to use, copy, distribute, transmit, display, edit, delete, publish and translate such Customer Data to the extent reasonably required by PerfectMIND in connection with the functionality of the Platform and the performance of this Agreement as well as to ensure adherence to or enforce the terms of this Agreement;
- (b) Customer, and not PerfectMIND, will have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness and Intellectual Property Rights of all Customer Data, and PerfectMIND will not be responsible or liable for the deletion, correction, destruction, damage, loss or failure to store any Customer Data; and
- (c) Customer will have thereby confirmed, represented and warranted to PerfectMIND that Customer has all rights, titles and interests (including all Intellectual Property Rights as well as the power and authority necessary), to grant the license to such Customer Data set above in subsection 6.4(a).
- (d) PerfectMIND shall not transmit Customer Data to any party other than the Customer without written consent of the Customer.
- (e) PerfectMIND shall make reasonable efforts to protect Customer Data through the use of data backups and the storage of data with a reputable hosting service provider. As of the date hereof, PerfectMIND uses Amazon as its hosting service provider.
- (f) PerfectMIND shall assist with the restoration and/or provide reasonable reimbursement for the total costs of recreating any customer data lost due to a failure of the Platform.

**6.5 Privacy.** PerfectMIND acknowledges and agree that Customer Data may contain sensitive information, and, in connection therewith, (a) PerfectMIND will comply with all Applicable Laws relating to personal information privacy, including British Columbia *Personal Information Protection Act* and applicable privacy laws of the United States, and will adhere to the PerfectMIND Privacy Policy, which forms an integral part hereof and is incorporated herein by reference; (b) PerfectMIND will use industry-standard management practices, technologies and security to protect the integrity, safety and security of Customer Data in both physical and electronic form; (c) Customer acknowledges and agrees that its use of the Platform will utilize, in whole or in part, the public Internet and third party networks to transmit communications, which transmissions may be intercepted by other parties or stored, cached, routed, transmitted or received in jurisdictions outside of the jurisdiction of Customer, (d) PerfectMIND will not use Customer Data for any purpose other than to provide the functionality of the Platform to Customer and its users, to ensure adherence to or enforce the terms of this Agreement, or (only in aggregate form) for site metrics; (e) PerfectMIND reserves the right to modify the PerfectMIND Privacy Policy

and its security policies in its reasonable discretion from time to time, subject to any Applicable Laws.

- (a) PerfectMind will encrypt any customer data in-transit over the Internet through the use of Secure Sockets layer technology.

**6.6 Use of the Other Party's Name.** Each party may use the other party's name in its news releases, marketing and promotional materials and the like provided that such will comply with any standards set by the other party from time to time. Each party will cease to use the other party's name upon any expiration or termination of this Agreement.

## **PART 7—TERM AND TERMINATION**

**7.1 Term.** This Agreement commences on the date first set out above and will continue in effect for five (5) years thereafter, unless earlier terminated or renewed in accordance with the provisions of this Agreement (the "**Term**"). At the expiration of the initial five year period, the Term will be automatically renewed for up to three additional two year periods unless a party provides written notice to the other party of the first party's intention not to renew, at least thirty days before the expiry of the then-current Term.

**7.2 Renewal Terms.** The fees payable by Customer during any such renewal term will be the same as the fee for the last year during the prior term unless PerfectMIND has given Customer written notice of a pricing change at least 90 days' before the end of such prior term, in which case the pricing change will be effective upon renewal and thereafter.

**7.3 Termination.** Either party may terminate this Agreement for cause, immediately upon written notice to the other party, if:

- (a) the other party is in default of any of its material obligations under this Agreement and such default is not remedied within thirty (30) days of the date of receipt of written notice thereof, provided that cure period with respect to default in payment obligations is ten (10) days; or
- (b) the other party ceases to conduct business in the normal course; the other party becomes insolvent or bankrupt; the other party makes any assignment for the benefit of creditors; proceedings are instituted by or against the other party seeking relief, reorganisation or rearrangement under any laws relating to insolvency; a receiver, liquidator or trustee is appointed in respect of any property or assets of the other party; or an order is made for the liquidation, dissolution or winding up of the other party.

**7.4 Non-appropriations Clause.** This Agreement is subject to the appropriation of funds by the Customer in its budget adopted for any fiscal year for the specific purpose of making payments pursuant to this Agreement for that fiscal year. The obligation of the Customer pursuant to this Agreement in any fiscal year for which this Agreement is in effect shall constitute a current expense of the Customer for that fiscal year only, and shall not constitute an indebtedness of the Customer of any monies other than those lawfully appropriate in any fiscal year. In the event of

non-appropriation of funds in any fiscal year to make payments pursuant to this Agreement, this Agreement may be terminated.

**7.5 Payment on Termination.** If this Agreement is terminated by Customer due to PerfectMIND's default, then PerfectMIND will refund to Customer an amount equal to the fees actually paid by Customer for the year during which the termination occurs prorated based on the post-termination portion of the year. Otherwise, any termination of the Agreement will not relieve Customer of its obligation to pay the fees payable to PerfectMIND for the Term of the Agreement for the use of the Platform nor does it entitle Customer to any refund. Upon the termination of this Agreement, without prejudice to any other rights PerfectMIND may have, Customer will (a) remit all fees payable for the Professional Services and Work Products accepted by Customer prior to the date of such termination or suspension; (b) remit all fees payable for work-in-progress, on a time and materials basis, at the rate structure applicable to the Statement of Work Order; and (c) remit all such other costs of PerfectMIND, demonstrated to the reasonable satisfaction of Customer, directly related to the permanent or temporary winding down of the Professional Services, work and deliveries which are being terminated or suspended.

**7.6 Return of Customer Data.** Upon request by Customer made within 30 days after the effective date of termination or expiration of this Agreement (except in the case of PerfectMIND terminating this Agreement for cause under §7.3), PerfectMIND will make available to Customer for download a file of the relevant Customer Data in a commercially-reasonable standard (such as comma separated value (.csv) or extendible markup language (.xml)) format along with attachments in their native format as stored by PerfectMIND. After such 30-day period, PerfectMIND will have no obligation to maintain or provide any such Customer Data and will thereafter, unless legally prohibited, delete all such Customer Data in PerfectMIND systems or otherwise in PerfectMIND's possession or under PerfectMIND's control. Within 30 days of any termination for cause of this Agreement by PerfectMIND pursuant to Section 7.3, Customer may request return of Customer Data, in which case Customer will pay to PerfectMIND any fees outstanding prior to the termination of this Agreement, PerfectMIND will make available Customer Data to Customer for download as set out above. If Customer does not make a request within the 30 day time limit or fails to make payments within five (30) days after receiving PerfectMIND's fee request, Customer's right to access or use Customer Data will immediately cease, and PerfectMIND will have no obligation to maintain or provide any Customer Data and will thereafter, unless legally prohibited, delete all such Customer Data in PerfectMIND systems or otherwise in PerfectMIND's possession or under PerfectMIND's control.

**7.7 Survival.** Without limiting the applicability of other terms and conditions of this Agreement, the terms of this Agreement that, by their nature, are intended to survive any purported or actual termination or expiry of this Agreement will so survive, including Part 1, Part 3, Part 6, Part 7, Part 8, Part 9 (except for §9.1) and Part 10.

