



## Travis County Commissioners Court Agenda Request

**Meeting Date:** January 10, 2012

**Prepared By:** Robert Armistead **Phone #:** 854-9831

**Division Director/Manager:** Charles Bergh, Parks Division Director

**Department Head:** Steven M. Manilla, P.E., County Executive-TNR

**Sponsoring Court Member:** Commissioner Eckhardt, Precinct Two

**AGENDA LANGUAGE:** Consider and take appropriate action regarding the proposed motion to approve a License Agreement for the American Cancer Society to hold a Relay for Life event at Northeast Metro Park in Precinct Two.

### **BACKGROUND/SUMMARY OF REQUEST:**

The American Cancer Society, a non-profit organization, has requested use of Northeast Metro Park to conduct an overnight walking event, Relay for Life, on Friday/Saturday, April 20-21, 2012 (7:00 p.m. - 7:00 a.m.).

Relay for Life is an overnight fundraising event and celebration, where teams fundraise year-round and come together on one night to honor cancer survivors, remember those lost to cancer, and fight back against the disease. This will be the event's 9<sup>th</sup> year in the Pflugerville community, the first at Northeast Metro Park. There will be an estimated 1,200 participants and 1,500 spectators.

### **STAFF RECOMMENDATIONS:**

Staff recommends approval of this license agreement.

### **ISSUES AND OPPORTUNITIES:**

The Relay for Life is a fundraising event for the American Cancer Society. This will be the first year that this event will be held at Northeast Metro Park. It is an opportunity for this annual event to be hosted by Travis County Parks for years to come. The event will have liability insurance.

### **FISCAL IMPACT AND SOURCE OF FUNDING:**

There would be no budgetary or fiscal impact associated with this request. Race coordinators will pay normal park fees to rent a soccer field, lights, a park pavilion, a concession stand, and security.

**ATTACHMENTS/EXHIBITS:**

Licence Agreement  
Certificate of insurance  
Park Map

**REQUIRED AUTHORIZATIONS:**

Cynthia McDonald	Financial Manager	TNR	854-4239
Steve Manilla	County Executive	TNR	854-9429
Roxanne Bonner	Asst. County Attorney	County Attorney	854-9415
Charles Bergh	Division Director	Parks	854-9408
Kristen Tucek	Community Manager	American Cancer Society	919-1907

**CC:**

Daniel Chapman	Chief Ranger	Parks	263-9114
Robert Armistead	Division Manager	Parks	854-9831
Kurt Nielsen	District Manager	Parks	854-7218
Tim Speyrer	Supervisor	Parks	989-8706

: :  
**4501 - Park Svs -**

**LICENSE AGREEMENT**

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

This License Agreement (this "Agreement") is made and entered into by and between Travis County, Texas, a political subdivision of the State of Texas ("County") and The American Cancer Society, High Plains Division, Inc., a Texas nonprofit corporation, ("Licensee").

WITNESSETH

THAT WHEREAS, Licensee desires to use certain property located in that park known as Travis County Northeast Metro Park (the "County Park") for the purpose of holding Licensee's annual "Relay for Life of Pflugerville" (the "Event"), and County desires to allow Licensee use of the County Park for such purpose; and

WHEREAS, Licensee fully understands the fragile nature of the habitat of the County Park and intends to fully cooperate and take whatever steps are necessary to minimize all impacts upon the various habitats during Licensee's use of the County Park and to restore the County Park to its original condition after Licensee has completed the Event.

NOW, THEREFORE, County and Licensee, in consideration of the mutual promises herein expressed and the compensation herein agreed to be paid, covenant and agree to and with each other as follows:

I. GRANT OF LICENSE

1.1 County hereby grants a license to Licensee and its employees, agents, sponsors, contractors and suppliers, and to Event participants, to enter and use approved areas within the County Park in connection with the Event (the "License"). Approved areas include those roadways, trails, and park areas, together with their associated rights-of-way, shown on **Exhibit A**, attached hereto and made a part hereof for all purposes. The County Park will remain open to the public during the Event. The License includes the rights and privileges to camp in the park overnight and conduct a walking relay-style event.

1.2 All publicity, promotion and distribution rights arising out of or in connection with the Event, including all exhibition, advertising and exploitation products or services created or produced in connection therewith, shall be the sole property of Licensee or its independent contractors, without exception and in perpetuity, and may be exploited in all media and markets and in all forms, whether known, unknown, or hereafter created. The License includes the right to bring onto the County Park and to utilize thereon personnel, personal property, materials and equipment during the term of the License.

1.3 Licensee agrees to make no structural changes to the County Park. However, the License allows for superficial preparation to be made to the County Park to facilitate Licensee's Event needs, including the right to place temporary signage throughout the licensed areas of the County Park; provided, however, the location and appearance of such signage shall be subject to the pre-approval of the Parks Division, as defined below. Licensee agrees to leave the County Park in the same and as good a condition as when it was received, normal wear and tear excepted as determined by existing County parks policy.

1.4 Licensee acknowledges and agrees that Licensee shall be solely responsible at all times for the actions and the safety of those persons utilizing the County Park under this Agreement, including, without limitation, protecting such persons from injury or death and protecting County's property and the property of such persons from loss or damage.

