

**BANNER PROGRAM MANAGEMENT AGREEMENT
BETWEEN
CITY OF FORT WORTH AND CAMP BOWIE DISTRICT INC.**

This **BANNER PROGRAM MANAGEMENT AGREEMENT** (“**Agreement**”) is by and between the **CITY OF FORT WORTH** (“**City**”), a home-rule municipal corporation organized under the laws of the State of Texas, acting by and through its duly authorized Assistant City Manager, and **CAMP BOWIE DISTRICT INC.**, a Texas nonprofit corporation, (“**Organization**”) acting by and through its duly authorized President. City and Contractor may be referred to herein individually as a “**Party**” or collectively as the “**Parties.**”

RECITALS

The following statements are true and correct and constitute the basis upon which the City and the Organization have entered into this Agreement:

WHEREAS, the Fort Worth City Council adopted the City of Fort Worth Banner Policy and Procedures on March 12, 1998, via M&C G-12155 (“**Policy**”); and

WHEREAS, the Policy governs the installation of vertical banners suspended from rods and brackets attached to City-owned metal street light poles (“**Poles**”) within the rights-of-way, and

WHEREAS, the Policy permits special agreements with non/not-for-profit organizations seeking to manage a banner program within a defined area of the City if recommended by the Director of Transportation and Public works and the appropriate Council Committee and authorized by the Fort Worth City Council; and

WHEREAS, Camp Bowie District Inc, is a private, member-funded non-profit Organization dedicated to revitalizing Camp Bowie Boulevard, and its surrounding side streets;

WHEREAS, Camp Bowie District Inc seeks a special agreement with the City of Fort Worth to manage a banner program along Camp Bowie and Camp Bowie West within PID 19 also managed by Camp Bowie District Inc in accordance with the Policy; and

WHEREAS, the Director of Transportation and Public Works and the Mobility Infrastructure and Transportation Committee recommended said agreement on _____, 2022 and City Council authorized the agreement on _____, 2022 via M&C No. _____; and

WHEREAS, the Parties have reached agreement concerning the management of a banner program along Camp Bowie Boulevard and Camp Bowie West as more fully set forth herein; and

NOW, THEREFORE, for and in consideration of the mutual covenants, promises, and agreements contained herein, the City and Organization do here by covenant and agree as follows:

AGREEMENT

1. In accordance with the Policy, Organization will manage a banner program for vertical banners on metal street light poles (“Poles”) on Camp Bowie and Camp Bowie West (collectively referred to as “ROW”) from University Drive to I.H. 820 and as depicted in Exhibit A.
2. Organization may suspend vertical banners from rods and brackets attached to Poles located in the ROW within the boundaries described above to promote an event/exhibit to be held in the City of Fort Worth and open to the public, or to promote the Camp Bowie District, within the parameters provided by the Policy.
3. City waives all fees associated with Organization’s management of the banner program contemplated by this Agreement. However, if Organization charges others fees to participate in the banner program under this Agreement, those fees cannot exceed those identified in the Policy.
4. Revenue generated from the banner program shall be retained by the Organization to facilitate the banner program.
5. **Term:**
 - a. Unless terminated as provided for herein, the term of this Agreement shall be contemporaneous with the management of the Historic Camp Bowie Public Improvement District (PID 19) by the Organization. Renewal of the agreement to manage PID 19 by the Organization shall be a renewal of this Agreement.
 - b. Notwithstanding any such renewal, either party may terminate this agreement upon thirty (30) days’ notice by giving the other party notice in writing of its intention to so terminate.
6. **Insurance.** Organizer shall maintain the following insurance coverage during the term of this Agreement:
 - a. **WORKERS’ COMPENSATION INSURANCE:** The Contractor shall maintain, during the life of this Agreement and any extension period, statutory Workers’ Compensation Insurance on all of its employees engaged in work under this Agreement and for all subcontractors unless such subcontractors maintain their own Workers’ Compensation Insurance.