## **PART 8—CONFIDENTIALITY**

**8.1 Confidential Information.** Neither party will, without the prior written approval of the other party, disclose or use for any purpose other than exercise of its rights or performance of its obligations under this Agreement any information, documents, know-how, trade secrets of

the other party, including the terms of this Agreement and such other information that is not in the public domain including, in respect of the Customer Data and, in respect of the Platform (collectively, “**Confidential Information**”) that may come to its knowledge or possession by reason of exchange of information under this Agreement or entering into this Agreement.

**8.2 Obligation to Protect.** Each party will protect the other’s Confidential Information using the same standard of care that it would use to protect its own, similar information, but in any case no less than a reasonable standard of care for information of similar sensitivity.

**8.3 Title.** All right, title and interest (including all Intellectual Property Rights) in and to each party’s Confidential Information will be and remain vested in such party.

**8.4 Permitted Disclosures.** Each party will not disclose Confidential Information of the other party to any person except to the first party’s employees, agents and sub-contractors on a strictly “need-to-know” basis, and provided that such persons have are subject to confidentiality obligations equivalent to the obligations imposed hereunder. Notwithstanding such disclosures, each party will be fully responsible for any breaches of confidentiality caused by such persons to whom the Confidential Information is disclosed as if such breach were committed by such party.

**8.5 Exceptions.** Neither party will have an obligation with respect to Confidential Information where such party can establish, through documentary evidence, that such information (a) was previously known to it free of any obligation to keep it confidential, (b) is or becomes publicly available other than by unauthorized disclosure, (c) is legally disclosed by third parties without restrictions of confidentiality, or (d) has been independently developed by it without reference to the other party’s Confidential Information.

**8.6 Governmental Disclosures.** Notwithstanding anything else in this Agreement, if a party is required to disclose any Confidential Information to a government body or court of law or as otherwise required by law, it may do so provided that it gives the other party sufficient advance notice as reasonable in the circumstances subject to applicable law to enable the owner of such Confidential Information the opportunity to contest the disclosure or obtain a protective order and assists the owner of such Confidential Information in contesting or protecting same. The Parties recognize and understand that the Customer is subject to the Texas Public Information Act and disclosure of Confidential Information pursuant to the Texas Public Information Act is not a violation of this Agreement.

## **PART 9—WARRANTIES, DISCLAIMERS, INDEMNITIES AND LIABILITY**

**9.1 PerfectMIND Warranties.** PerfectMIND represents and warrants to Customer that (a) the Platform will perform materially in accordance with the documentation therefor under normal use and circumstances; (b) the Professional Services will be performed in a diligent and workmanlike manner consistent with standards generally observed in the industry for similar services, and the Work Product will materially conform to the Statement of Work upon acceptance, and PerfectMIND will use all commercially reasonable efforts to remedy any material non-conformance of the Work Product to the Statement of Work in an expeditious manner; and (c) the functionality of the Platform will not be materially decreased during the Term, subject to the other provisions of this Agreement. For clarity, PerfectMIND will not be responsible for and the



warranties provided by PerfectMIND in this §9.1 do not apply to situations where improper or inadequate installation or maintenance of software or hardware that Customer uses to access or utilize, or otherwise in connection with, the Platform or Customer Data, or failure to properly configure the Platform for use in connection with such hardware or software is the cause of a failure or malfunction.

**9.2 Mutual Warranty.** Each party represents and warrants that it has the legal power and authority to enter into this Agreement and to fully abide by the terms and conditions hereof.

**9.3 NO OTHER WARRANTIES.** THE PLATFORM AND THE WORK PRODUCT ARE PROVIDED ON AN “AS-IS” AND “AS-AVAILABLE” BASIS AND PERFECTMIND DOES NOT GUARANTEE THAT THE PLATFORM WILL FUNCTION ERROR-FREE OR UNINTERRUPTED. CUSTOMER ACKNOWLEDGES THAT PERFECTMIND DOES NOT CONTROL THE TRANSFER OF DATA OVER COMMUNICATIONS FACILITIES, INCLUDING THE INTERNET, AND THAT THE SERVICE PROVIDED UNDER THIS AGREEMENT MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF SUCH COMMUNICATIONS FACILITIES. PERFECTMIND IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS. THERE ARE NO REPRESENTATIONS, CONDITIONS OR WARRANTIES OTHER THAN THOSE EXPRESSLY PROVIDED IN THIS AGREEMENT. THE CONDITIONS, REPRESENTATIONS AND WARRANTIES EXPRESSLY SET OUT HEREIN ARE IN LIEU OF, AND PERFECTMIND EXPRESSLY DISCLAIMS, ALL CONDITIONS, WARRANTIES AND REPRESENTATIONS, EXPRESS, IMPLIED OR STATUTORY, INCLUDING IMPLIED CONDITIONS, WARRANTIES OR REPRESENTATIONS IN RESPECT OF QUALITY, CONDUCT, PERFORMANCE, RELIABILITY, AVAILABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WHETHER ARISING BY USAGE OF TRADE, BY COURSE OF DEALING, BY COURSE OF PERFORMANCE, AT LAW, IN EQUITY, BY STATUTE OR OTHERWISE HOWSOEVER, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

**9.4 Indemnification by PerfectMIND.** PerfectMIND will indemnify and hold harmless Customer, and its officers, employees and agents (collectively, in this §9.4, the “**Indemnified Persons**”), from and against any and all Claims brought or made against, or incurred by, the Indemnified Persons, or any one of them, arising out of a claim by a third party that the Platform or the Work Product infringes the Intellectual Property Rights of a third party enforceable in Canada or the United States.

**9.5 Exception to PerfectMIND Indemnity.** Notwithstanding §9.4, PerfectMIND will not be required to defend or indemnify any Indemnified Person if, and to the extent that, the Claim would not have arisen but for (a) any Indemnified Person’s combination of the Platform or Work products with software, services or products not supplied by PerfectMIND, (b) any breach by an Indemnified Person of any provision of this Agreement, or (c) any refusal by the Indemnified Person to use a non-infringing version of the Platform or the Work Product offered by PerfectMIND under §9.6.

**9.6 Additional Infringement Obligations.** If PerfectMIND receives any knowledge of any Claim in respect of §9.4 or any circumstances in which a Claim in respect of such provision is threatened or reasonably anticipated, it will, as soon as reasonably practicable, (a) procure, at its expense, the right for Customer to use the Platform or the Work Product, as the case may be, or such infringing part thereof; (b) replace, at its expense, the Platform or the Work Product, as the case may be, or such infringing part thereof, with material of comparable functionality that does not breach this Agreement; (c) if the removal of such infringing part of the Platform or the Work Product, as the case may be, would not be a breach of this Agreement, remove such infringing part of the Platform; or (d) terminate this Agreement and refund to Customer a *pro rata* portion of the Platform use fees prepaid by Customer for the period during which the Agreement is terminated.

**9.7 Conduct of Indemnities.** Each party acknowledges that the indemnifying party will be given complete authority for the defence or settlement of Claims indemnified hereunder, on the understanding that, in all events, the indemnified party will have the right (at its own expense) to participate in such defence or compromise through counsel of its choosing. An indemnifying party's obligations to provide an indemnity hereunder will be conditional upon (a) the indemnified party notifying the indemnifying party as soon as reasonably practicable after receiving notice of a Claim, (b) the indemnified party providing such information and assistance as reasonably requested by the indemnifying party, and (c) the indemnified party not compromising or settling the Claim without the indemnifying party's prior written consent, such consent not to be unreasonably withheld, conditioned or delayed.