1.5 Licensee agrees to use only designated parking areas, as determined by the Travis County Parks Division of the Transportation and Natural Resources Department ("the Parks Division") representative, to transport and park all vehicles and equipment brought into or onto the County Park by Licensee and its employees, agents, independent contractors and suppliers. At no time will Licensee be permitted to bring onto or into the County Park a number of vehicles that exceeds the capacity of the County Park parking lot, as determined by the Parks Division staff in its sole discretion.

1.6 During the License Term, as such term is defined below, Licensee agrees to take all reasonable measures to minimize noise and any other type of interference with or disruption of normal County Park business, including the use and enjoyment of the County Park by regular County Park visitors.

## II. TERM OF LICENSE

2.1 The License is granted for one day, beginning at approximately 7:00 p.m. on Friday, April 20, 2012 and concluding at approximately 7:00 a.m. on Saturday, April 21, 2012 (the "License Term"). Licensee acknowledges and

agrees that such dates and times are subject to postponement and/or rescheduling due to any cause or reason beyond the control of Licensee or as determined to be necessary by County.

### III. CONSIDERATION

3.1 In consideration of the License granted hereunder, Licensee shall provide, at its own expense during Licensee's use of the County Park:

(i) all utilities such as electricity, water/wastewater and garbage management and removal (including the provision of additional dumpsters and trash pick-up);

(ii) all traffic control devices, public notices, and signage determined to be necessary by Travis County Parks to aid in notifying the public of the Event, directing traffic and parking vehicles;

(iii) security through employment of one (1) Travis County Park Ranger to ensure the safety and integrity of the persons and property brought onto the County Park for the purposes authorized under this Agreement; and coordination of volunteer law enforcement officers; and

3.2 In addition, all vehicles brought into the County Park for purposes authorized under this Agreement, and all persons entering the County Park for the purpose of participating in, sponsoring, conducting or viewing the licensed activities, will be charged, and Licensee will pay, prior to County Park entry, all normal and customary fees charged to the public.

3.3 With respect to any additional expenses incurred by County above the expenses set forth herein, County shall invoice Licensee for the actual costs so incurred, and Licensee shall remit payment to County for the invoice amounts within thirty (30) days of receipt of invoice(s).

### IV. PERMITS

4.1 Licensee shall be solely responsible for the costs and the securing of any permits required by the City of Austin, the Lower Colorado River Authority, or other governmental entities.

### V. CONTROL OF TRAVIS COUNTY

5.1 Licensee and its agents shall at all times obey the direction and commands of the Executive Manager of the Travis County Transportation and Natural Resources Department, or his designees (including the Director of the Parks Division and any and all Travis County Park Rangers), while in the County Park.

5.2 Licensee agrees to attend a pre-site meeting with TNR representatives prior to commencement of the Event. Licensee shall be responsible for contacting Kurt Nielsen, or other authorized Parks Division representative, in order to arrange a time and location for such pre-site meeting that is mutually agreeable to the parties.

5.3 Licensee and its agents shall at all times follow the Travis County Parks Rules, which TNR staff shall provide to Licensee prior to commencement of the activities licensed hereunder.

5.4 Licensee and its agents acknowledge and agree that disorderly conduct or assault, as defined by the Texas Penal Code, will not be tolerated. Such actions include, but are not limited to, abusive, indecent, profane or vulgar language that might cause a breach of the peace, or threatening or causing physical contact with someone else who might consider the contact offensive.

5.5 Any disregard of the directions, restrictions, rules or regulations referenced in this section shall be grounds for immediate revocation of the License by the Executive Manager of the Travis County Transportation and Natural Resources Department, the Director of the Parks Division, or their designated representatives, and such action is expressly authorized herein by the Travis County Commissioners Court.

## VI. USE AND REPAIRS

6.1 Licensee shall not use the County Park for any purpose other than that set forth herein. Licensee shall repair or replace any damage to the County Park caused by Licensee.

## VII. INDEMNIFICATION

**7.1 LICENSEE AGREES TO AND SHALL INDEMNIFY AND HOLD HARMLESS COUNTY, ITS OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, NEGLIGENCE, CAUSES OF ACTION, SUITS, AND LIABILITY OF ANY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEYS' FEES, FOR INJURY TO OR DEATH OF ANY PERSON, FOR ANY ACT OR OMISSION BY LICENSEE, OR FOR DAMAGE TO ANY PROPERTY, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR LICENSEE'S USE OF THE COUNTY PARK.**

7.2 Without in any way limiting the liability of Licensee or its obligations under this Agreement, Licensee agrees to maintain during the term of the



P.O. Box 1748  
Austin, Texas 78767

And: Steve Manilla (or successor)  
County Executive  
Travis County Transportation and  
Natural Resources Department  
P.O. Box 1748  
Austin, Texas 78767

## XII. VENUE AND CHOICE OF LAW

12.1 THE OBLIGATIONS AND UNDERTAKINGS OF EACH OF THE PARTIES TO THIS AGREEMENT SHALL BE PERFORMABLE IN TRAVIS COUNTY, TEXAS, AND THIS LICENSE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS.