- b. **COMMERCIAL GENERAL LIABILITY INSURANCE:** The Contractor shall procure and maintain during the life of this Agreement and any extension period, a commercial general liability insurance policy in the amount of \$1,000,000.00 covering each occurrence with an aggregate limit of \$2,000,000.00. Such policy shall be endorsed to name the City as an additional insured.
- c. **AUTOMOBILE INSURANCE:** The Contractor shall procure and maintain, during the life of this Agreement and any extension period, a comprehensive bodily injury and property damage automobile liability policy in the amount of not less than \$1,000,000.00 for each accident. This policy shall cover any automobile used within the scope of this contract. Such policy shall be endorsed to name the City as an additional insured.
- d. **INSURANCE REQUIREMENTS:** The insurance specified in this Section shall comply with the following requirements:
- i. The named insured on Organization's insurance policies shall be The River East Association.
 - ii. Additional insured on the Contractor's insurance policies listed in paragraphs B and C, shall be the City of Fort Worth.
 - iii. Certificates of Insurance showing the City of Fort Worth as the Certificate Holder and additional insured and evidencing coverage required in this Agreement shall be provided to the Director, Department of Transportation and Public Works, City of Fort Worth, 200 Texas Street, Fort Worth, Texas 76102 within 10 days from the date of execution; and any failure of the City to request same shall not be construed as a waiver of such requirement. No banners shall be installed until documentation of insurance coverage is provided to the City.
 - iv. A minimum notice of thirty (30) days shall be provided to the City in the event of cancellation or non-renewal of policy(s); provided, however, a ten (10) day notice shall be acceptable in the event of non-payment of insurance premium(s).
 - v. Insurers of all policies of insurance shall be licensed or otherwise authorized to do business in the State of Texas and be otherwise acceptable to the City in terms of financial strength and solvency.
 - vi. Deductible limits of required insurance policies shall be acceptable to the City.
 - vii. Applicable policies shall be endorsed with waiver(s) of subrogation in favor of the City.
 - viii. The City shall be entitled, upon its request, and without incurring expense, to review the Organization's insurance policies including endorsements thereto and, at the City's discretion, the Contractor may be required to provide proof of insurance premium payments.
 - ix. The Commercial General Liability insurance policy required of the Contractor shall have no exclusions by endorsement unless approved in writing by the City.
 - x. The City shall never be responsible for the cost of any insurance required of the Organization.

7. Organization is responsible for any damage to City property caused by Organization, its contractors, subcontractors, employees, agents, visitors or invitees as determined by the City.
8. **City's Duties and Responsibilities:** The City shall be responsible for repair and replacement of the electrical components of the Poles as well as repair, and maintenance of the Poles unless said repair, maintenance and/or replacement is necessitated by Organization, its contractors, subcontractors, employees, or agents as determined by the City.
9. **Organization's Duties and Responsibilities.**
 - a. Organization shall be responsible for the painting and cleaning of the Poles.
 - b. Organization is responsible for monitoring banners to:
 - i. ensure the banners remain in good condition during the display period
 - ii. detect any problems and take corrective action
 - iii. ensure a dangerous situation or immediate hazard is corrected.
 - c. Organization is responsible for ensuring that the content of the banners displayed conform to the Policy.
 - d. Organization will advise all approved applicants of the following:
 - i. Generally, Organization will be responsible for the installation of the banners contemplated by this Agreement. However, applicants seeking to cause the installation of banners by those other than Organization shall be required to hire contractors who are licensed and bonded in accordance with City standards and policies to work in the City's right-of-way and obtain a "Street Use Permit" prior to working in the City's right-of-way.
 - e. The Organization's contractor must provide commercial general liability insurance of \$1,000,000 for any auto and obtain a Street Use Permit prior to working in the City's right-of-way.
 - f. Banner installation shall occur only between the hours of 9:00am to 4:00pm on weekdays and 30 minutes after sunrise and 30 minutes prior to sundown on weekends.
10. **Notice.** Any notices, bills, invoices, or reports required by this Agreement will be conclusively have been delivered three (3) business days after deposit in the United States mail, in a sealed envelope with sufficient postage attached, to the addresses listed below or such other addresses as may from time to time be provided to the other party:
 If to the City of Fort Worth:

Director
Transportation and Public Works
200 Texas Street
Fort Worth, Texas 76102

If to Contractor:

Camp Bowie District Inc.
Attn: Lydia Rickard
4731 Camp Bowie Boulevard, Suite 1
Fort Worth, Texas 76107

11. Indemnification.

- a. ORGANIZATION COVENANTS AND AGREES TO, AND DOES HEREBY, INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY, ITS OFFICERS AND EMPLOYEES, FROM AND AGAINST ANY AND ALL SUITS OR CLAIMS FOR DAMAGES OR INJURIES, INCLUDING, BUT NOT LIMITED TO DEATH, TO ANY AND ALL PERSONS OR PROPERTY, WHETHER REAL OR ASSERTED, ARISING OUT OF OR IN CONNECTION WITH ANY ACT OR OMISSION ON THE PART OF THE ORGANIZATION, ITS OFFICERS, AGENTS, SERVANTS, EMPLOYEES, CONTRACTORS, OR SUBCONTRACTORS, AND THE ORGANIZATION DOES HEREBY ASSUME ALL LIABILITY AND RESPONSIBILITY FOR INJURIES, CLAIMS OR SUITS FOR THE DAMAGES TO PERSONS OR PROPERTY, OF WHATSOEVER KIND OF CHARACTER, WHETHER REAL OR ASSERTED, OCCURRING DURING OR ARISING OUT OF THE PERFORMANCE OF THIS AGREEMENT AS A RESULT OF ANY ACT OR OMISSION ON THE PART OF ORGANIZATION, ITS OFFICERS, AGENTS, SERVANTS, EMPLOYEES, REPRESENTATIVES, OR SUBCONTRACTORS. SUCH INDEMNIFICATION MUST INCLUDE WORKERS' COMPENSATION CLAIMS OF OR BY ANYONE WHOMSOEVER IN ANY WAY RESULTING FROM OR ARISING OUT OF ORGANIZATION'S WORK, SERVICES AND OPERATIONS IN CONNECTION HEREWITH, INCLUDING BUT NOT LIMITED TO, OPERATIONS OF SUBCONTRACTORS.**