**9.8 EXCLUSION AND LIMIT OF LIABILITY.** NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER AND HOWEVER CAUSED, WHETHER ARISING UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, INCLUDING (WITHOUT LIMITATION) LOSS OF PRODUCTION, LOSS OF OR CORRUPTION TO DATA, LOSS OF PROFITS OR OF CONTRACTS, LOSS OF BUSINESS, LOSS OF MANAGEMENT OR OPERATION TIME AND LOSS OF GOODWILL OR ANTICIPATED SAVINGS, EVEN IF THE PARTY HAS BEEN NOTIFIED OF THE POSSIBILITY THEREOF OR COULD HAVE FORESEEN SUCH CLAIMS. THE ENTIRE LIABILITY OF EACH PARTY TO THE OTHER PARTY FOR DIRECT DAMAGES FROM ANY CAUSE WHATSOEVER, AND REGARDLESS OF THE FORM OF ACTION OR THE CAUSE OF ACTION, WHETHER IN CONTRACT OR IN TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, BREACH OF A FUNDAMENTAL TERM, FUNDAMENTAL BREACH OR OTHERWISE IN CONNECTION WITH THIS AGREEMENT WILL BE LIMITED TO THE FEES ACTUALLY PAID TO PERFECTMIND BY CUSTOMER DURING THE THREE (3) MONTHS PRECEDING THE CIRCUMSTANCES IN WHICH SUCH LIABILITY ARISES (EXCEPT THAT NOTHING IN THIS PROVISION WILL LIMIT CUSTOMER'S OBLIGATION TO PAY THE FEES PROVIDED IN PART 4 TO PERFECTMIND).

**9.9 Exclusive Remedy.** This Part 9 states PerfectMIND's sole liability to Customer, and Customer's exclusive remedy against PerfectMIND for any type of Claim described in Part 9.

## PART 10—GENERAL

**10.1 Internal Escalation of Disputes.** Any controversy, claim or dispute (“**Dispute**”) arising out of or related to this Agreement, including, without limitation, Disputes covering the performance of the parties’ obligations or the interpretation of the terms and conditions of this Agreement or applicable fees or payments, shall be dealt with as follows: Each Dispute initially shall be brought for resolution before a committee consisting of two (2) representatives of each of the parties- the project manager and the Account Manager from PerfectMIND and the project manager and a person with a position equivalent to Account manager from Customer. If the committee is unable to resolve a Dispute within ten (10) working days, then the Dispute shall be escalated to a separate committee consisting of one (1) officer of each party – the Director of Customer Service from PerfectMIND and an officer of equivalent position from Customer. If this second committee is unable to resolve the Dispute within ten (10) working days, then the Dispute shall be escalated to another separate committee consisting of two (2) executive officers of each party – the CEO and the COO of PerfectMIND and two executive officers with equivalent positions with Customer. Members of each committee shall act reasonably and good faith and attempt to resolve the dispute amicably.

**10.2 Marketing.** With written permission of the Customer, PerfectMIND may use Customer’s name, with an accurate reference to Customer’s use of the Platform, in PerfectMIND’s marketing materials or on PerfectMIND’s website, with a link to Customer’s website. Upon signing of this Agreement, PerfectMIND may use Customer’s name, with an accurate reference to Customer’s use of the Platform, in PerfectMIND’s marketing materials or on PerfectMIND’s website, with a link to Customer’s website, provided that PerfectMIND shall not imply that Customer endorses the Platform or PerfectMIND without prior written consent of Customer.

**10.3 Notice.** Any notice required or permitted to be given hereunder will be in writing and may be given by personal services, including by courier, or by facsimile if confirmed on the same day, or in writing by registered airmail, with postage prepaid to the following:

If to PerfectMIND:  
PerfectMIND Inc.  
110- 980 West 1<sup>st</sup> Street  
North Vancouver, BC, V7P 3N4  
Fax:

Attention: Farid Dordar-CEO or Ali Sanei-COO

If to Customer:  
City of Georgetown  
PO Box 409

Georgetown, Texas  
78627  
Fax: \_512-930-3566

Attention: City Manager

Any notice given by personal delivery (including courier) will be conclusively deemed to have been given on the day of actual delivery thereof and, if given by facsimile, on the day of transmittal thereof if given during the normal business hours of the recipient on a business day, and on the business day during which such normal business hours next occur if not given during such hours.

**10.4 Assignments.** This Agreement may not be assigned by either party without the prior written approval of the other party, such approval not to be unreasonably withheld or delayed, but may be assigned by PerfectMIND to (i) a parent, subsidiary or affiliate; (ii) an acquirer of assets; or (iii) a successor by merger, on written notice to Customer. Any purported assignment in violation of this section shall be void.

**10.5 Applicable Law; Enforcement and Venue.** This Agreement shall be enforceable in Georgetown, Texas, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein, exclusive venue for same shall lie in Williamson County, Texas. This Agreement shall be governed by and construed in accordance with the laws and court decisions of Texas.

**10.6 Force Majeure.** Neither party shall be liable for damages for any delay or failure of delivery arising out of an event of Force Majeure.

**10.7 Waivers.** No right under this Agreement will be deemed to be waived except by notice in writing signed by the party waiving its right, and any such waiver will not prejudice its rights in respect of any subsequent breach of this Agreement by the other party. Any failure by a party to enforce any clause of this Agreement or right contained in it, or any forbearance, delay or indulgence granted by a party to the other party, will not be construed as a waiver of the first-mentioned party's rights under this Agreement.

**10.8 No Presumption.** No presumption shall operate in favour of or against any party hereto as a result of any responsibility that any party may have had for drafting this Agreement.

**10.9 Enurement.** This Agreement will enure to the benefit of and be binding upon the parties and their successors, trustees, permitted assigns and receivers.

**10.10 Compliance with Laws, Charter and Ordinances.** PerfectMIND, its employees and agents, shall use best efforts to comply with all applicable federal state laws, the Charter and Ordinances of the City of Georgetown, as amended, and with all applicable rules and regulations promulgated by local, state and national boards, bureaus and agencies.

**10.11 Injunctive Relief.** Each party acknowledges and agrees that a breach by it of the provisions of this Agreement relating to Confidential Information, Intellectual Property Rights, or restrictive obligations may result in immediate and irreparable harm to the other party for which compensation would be an inadequate remedy. Accordingly, each party acknowledges and agrees that the other party may seek, as a matter of right and without the necessity of establishing the inadequacy of monetary damages, injunctive or other equitable relief to prevent or remedy such conduct from any court of appropriate jurisdiction.

**10.12 Entire Agreement.** This Agreement together with any applicable Statement of Work constitutes the entire Agreement between the parties and supersedes all prior representations, agreements, statements and understandings, whether verbal or in writing. In connection therewith, no terms or conditions stated in any Customer purchase order or other order or documentation will be incorporated into or form any part of this Agreement, and all such terms or conditions will be null and void, notwithstanding any provision therein.

**10.13 Amendments.** This Agreement may not be amended except by written instrument signed by an authorized representative of both parties.

**10.14 Severability.** If any term or provision of this Agreement will be found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same will not affect the other terms or provisions hereof or the whole of this Agreement, but such terms or provisions will be deemed modified to the extent necessary in the court's opinion to render such terms or provisions enforceable, and the rights and obligations of the parties will be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.

**10.15 Relationship of the Parties.** The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.

**10.16 No Third-Party Beneficiaries.** There are no third-party beneficiaries to this Agreement.



**10.17 Counterparts.** This Agreement may be signed in as many counterparts as may be necessary, each of which so signed will be deemed to be an original and each copy sent by electronic facsimile transmissions will be deemed to be an original, and such counterparts together will constitute one and the same instrument and notwithstanding the date or dates of execution will be deemed to bear the date as first above written.