## XIII. MEDIATION

13.1 When mediation is acceptable to both parties in resolving a dispute arising under this Agreement, the parties agree to use a mutually agreed upon mediator, or someone appointed by the Court having jurisdiction for mediation as described in Section 154.023 of the Texas Civil Practice and Remedies Code. Unless both parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation shall remain confidential as described in Section 154.073 of the Texas Civil Practice and Remedies Code, unless both parties agree, in writing, to waive the confidentiality.

## XIV. ENTIRETY OF AGREEMENT

14.1 This Agreement represents the sole, entire and integrated Agreement between County and Licensee with respect to the subject matter herein and supersedes all prior negotiations, representations or agreements either oral or written.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date(s) set forth below.

TRAVIS COUNTY:



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

Samuel T. Biscoe  
Travis County Judge

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

LICENSEE:

By: 

Kristen Tucek  
Community Manager, Income Development  
American Cancer Society, High Plains Division, Inc.

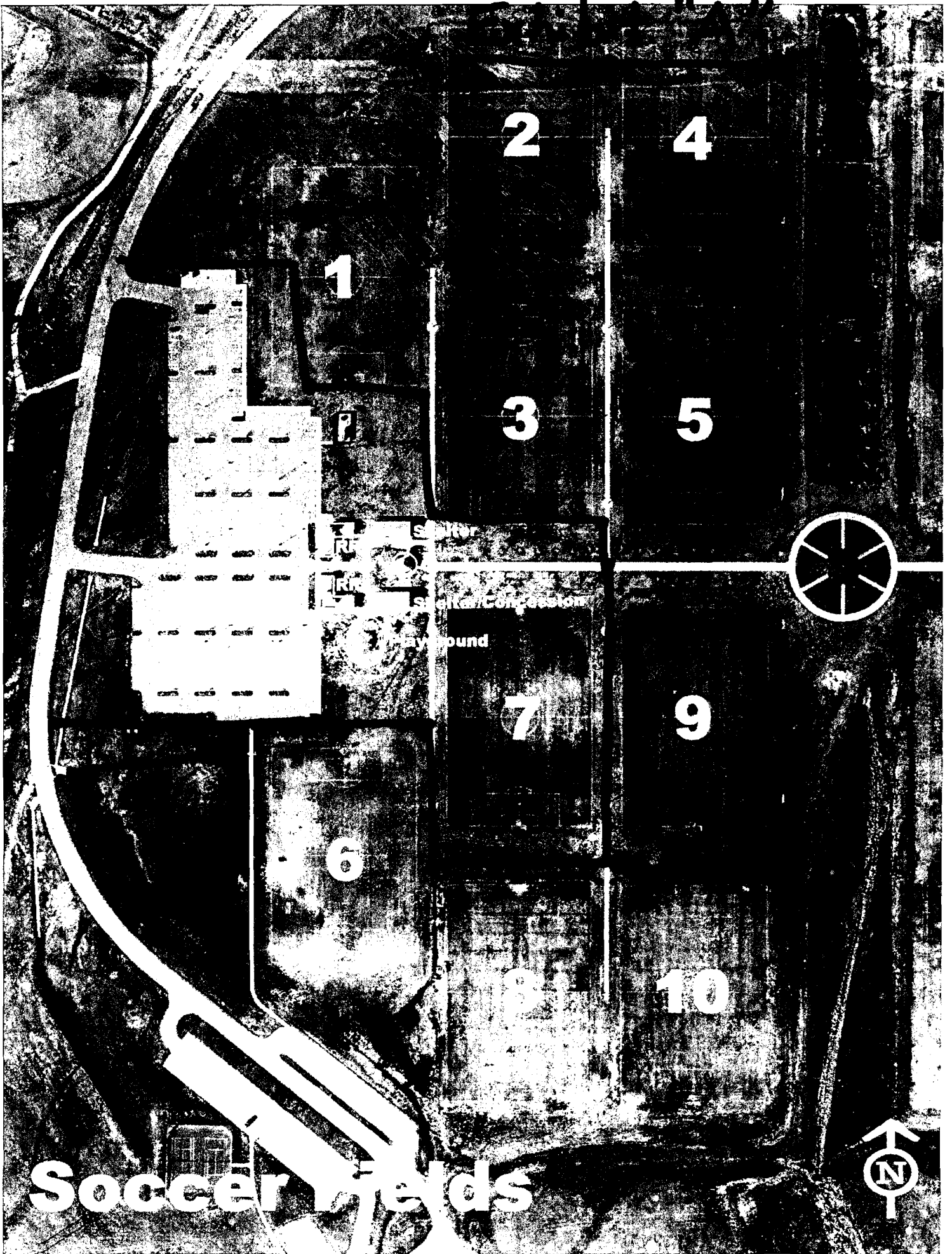
Date: 12/16/11

**EXHIBIT A**

**Licensed Areas in Pace Bend Park**

**EXHIBIT B**  
**INSURANCE CERTIFICATE OF LICENSEE**  
**(to be attached)**





**Soccer Fields**