- b. ORGANIZATION MUST LIKEWISE INDEMNIFY, DEFEND AND HOLD HARMLESS THE CITY FOR ANY AND ALL INJURY OR DAMAGES TO CITY PROPERTY ARISING OUT OF OR IN CONNECTION WITH ANY AND ALL ACTS OR OMISSIONS OF ORGANIZATION, ITS OFFICERS, AGENTS, SERVANTS, EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, LICENSEES, OR INVITEES.**

- c. Insurance coverage specified herein constitutes the minimum requirements and such requirements will in no way lessen or limit the liability of the Organization under the terms of this agreement. Organization shall procure and maintain, at its own cost and expense, any additional kinds and amounts of insurance that, in its own judgment, may be necessary for proper protection in the prosecution of its work.

12. Independent Contractor. It is expressly understood and agreed that Organization and its employees, representative, agent, servants, officers, contractors, subcontractors, and volunteers will operate as independent contractors as to all rights and privileges and worked performed under this Agreement, and not as agents, representatives or employees of the City. Subject to and in accordance with the conditions and provision of this Agreement, Organization will have the exclusive right to control the details of its operations and activities and be solely responsible for the acts and omissions of its employees, representatives, agents, servants, officers, contractors, subcontractors, and volunteers. Organization acknowledges that the doctrine of *respondeat superior* will not apply as between the City and its officers, representatives, agents, servants and employees, and Organization and its employees, representative, agents, servants, officers, contractors, subcontractors, and volunteers. Contractor further agrees that nothing herein will be construed as the creation of a partnership or joint enterprise between the City and the Organization. It is further understood that the City will in no way be considered a Co-employer or a Joint Employer of Organization or any employees, representative, agents, servants, officers, contractors, subcontractors, and volunteers of Organization. Neither Contractor, nor any officers, agents, servants, employees or subcontractors of Contractor will be entitled to any wages or employment benefits from the City. Contractor will be responsible and liable for any and all payment and reporting of taxes on behalf of itself, and any of employees, representative, agents, servants, officers, contractors, subcontractors, and volunteers.

13. Amendments. This Agreement may not be amended unless executed in writing by both Parties.

14. Right to Audit. _Organization agrees that the City shall, have access to and the right to examine any directly pertinent books, documents, papers and records of the Organization involving transactions relating to this Agreement. _Organization agrees that the City shall have access during normal working hours to all necessary record and shall be provided adequate and appropriate workspace in order to conduct audits in compliance with the provisions of this section. The City shall give Organization reasonable advance notice of intended audits.

15. Compliance with Laws, Ordinances, Rules and Regulations. This Agreement is subject to all applicable federal, state, and local laws, ordinances, rules and regulations, including, but not limited to, all provisions of the City's Charter and ordinances, as amendment.

16. Governmental Powers. It is understood that by execution of this Agreement, the City does not waive or surrender any of its governmental powers or immunities.

17. Venue and Choice of Law. If, any action, whether real or asserted, at law or in equity, arises on the basis of any provision of this Agreement, venue for such action will lie in state courts located in Tarrant County, Texas or the United States District Court for the Northern District of Texas – Fort Worth Division. This Agreement will be construed in accordance with the laws of the State of Texas.

18. No Third Party Rights. The provisions and conditions of this Agreement are solely for the benefit of the City and Organization and are not intended to create any rights, contractual or otherwise, to any other person or entity.

19. Interpretation. In the event of any dispute over the meaning or application of any provision of this Agreement, this Agreement will be interpreted fairly and reasonably, and neither more strongly for or against any party, regardless of the actual drafter of this Agreement.

20. Prohibition Against Boycotting Israel. If Contractor has fewer than 10 employees or this Agreement is for less than \$100,000, this section does not apply. Contractor acknowledges that in accordance with Chapter 2270 of the Texas Government Code, the City is prohibited from entering into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The terms "boycott Israel" and "company" shall have the meanings ascribed to those terms in Section 808.001 of the Texas Government Code. By signing this contract, Contractor certifies that Contractor's signature provides written verification to the City that Contractor: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the Agreement.