**IN WITNESS WHEREOF** the parties have executed this Agreement with effect as of the date first above written.

**PERFECTMIND INC.**

Per:   
(Signature of PerfectMIND Authorized Signatory)

Name: Valut Shabal  
(Please Print PerfectMIND Signatory's Name)

Title: Vice President  
(Please Print PerfectMIND Signatory's Title)

**CITY OF GEORGETOWN, TEXAS**

Per:   
(Signature of Customer Authorized Signatory)

Name: DALE ROSS  
(Please Print Customer Signatory's Name)

Title: MAYOR  
(Please Print Customer Signatory's Title)

**EXHIBIT A**  
**Platform Use fees**

**PLATFORM**

The fees for the Platform use will be as follows:

Year One (from September 1, 2016 to August 31, 2017): \$33,333

Year Two (from September 1, 2017 to August 31, 2018): \$33,333

Year Three (from September 1, 2018 to August 31, 2019): \$33,333

Year Four (from September 1, 2019 to August 31, 2020): \$33,333

Year Five (from September 1, 2020 to August 31, 2021): \$33,333

## EXHIBIT B

### Statement of Work

#### Scope/Project Management and Planning

PerfectMIND will be responsible for planning and managing the project, using best practices generally recognized as good project management methodology, and designating a Project Manager for the project, who will be responsible for:

- Adherence to the project scope and schedule
- Management of work activities including system design and installation, system configuration, data conversion, testing and quality assurance, administrator and end-user training, and go-live support
- Coordination of resources, work sessions, and training
- Communications
- Managing project issues and issue tracking
- Status reports
- Available for status calls to provide updates
- Working with the designated Customer project manager
- Deliverable acceptance and sign-off

The frequency and other details of status reports will be agreed upon during the discovery phase. In addition to the Project Manager, PerfectMIND will assign appropriate staff to complete the deliverables described in this Statement of Work, including at minimum: system installation, software configuration, data conversion, testing, administration and end-user training and go-live support.

#### Timeline

Customer is planning to implement the solution with the following estimated timeline. PerfectMIND is expected to recommend an overall implementation plan and timeline based on their experience with implementations of similar scope and complexity.

September 1, 2016	Contract Signature
Sep-Oct, 2016	Project kick off
TBD	Project Initiation
TBD	Software Configuration and Reports
TBD	User Acceptance Testing
TBD	Data Conversion
TBD	Training and Documentation
May 31, 2017	Go-live



## **Technical Requirements**

PerfectMIND will provide a SaaS solution, the only requirement for operating and using the proposed solution will be broadband internet connection and access to the internet via a web browser with all standard browsers being supported (recommended browsers will be communicated to Customer during the implementation phase). Recommended browsers will include, at a minimum, Firefox, Chrome and Microsoft Internet Explorer,. PerfectMind agrees that software will not rely on the use of browser plug-ins.

## **Data Conversion**

## **Customer Testing**

PerfectMIND will develop a test plan for Customer that covers system and functional, testing. After all of the components of the system have been completed, Customer will conduct system and functional testing. Customer will report any defects to PerfectMIND immediately for correction. If any defects are found, PerfectMIND will provide a plan to achieve acceptance or to make corrections or replacements.

## **Training**

PerfectMIND will provide full training to system administrators and trainers (number of system administrator and trainers to be determined at the discretion of Customer). PerfectMIND will develop a training plan for Customer to fully prepare the system administrators to support the system. The training plan will include:

- In-depth understanding of the system functionalities, including:
  - Security Settings
  - Workflow Development
  - Report Development
  - Software Configuration
- A review of best practices in the configuration and use of the system.
- Training sessions on different modules of the system, including:
  - Contact/Account Management
  - Store/Point of Sale Training
  - Membership Management
  - Attendance Tracking
  - Billing Management
  - Activity/Program Registration
  - Facility Rental
  - Appointments and Private Lesson scheduling
  - Marketing
  - Staff Management

- Accounting
- Document Template creation and configuration

### **Troubleshooting**

PerfectMIND will provide technical assistance to Customer's IT staff on the operation of the system. PerfectMIND will investigate and troubleshoot any technical issues with the system that Customer's IT staff report to PerfectMIND.

### **Post-live Support**

PerfectMIND will provide full application support during the week of go-live. PerfectMIND's project team will be available to provide go-live and post go-live support. The resource(s) will be accessible by phone and email to the system administrators.

### **Future Services**

The ability to provide the services/products in this section may be required in the future. Customer may request to add similar services or products in the future, including but not limited to:

- New features or;
- Features that were identified as Custom
- Additional Reports

and such similar services and products will be provided by PerfectMIND upon PerfectMIND and Customer negotiating and entering into Statements of Work providing for same.

### **Deliverables and Service Acceptance**

Customer designee will formalize the acceptance of the service via written acceptance of the following acceptance forms:

## Acceptance Form A- Project Kickoff (Milestone 1)

### Purpose

The purpose of the Project Kickoff Acceptance Form is to confirm that the project kickoff has occurred and the following deliverables are completed.

### Deliverables

- Contract signature and execution
- Planning of the project kickoff/discovery session
- Resourcing and scheduling for the discovery phase
- Preliminary review of the requirements by the project team prior to the first meeting
- Creation of live production environment, which includes at a minimum:
  - Setup of Customer's production environment on the cloud
  - System setups including backups and retentions
  - Database security setup
  - Setup of the monitoring tools and systems on Customer's database
  - Basic configuration of the database with Parks and Rec Modules

The work was completed on \_\_\_\_\_ and accepted by Customer.

Accepted by:

(City of Georgetown): \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

(PerfectMIND): \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

## Acceptance Form B - Project Initiation (Milestone 2)

### Purpose

The purpose of the Project Initiation Acceptance Form is to confirm that the project initiation is complete.

### Deliverables

- Discovery phase, which will inform the detailed work breakdown structure and includes:
  - Existing database system discovery
  - Business process review and gap analysis
  - Activity registration overview
  - Facility configuration overview
  - Membership management overview
  - Store and point of sale overview
  - Marketing overview
  - Accounting configuration

The Discovery phase may involve multiple meetings and communications to clarify and assist PerfectMIND in understanding the above areas further.

- Project work breakdown structure includes:
  - Tasks and durations
  - Scheduling
  - Resourcing and assignments
  - Dependencies
- Initiation of tasks listed under “Scope/Project Management and Planning” above, which includes:
  - Communications requirement
  - Project reporting requirements including the frequency and details of the status reports
  - Issue list/tracker requirements

The work was completed on \_\_\_\_\_ and accepted by Customer.

Accepted by:

(City of Georgetown): \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

(PerfectMIND): \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

## Acceptance Form C – Software Configuration and Reports (Milestone 3)

### Purpose

The purpose of the Software Configuration and Reports Acceptance Form is to confirm that the software and reports configuration is complete.

### Deliverables

- Application configuration and setup
- Security and roles configuration
- Setup workflows and business rules
- Configuration and creations of the reports

The work was completed on \_\_\_\_\_ and accepted by Customer.

Accepted by:

(City of Georgetown): \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

(PerfectMIND): \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

## Acceptance Form D – Data Conversion (Milestone 4)

### Purpose

The purpose of the Data Conversion Acceptance Form is to confirm that the data converted is complete and Accepted by Customer.