**REMAINDER OF PAGE INTENTIONALLY BLANK
SIGNATURE PAGE AND EXHIBITS, IF ANY, FOLLOW**

EXECUTED by each Party's duly designated representative and **EFFECTIVE** as of the last date indicated below:

CITY OF FORT WORTH:

Dana Burghdoff
Assistant City Manager

Date: _____

Recommended by:

William M. Johnson, Director
Transportation and Public Works

Approved as to Form and Legality:

Melinda Ramos
Senior Assistant City Attorney

M&C: _____
Date: _____

CAMP BOWIE DISTRICT INC:

Lydia Rickard
President

Date: _____

ATTEST:

Jannette S. Goodall
City Secretary

Contract Compliance Manager:

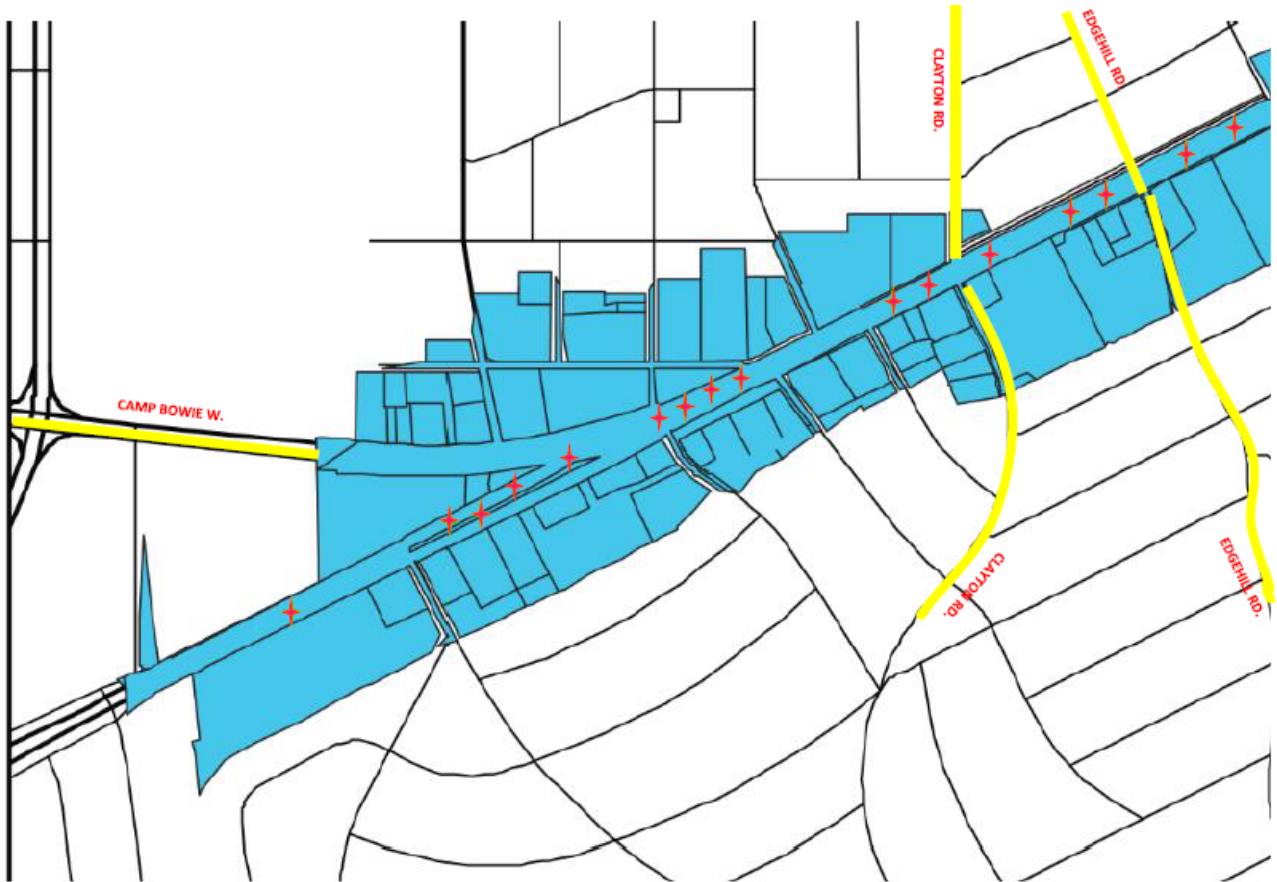
By signing, I acknowledge that I am the person responsible for the monitoring and administration of this contract, including ensuring all performance and reporting requirements.

Name:

Title:

EXHIBIT A

Camp Bowie W. – Hildale Rd.





Hilldale Rd.- I-30