### Deliverables

The data conversion is completed and Accepted by Customer.

### Acceptance Criteria:

PerfectMIND has provided a detailed Data Conversion Plan that, at a minimum includes:

- Description of PerfectMIND's data conversion methodology and tools
- Identification of data sources
- Method of supplying data
- Conversion schedule, including on-site and webinar reviews and planned iterations test conversions
- Roles and responsibilities, resources required
- Testing process
- Issue reporting process
- Documentation to be used for field mapping from legacy data sources to the system's database
- Documentation to be used for data transformations from legacy data code tables to system's database code tables
- Options for treatment of exceptions
- Final data conversion timetable that includes the minimum number of data conversion iterations

The work was completed on \_\_\_\_\_ and accepted by Customer.

Accepted by:

(City of Georgetown): \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

(PerfectMIND): \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

## Acceptance Form E – User Acceptance Testing (Milestone 5)

### **Purpose**

The purpose of the User Acceptance Testing Form is to confirm that the system testing is complete and the system is functional.

### **Deliverables**

The test plan including test scripts, schedule, roles and responsibilities, and definitions of passed/failed test is provided to Customer and Customer is coached through the testing phase. Customer will conduct a complete test on the system to ensure the following is tested and passed:

- System functions
- Work flows and business rules
- Reports

The work was completed on \_\_\_\_\_ and accepted by Customer.

Accepted by:

(City of Georgetown): \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

(PerfectMIND): \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

## Acceptance Form F - Training (Milestone 6)

### Purpose

The purpose of the Training Acceptance Form is to confirm that the training is complete.

### Deliverables

The training plan is complete and specifies the training schedule and curriculum for the recipients of system administrator training and end-user training.

Customer will confirm the following:

- System administrators have been trained on all aspects of system configuration, individual and role-based security profiles, enterprise silo security settings and configurations, document template creation, and report queries and changes.
- System administrators are able to complete new configuration items with minimal assistance from PerfectMIND.
- End users have been trained on all aspects of the system and can complete tasks within the system.
- Training materials and online learning center access have been delivered

The work was completed on \_\_\_\_\_ and accepted by Customer.

Accepted by:

(City of Georgetown): \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

(PerfectMIND): \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_



## Acceptance Form G - Go-Live (Milestone 7)

### Purpose

The purpose of the Final Acceptance Form is to confirm that the system is operational.

### Deliverables

The final data conversion has been completed and the system is pushed to the Production environment.

The work was completed on \_\_\_\_\_ and accepted by Customer.

Accepted by:

(City of Georgetown): \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

(PerfectMIND): \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

### Fee Payment Schedule

Schedule Target Dates	Milestones & Deliverable	Amount	Payment Date
September 1, 2016	<b>Upon signing of the agreement</b> <ul style="list-style-type: none"> <li>Contract Signature and Execution</li> <li>Payments due: <ul style="list-style-type: none"> <li>—</li> </ul> </li> </ul>	\$20,000	Upon signing of the Agreement
Sep-Oct 2016	<b>Project Kick off (Milestone 1)</b> <ul style="list-style-type: none"> <li>Planning of the project kick off/discovery session</li> <li>Resourcing and Scheduling for the discovery phase</li> <li>Preliminary review of the requirements by the project team prior to the first meeting</li> <li>Creation of the live production environment</li> </ul>	\$13,000	Upon completion of Acceptance Form A
TBD	<b>Project Initiation (Milestone 2)</b> <ul style="list-style-type: none"> <li>Discovery phase</li> <li>Project work breakdown structure</li> <li>Initiation of tasks listed under “Scope/Project Management and Planning”</li> </ul>	\$13,000	Upon completion of Acceptance Form B
TBD	<b>Software Configuration and Reports (Milestone 3)</b> <ul style="list-style-type: none"> <li>Application configuration and setup</li> <li>Security and roles configuration</li> <li>Setup workflows and business rules</li> </ul> Configuration and creations of the reports	\$15,000	Upon completion of Acceptance Form C

TBD	<b>Data Conversion Acceptance Testing (Milestone 4)</b> <ul style="list-style-type: none"> <li>• Data Conversion</li> </ul>	\$6,750	Upon completion of Acceptance Form D
TBD	<b>User Acceptance Testing (Milestone 5)</b> <ul style="list-style-type: none"> <li>• System functions</li> <li>• Work flows and business rules</li> <li>• Reports</li> </ul>	\$10,000	Upon completion of Acceptance Form E
TBD	<b>Training (Milestone 6)</b> <ul style="list-style-type: none"> <li>• System administrators have been trained on all aspects of system configuration, individual and role-based security profiles, enterprise silo security settings and configurations, document template creation, and report queries and changes.</li> <li>• System administrators are able to complete new configuration items with minimal assistance from PerfectMIND.</li> <li>• End users have been trained on all aspects of the system and can complete tasks within the system.</li> <li>• Training materials and online learning center access have been delivered</li> </ul>	\$7,735	Upon completion of Acceptance Form F
May 31, 2017	<b>Go-live (Milestone 7)</b> <ul style="list-style-type: none"> <li>• The system is pushed to the Production environment.</li> <li>• Final conversion of data from legacy Class system.</li> </ul>	\$5,000	Upon completion of Acceptance Form G
<b>Total</b>		<b>\$90,458</b> <b>Implementation Fees and First Subscription fee</b>	

The above fees do not include any travel, lodging, or per diem expenses (collectively “Travel Expenses”) incurred by PerfectMIND in providing on-site Professional Services. Customer will reimburse PerfectMIND Travel Expenses for the two day on-site training described above and any additional number of on-site visits by PerfectMind personnel as may be agreed upon by the parties during the discovery phase as follows:

- Customer will pay PerfectMIND a flat rate of \$550 per day per PerfectMIND employee or subcontractor who provides on-site services to cover all Travel Expenses, except airfare.
- **Airfare.** Customer shall reimburse for airfare not to exceed \$1,000 round trip from locations within North America. All air travel shall be “coach class” or that the class that offers the lowest overall fare for the given itinerary. PerfectMind shall book all air travel as far in advance as possible to take advantage of the air carrier’s best rate. If PerfectMind’ employee elects to change a flight for their own convenience after the ticket has been approved and booked, Customer shall not reimburse for any charges incurred to change the airline ticket and PerfectMind’ employee will be responsible for paying any charges incurred to change the airline ticket.

All airfare expenses for which PerfectMIND seeks reimbursement will be supported by documentation in a form reasonably acceptable to Customer.

**EXHIBIT C**  
**PerfectMIND Rate for Professional Services**

<b>Optional Services</b>	<b>Unit Price</b>	<b>Description</b>
Importation of Data	\$150/hr	Upon termination of this Agreement, PerfectMind shall supply to Customer a basic export of the complete data in a format suitable for importation into Microsoft Excel. Anything beyond will be charged at this rate.
Professional Services	\$150/hr	Services outside the agreed to Statement of Work that requires additional resourcing to accommodate Customer's requests (other than development/programming).
Integration to third party software	\$250/hr	Processing Integration with the Customer's preferred payment processor.
Training	\$150/hr	Any future additional training requested outside the Statement of Work.
Development	\$250/hr	Services outside the agreed to Statement of Work that requires additional development (programming).

The above fees do not include any travel, lodging, or per diem expenses (collectively "Travel Expenses") incurred by PerfectMIND in providing Professional Services. Customer will reimburse PerfectMIND Travel Expenses as follows:

- Customer will pay PerfectMIND a flat rate of \$550 per day per PerfectMIND employee or subcontractor who provides on-site Professional Services to cover all Travel Expenses, except airfare.
- **Airfare.** Customer shall reimburse for airfare not to exceed \$1,000 round trip from locations within North America. All air travel shall be "coach class" or that the class that offers the lowest overall fare for the given itinerary. PerfectMind shall book all air travel as far in advance as possible to take advantage of the air carrier's best rate. If PerfectMind' employee elects to change a flight for their own convenience after the ticket has been approved and booked, Customer shall not reimburse for any charges incurred to change the airline ticket and PerfectMind' employee will be responsible for paying any charges incurred to change the airline ticket.  
All airfare expenses for which PerfectMIND seeks reimbursement will be supported by documentation in a form reasonably acceptable to Customer.

## **EXHIBIT D**

### **Service Levels**

#### **1. Platform Uptime.**

The Platform will achieve a system uptime performance level of 99.9% during the Operation Hours on an annual basis inclusive of any downtime caused by the underlying telecommunication services provider. In this Exhibit, "Operation Hours" means 6 am to midnight Pacific Time, seven days a week.

PerfectMind will only be responsible for its Platform uptime performance levels and will not be responsible for any failure due to a failure of Customer's system(s) or a Force Majeure event as described in this Agreement, and such failures shall not be counted against PerfectMind's required system uptime performance levels.

PerfectMind may, upon not less than seven (7) days' prior written notice to Customer, which may be email notification, cause the Platform to be unavailable for a period of time not to exceed 12 consecutive hours ("Planned Maintenance"). Planned Maintenance will be performed during the Maintenance Window, and not more than once per week, unless any such Planned Maintenance is a result of urgent events outside of PerfectMind's direct control in which case PerfectMind will provide as much notice as is practicable. Planned Maintenance will apply against PerfectMind's required uptime performance level unless (i) it is conducted during the Maintenance Window; or (ii) it is as result of remedial work necessary to address a material defect with third party software such as Microsoft® operating system or SQL server. In this Exhibit D, "Maintenance Window" means between 12:01 am and 6:00 am Pacific Time on any day.

#### **2. Technical Support.**

Following the reporting of a problem by Customer's technical support personnel either via phone call or email PerfectMind's technical support, PerfectMind will respond to the problem in accordance with the incident level and provide a fix to the problem all in accordance with the table set forth below:

<b>24x7x365 Technical Support</b>		
<b>Description</b>	<b>Response time</b>	<b>Resolution Time</b>
<b>Customer report an incident via phone, email, or chat</b>	A live agent will immediately discuss the issue with Customer	<b>85%</b> of the incidents are currently addressed on the first call
<b>The initial call requires escalation to Level II</b>	The initial call will be transferred to a Sr. live agent to further discuss the incident with the customer	<b>95%</b> of the escalated calls to level II are addressed within the first call
<b>The escalated call to Level II requires escalation to the Development team</b>	Level II agent create a case for the development team to further investigate the incident	<b>Resolution time will follow the SLA table below</b>

Service Level Agreement		
Incident Level	Description	Resolution Time
<b>Critical</b>	<p>This incident level is attained when the following conditions are met:</p> <ul style="list-style-type: none"> <li>- Complete inability to use the Platform; or</li> <li>- A reoccurring temporary inability to use the Platform</li> </ul>	Within the <u>same business day</u>
<b>High</b>	<p>This incident level is attained when the following conditions are met:</p> <ul style="list-style-type: none"> <li>- A significant degradation of the significant features or functions available on the Platform</li> <li>- Recent modifications to the Platform cause some significant features or functions to operate inconsistently</li> </ul>	Within <u>24 hours</u>
<b>Low</b>	<p>This incident level is attained when the following conditions are met:</p> <ul style="list-style-type: none"> <li>- A minor degradation of some significant features or functions; or a degradation of some secondary features or function occurs</li> </ul>	These issues will be reviewed and prioritized according to the severity of the issue. An accurate estimate will be provided to the customer within a week after the incident is reported

4.



## EXHIBIT E

### Platform Features and Functionalities

PerfectMind's Platform will include the following features and functionalities:

- **Built-In Reporting Engine**  
A built-in reporting engine to help the customer to create reports.
- **Integrated Workflow Engine**  
Generate workflows to streamline your team's processes and communications
- **Business App Store**  
PerfectMind is adaptable through our community-driven App Store.
- **Open API**  
Having access to an adaptable integration with external apps allows fluid interconnectivity and collaboration across platforms
- **Data Security, Auditing and Permissions**  
The ability to control app-level access, user auditing, user time limits, specific IP access, as well as group- and role-based data permissions.
- **Multi-Site Management & Reporting**  
To allow client to manage multiple sites from one account.
- **24/7 Customer Service**  
PerfectMind provides 24x7 operation support using live agents/chat/email.

### Recreation Management Features:

- **Facility booking and Scheduling**  
PerfectMind booking takes care of conflict and contract management, recurring bookings, equipment and rental inventory, capacity management and more. Your staff and your members can schedule events online or on-site. PerfectMind lets you manage facility dependencies, availability, and multiple rates. Customers can book using desktop, tablet or mobile devices on all popular web browsers.
- **Membership Management**  
This allows you to manage families, multiple memberships, and related contacts.
- **Document Management**  
You can create, save, print, upload and manage your documents for your organization in the cloud. Sign waivers, contracts, and other documents electronically with a digital signature and store them safely in the cloud.
- **Staff Management**  
You can view all your staff schedules in one master calendar. PerfectMind provides your staff with the ability to make their own schedule and to adjust availability for vacations and time off. Manage staff wages, commissions, hours, availability and much more. Restrict access permissions for users and groups to improve security.
- **Activity Registration**  
Online or on-site registration for all types of bookings including courses, private lessons, drop-in and flexible registrations to accommodate your needs. Intelligent conflict management gives you the flexibility to readily make changes to events.

- **POS and Inventory Management**  
To sell products, service or event online or on-site using cutting-edge features within inventory and sales management. Track purchase orders and inventory.
- **Attendance Tracking and Check-in**  
Allow customers to scan or check themselves in at the front desk using a kiosk, or manually check-in with a staff member. Improve retention with live class statistics, and much more. Guest check-ins allow for quick processing to non-members or during busy periods.
- **Calendar**  
Flexible, multi-functional calendar with drag-and-drop functionality to make changes and updates to events, activities and facility booking. You can also view multiple facilities, locations and courses.
- **Marketing**  
A built-in, fully-functional email solution replaces the need for any additional email applications so you can streamline your marketing for programs, campaigns, and personalized operation emails. Increase signups and enrollments using loyalty and referral programs. You can also have access to simple and customizable landing pages and lead-capture forms.
- **Task Management**  
To schedule automated and recurring tasks with alerts to stay up-to-date, organized and focused. Set reminders based on predefined or custom triggers
- **Reports**  
PerfectMind's built-in reporting engine enables you to create, customize and run reports. Create and schedule custom financial, attendance, utilization, and marketing reports all from the same interface. View real-time analytics and historical data in tabular or graphical format. All reports can be exported for use in a third-party application.
- **Account management**  
To keep track of your clients and contacts including organizations and families

## **CONTRACT EXTENSION AGREEMENT**

Dated the 24 day of February, 2021

**B E T W E E N :**

**PERFECTMIND INC.**  
(“PerfectMind”)

– and –

**CITY OF GEORGETOWN**  
(the “Customer”)

**WHEREAS:**

- A. The Customer and PerfectMind entered into an agreement dated September 13, 2016 (the “Original Agreement”) for the provision of PerfectMind Software as a Service;
- B. The parties hereby agree to extend the term of the Original Agreement in accordance with the terms set out herein.

**NOW THEREFORE**, in consideration of the mutual covenants contained in this Extension Agreement and other consideration (the receipt and sufficiency of which are acknowledged), the parties agree as follows:

### **1. Definitions**

- 1.1. Any capitalized term not expressly defined in this Extension Agreement shall have the meaning ascribed to it in the Original Agreement.

### **2. Extension**

The Original Agreement will expire on September 30, 2021 (“Original Term”). Except to the extent otherwise provided in this Extension Agreement, the Original Agreement will be extended on the same terms and conditions for an additional five (5) year period (such period, the “Extended Term” and together with the Original Term, the “Term”), which will begin immediately on the expiry of the Original Term. At the expiration of the Extended Term, the Term will be automatically renewed for another successive two year period (an “Additional Term”) unless a party provides written notice to the other party of the first party’s intention not to renew, at least thirty days before the expiry of the then-current Term.

### **3. Fees**

The Platform use fee during the Extended Term will be as set out in the payment schedule attached hereto in Exhibit A, payable by Customer in advance at the beginning of each 12 month period. The Platform use fee payable by Customer during any Additional Term will be the same as the fees for the last year during the prior term unless PerfectMind has given

Customer written notice of a pricing change at least 90 days before the end of such prior term, in which case the new fee will be effective upon renewal and thereafter.

#### **4. Conflict**

The provision of this Extension Agreement shall form part of the Original Agreement. Except to the extent otherwise amended in this Extension Agreement, all other terms and conditions of the Original Agreement shall remain the same, provided that in the event of a conflict between the provisions of this Extension Agreement and those of the balance of the Original Agreement, the terms and provisions of this Extension Agreement shall supersede those provisions of the balance of the Original Agreement with which they conflict.

**TO WITNESS THEIR AGREEMENT**, the parties have duly executed this Extension Agreement as of the date first above written.

**PERFECTMIND INC.**

**CITY OF GEORGETOWN**

**By:** \_\_\_\_\_

**By:** \_\_\_\_\_

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

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

**Title:** \_\_\_\_\_

**Title:** \_\_\_\_\_

## **EXHIBIT A**

### **Extended Term**

**Year Six (October 1, 2021 to September 30, 2022): \$36,837**  
**Year Seven (October 1, 2022 to September 30, 2023): \$36,837**  
**Year Eight (October 1, 2023 to September 30, 2024): \$36,837**  
**Year Nine (October 1, 2024 to September 30, 2025): \$36,837**  
**Year Ten (October 1, 2025 to September 30, 2026): \$36,837**

City of Georgetown, Texas  
Parks and Rec Advisory Board  
June 10, 2021

**SUBJECT:**

Consideration and possible action to approve minutes from the May 13, 2021 meeting - Jill Kellum,  
Administrative Supervisor

**ITEM SUMMARY:**

**FINANCIAL IMPACT:**

N/A

**SUBMITTED BY:**

Jill Kellum, Administrative Supervisor

**ATTACHMENTS:**

Description		Type
□	Minutes	Backup Material

**Minutes of the Meeting of the  
Parks and Recreation Advisory Board  
City of Georgetown, Texas  
May 13, 2021 - Virtual**

**Regular Session**

**(This Regular Session may, at any time, be recessed to convene an Executive Session for any purpose authorized by the Open Meetings Act, Texas Government Code 551.)**

**A      Call to Order - Katherine Kainer, Parks and Recreation Advisory Board Chair**

Katherine Kainer called the meeting to order at 6:03 pm.

**B      Roll Call - Katherine Kainer, Parks and Recreation Advisory Board Chair**

Board members present: Katherine Kainer, Jolene Melancon, Jack Flatau, Peter Bahrs, Lindsay Cooper, Chad Holz

Board members absent: Brazos Fielder, Chad Holz

Staff present: Kimberly Garrett, Eric Nuner, Jamie Beran, Jill Kellum

**C      Parks and Recreation staff member introduction and presentation - Kimberly Garrett, Parks and Recreation Director**

Kimberly Garrett introduced Jamie Beran, Parks Superintendent. Jamie Beran explained his different roles with Georgetown Parks and Recreation over the past 21 years. Jolene Melancon stated she is a runner and after the winter storm she was very impressed with the amazing work on the cleanup. Jamie Beran stated he has a great staff, and they take a lot of pride in what they do. Jack Flatau stated he was glad to see the cleanliness of the park and safety. He stated "good luck" as we grow, we will need additional staff. Jamie Beran stated the weekends are very busy and will need more staff. Jolene Melancon asked, in the section of the trail, past the country club, about a water feature that was in that area. Jamie Beran stated the misters were installed when the trail was built and they are a maintenance nightmare, as they leak constantly and rust through and are a safety issue. Currently, they are not being replaced. Eric Nuner stated with the water here, there is a lot of calcium build up and they are hard to keep spraying like they should. Kimberly Garrett stated they were installed in 2005 and they have caused problems. They were not working more than they were working. Peter Bahrs asked if Jamie Beran oversaw the sports fields. Jamie Beran stated Brandon Fonville is the foreman and does an excellent job. Peter Bahrs said they should publish how they keep up with the fields and the weeds. Jamie Beran stated this year has been difficult with the weeds and being so close to the river, the products are selected very carefully. He stated that last year with COVID, many other recreation agencies, such as the county, were closed so their participants came to us and our fields were well used.

**D      Discussion on Bark Park Safety Concerns voiced on Social Media - Lindsay Cooper, Parks and Recreation Advisory Board Member**



Kimberly Garrett stated that Lindsay Cooper requested this item to be on the agenda and invited her to present information and Kaitlin Rutherford, Animal Control Officer was also on the call. Lindsay Cooper stated the Bark Park was one of the reasons they moved to Georgetown. She stated someone, on social media, made a comment about an intense and disturbing incident at the Bark Park. She explained the situation of an aggressive dog and about car break ins. She wondered if there is a problem and if there is, what can we do. Kimberly Garrett stated when the park was opened in 2008, a previous Parks and Recreation Advisory board member, Mike Simpson, was instrumental in getting the Bark Park in Georgetown. Mike Simpson took staff to other parks in the state, and it was intended to be self-policed. Signs were installed and complaint forms have been made available. Kimberly Garrett contacted April Haughey, Animal Shelter Manager, about this situation. Kaitlin Rutherford stated the incident mentioned was not reported to the animal control officers. She stated you must put a lot of trust into the other people that are there and what control they have over their dogs. She stated she patrols the dog park area regularly and tries to enforce the rules and laws. She stated the peer pressure that is expected, to follow the rules, is not happening and for something to be self-policed, it relies on a very responsible community. She stated there are 2 animal control officers for the city so the park cannot be continually monitored but they can respond to incidents. She stated there are several incidents of abandoned dogs as well. She stated one thing that will help with the incidences is to add cameras. It will help with the car break ins and abandoned animals. Lindsay Cooper stated she liked the idea of cameras. Kimberly Garrett stated we can look into it and currently there is not electricity or internet capabilities. She stated it is not out of the question, but we would have to look at the cost and a secure place to put the cameras. Our marketing staff is working on signs; Lock – Take – Hide, for locking their vehicles. Lindsay Cooper suggested a quick video to put on social media to know what is allowable at the Bark Park. She also suggested trying to get the Friends of Georgetown Parks and Recreation to help fundraise for the cameras. Kimberly Garrett stated in addition to the population growth we also have more multifamily residences, so it is used more. Jamie Beran stated a lot of the times staff hear about the issue 2 – 3 days later or hear on social media and that is not the time to address an issue. With these issues they need to be handled immediately and people can contact the police department immediately. He added taking care of the issue at the time of the incident is a key component to the self-policing. Chad Holz asked if we were the hiring authority for a position at the Bark Park. Kimberly Garrett stated Park and Recreation would be the hiring authority and that would be an expensive position to fund; someone from dawn to dusk, 7 days a week. Chad Holz asked what allows us to do that for lifeguards at pools but would not allow for an attendant at a dog park. Kimberly Garrett stated there are state statutes that require a lifeguard at a public pool in addition to insurance and liability. She is not aware of another dog park that has an attendant and with lifeguards there are state mandates for that. She stated they are like playgrounds; enter at your own risk and are not staffed. Chad Holz asked if there was no liability on the Parks and Recreation Department or the City of Georgetown if there was an attack. Kimberly Garrett stated you are accepting that risk and used the example that if someone's dog attacks another dog, it is not the city's fault the incident happened. She stated there is a state statute that protects parks and recreation

departments. Eric Nuner explained that it is one of those inherent risk activities such as skate boarding, horse back riding and athletics.

**E Project Updates and Staff Report - Eric Nuner, Assistant Director of Parks and Recreation**

Eric Nuner stated there has not been a lot of updates from last month. He stated he would open it up to questions. There were not questions on the project report.

**F Update and discussion on the Parks and Recreation Master Plan -- Kimberly Garrett, Parks and Recreation Director**

Kimberly Garrett stated this will be a common item for the next several months. GreenPlay was selected in March and in the last month have got them up and running. April 20<sup>th</sup> was the kickoff meeting. Currently, they are collecting information in staff and stakeholder meetings. All this information will be used to come up with the statistically valid survey. The survey will be mailed to 4,000 people and then an online survey will be available. On May 24<sup>th</sup> there will be a Zoom public webinar which will be an opportunity for the public to add in any additional information. Kimberly Garrett presented the vision critical success factors that GreenPlay provided during the kickoff meeting. She stated these were derived from the RFP as factors that the city wanted to accomplish when they do a new master plan. She asked the board to look at them and provide comment to see if there is anything missing or needs to be changed. Peter Bahrs asked about #7, the cost recovery, if it was for the whole parks and recreation department or parts of parks and recreation. His example, for trails you do not make money but with the recreation center there is a revenue stream. Kimberly Garrett stated it is mainly program oriented and she stated the trails, playgrounds and open spaces are fully subsidized and they are in the cost recovery as a community benefit. She stated the cost recovery will kick off after the survey. Eric Nuner stated different firms use different methodology as some are business minded and some are subsidized. GreenPlay uses a pyramid methodology, where the bottom of the pyramid would be the parks and the top would be those programs that go above the cost recovery and those programs are meant to subsidize the base of the pyramid. He explained the 100% cost recovery would cover your costs and not making revenue. To make revenue you must go over 100% cost recovery. Kimberly Garrett stated that city council is driving the cost recovery model and how to price programs and how to find out what they are going to subsidize. Chad Holz asked about #5, clear direction, if it included the thought through funding of that clear direction. Will there be a plan for how we fund the enhancements and improvements to the parks? Kimberly Garrett stated she feels that comes into #4, creative recommendations for the implementation. Kimberly Garrett stated she will ask GreenPlay if that is in their writing that they include funding. Jack Flatau asked about #3, community driven. He asked about people that may be underserved or may not be represented and the considerations that come with that. Kimberly Garrett stated she tried to find stakeholders that would represent a broad and diverse area of Georgetown. She stated we are using social media, the website, and some posters to get the word out. Jack Flatau stated there may not be representation equally in the different parts of town. Kimberly Garrett stated GreenPlay will look at the broad picture and identify fair and equitable information on the different areas of

town. Eric Nuner stated the survey will help with that as it is a broad representation from the different areas of the city. Kimberly Garrett stated we will try our best to make sure the community has a voice. Lindsay Cooper asked if there was a place where people could use public computers to access the survey. Kimberly Garrett stated she could work with Sally at the Library to see what can be done. Peter Bahrs stated with a survey you might get a 25% response and seems old fashioned, and it might be more beneficial to send the link to the Tennis Center or Recreation Center members or people that use the environment. Kimberly Garrett stated the only way to get a statistically valid survey is to do it by mail. She stated some communities only do online surveys and feel that they may be skewed. She stated that GreenPlay said if they can get 10% back that it is good. She stated then the survey will go out to as many people we can get the information too.

**G Update from the Friends of Georgetown Parks and Recreation - Kimberly Garrett, Parks and Recreation Director**

Kimberly Garrett stated Peter Bahrs was recently elected as board liaison and they did not have a meeting in May.

**H Director Report - Kimberly Garrett, Parks and Recreation Director**

Kimberly Garrett reviewed the report with the board members. Concerning the black mold at the recreation center natatorium, Lindsay Cooper asked if there is recourse on the contractor after all these years and if the funding is coming out of the parks and recreation department. Kimberly Garrett stated we do not have recourse since it has been so long, and the funding is out of the facilities department. Lindsay Cooper asked if Garey Park is meeting the projected revenue goals to fund itself. Kimberly Garrett stated it costs about a million dollars to operate that park and in the good years we were close to getting 50% of projected revenue. Kimberly Garrett stated last year the fee was reduced and we have seen an increase in revenue and participation. She stated with Covid the parks and playground were closed and with Garey House it is very seasonal but now feels that revenue will increase as we open. She stated originally there was a 5-year goal of getting to 100% cost recovery and that is why we need a cost recovery policy. Kimberly Garrett stated the recreation center went to a quarterly survey from the iPad quick survey. Lindsay Cooper asked about the recommend a friend survey. Kimberly Garrett explained the survey and that the results were very good. There was some discussion about corporate memberships. Peter Bahrs commented on the reporting; he asked if the data could be matched up next to the cost recovery pyramid. Kimberly Garrett stated the cost recovery will address that and we do not have that information yet and that model will be broken down by service area. Eric Nuner stated the city's new financial software will help with the data and we need the policy in place to start using it. Kimberly Garrett stated the recreation center is not just the recreation center but all the programs that are run out of it. Chad Holz asked if the registration software reports on facility rentals and programs as this might be items that are missing. Chad Holz asked if we can schedule our park tour soon. Kimberly Garrett stated we can schedule the park tour, and everyone would have to wear a mask, but we can ride all in the same vehicle.

**Legislative Regular Agenda**

**I Consideration and possible action to approve minutes from the April 8, 2021 meeting  
- Jill Kellum, Administrative Supervisor**

**Motion made by Lindsay Cooper, second by Chad Holz to approve the minutes from the  
April 8, 2021 meeting. Approved: 6 – 0 – 1**

**Adjournment**

**Adjourn - Katherine Kainer, Parks and Recreation Advisory Board Chair**

**Motion made by Katherine Kainer, second by Jack Flatau to adjourn the May 13, 2021  
meeting. Approved: 6 – 0 – 1 The meeting adjourned at 7:54 pm.**

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**Katherine Kainer, Board Chair**

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**Lindsay Cooper, Secretary**

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**Jill Kellum, Board Liaison**