

Exhibit "B"

AMENDMENT NUMBER ONE TO WATER PARK GROUND LEASE AND OPERATING AGREEMENT

This Amendment Number One to Water Park Ground Lease and Operating Agreement (the "Amendment") is made and entered into by and between the City of Mansfield, Texas, a Texas home-rule municipality (hereinafter called the "CITY"), and Mansfield Family Entertainment, LLC, a Missouri limited liability company (hereinafter called "MFE").

WITNESSETH:

WHEREAS, on April 24, 2007, the City Council of CITY authorized entry into a Water Park Ground Lease and Operating Agreement (as amended hereby, the "Agreement") by and between the CITY, as Lessor, and MFE, as Lessee, a copy of which is attached hereto as Exhibit B; and

WHEREAS, MFE has requested that Texans Credit Union, a Texas credit union ("LENDER"), make a \$2,000,000.00 loan to MFE (the "Loan") in connection with MFE's leasehold interest in the Premises, which Loan will be secured by, among other things, MFE's interest in the Premises and the Agreement; and

WHEREAS, MFE has requested the addition of certain terms and conditions to the Agreement as an inducement for LENDER to enter into the Loan with MFE; and

WHEREAS, the CITY has agreed to the addition of such terms and conditions to the Agreement as provided herein;

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the CITY and MFE hereby certify, acknowledge and agree as follows:

1. **Defined Terms**. All capitalized terms used herein and not otherwise defined shall have the meaning given to those terms in the Agreement.

2. **Consent**. The CITY hereby consents to the granting of the Leasehold Mortgage by MFE to LENDER, which consent satisfies all requirements of Section 18 of the Agreement. MFE and LENDER shall not increase the principal amount of the Loan of \$2,000,000.00 without the CITY's prior written consent.

3. **Amendments to the Agreement**. The CITY and MFE hereby agree that, effective from and after the execution of this Amendment, the Agreement is modified and amended as follows:

(a) **Leasehold Mortgage**. The following is hereby inserted into Section 1.1 of the Agreement as an additional defined term:

"Leasehold Mortgage" means that certain Leasehold Deed of Trust, Security Agreement, Financing Statement, and Assignment of Rents and Leases executed by Borrower in favor of LENDER as of November __ 2007."

(b) **LENDER**. The following is hereby inserted into Section 1.1 of the Agreement as an additional defined term:

"LENDER" means Texans Credit Union, a Texas credit union, and its successors and assigns."

(c) Premises. The definition of "Premises" in Section 1.1.17 of the Agreement is hereby deleted in its entirety and replaced with:

"Premises" means that certain real property located in the City of Mansfield, Tarrant County, Texas, containing approximately 8.742 acres, as further described in Exhibit "A" attached hereto and incorporated herein."

(d) Exhibit A. Exhibit A of the Agreement is hereby deleted in its entirety and replaced with the legal description of the Premises attached hereto as Exhibit A.

(e) Notices. The following is hereby inserted into Section 16 of the Agreement as an additional addressee:

"To LENDER at:

Texans Credit Union
777 East Campbell Road, Suite 370
Richardson, Texas 75081
Attention: Chris Allen"

(f) Assignment for Security. The following is hereby inserted into Section 18.2 of the Agreement and shall be added following the last sentence of Section 18.2:

"Notwithstanding any other provision contained herein to the contrary, the CITY hereby consents to the granting of the Leasehold Mortgage by MFE to LENDER. In the event LENDER forecloses or otherwise assumes possession of MFE's interest in the Premises, the CITY shall recognize LENDER as lessee under the Agreement and LENDER's right to possess the Premises and enjoy the benefits of the "lessee" under the Agreement (subject to LENDER'S performance of the obligations of the "lessee" under the Agreement) and thereafter, at LENDER's option, LENDER's right to assign and transfer this Agreement to a third party, with the CITY's consent, in accordance with Section 18.1 of the Agreement, which consent the CITY shall not unreasonably withhold or delay. Any such subsequent assignment and transfer of this Agreement by LENDER after LENDER forecloses or otherwise assumes possession may be for valuable consideration and upon such terms and conditions as LENDER shall elect, subject to the CITY's consent per Section 18.1 of the Agreement, and subject to the CITY's right of first refusal as described in Section 18.3 of the Agreement."

(g) The following is hereby inserted into Section 18 of the Agreement as a new Section 18.2.1 thereof:

"18.2.1 Payments: Notwithstanding any other provision contained herein to the contrary, any and all payments to which MFE is entitled under this Agreement, or under the Construction Agreement, including but not limited to any and all payments under Section 1.4, shall be assignable to LENDER. In the event LENDER delivers to CITY a written notice requesting the CITY to pay LENDER directly, the CITY shall thereafter deliver any and all amounts due MFE under the Agreement, or under the Construction Agreement, directly to LENDER. MFE authorizes and directs the CITY to pay directly to

the LENDER all amounts due and payable to MFE hereunder, or under the Construction Agreement, and the receipt of any such amounts by LENDER shall release the CITY from any obligation to MFE to the extent of all amounts so paid. The receipt by the CITY of a notice from LENDER shall be sufficient authorization for the CITY to make all future payments of amounts due and payable to MFE hereunder of under the Construction Agreement directly to LENDER, and the CITY shall be entitled to rely on LENDER's notice and shall have no liability to MFE for any amounts due and payable to MFE hereunder, or under the Construction Agreement, paid to LENDER after receipt of such LENDER's notice. As between MFE and LENDER, and any person claiming such amounts through or under MFE, this assignment is intended to be absolute, unconditional and presently effective (and not an assignment for additional security), and LENDER's notice is intended solely for the benefit of the CITY and shall never inure to the benefit of MFE or any person claiming such amounts through or under MFE. UPON THE CITY'S RECEIPT FROM LENDER OF A NOTICE OF ASSIGNMENT OF PAYMENTS OWED TO MFE AS DESCRIBED ABOVE, MFE AGREES THAT MFE, ITS SUCCESSORS AND ASSIGNS SHALL HAVE NO FURTHER RIGHT OR CLAIM AGAINST THE CITY FOR THE PAYMENT OF ANY SUCH AMOUNTS DUE AND PAYABLE TO MFE HEREUNDER, OR UNDER THE CONSTRUCTION AGREEMENT, AND MFE HEREBY INDEMNIFIES AND AGREES TO HOLD THE CITY FREE AND HARMLESS FROM AND AGAINST ALL LIABILITY, LOSS, COST, DAMAGE OR EXPENSE SUFFERED OR INCURRED BY THE CITY BY REASON OF THE CITY'S COMPLIANCE WITH ANY DEMAND FOR PAYMENT OF AMOUNTS DUE AND PAYABLE TO MFE HEREUNDER, OR UNDER THE CONSTRUCTION AGREEMENT, WHICH ARE PAID TO LENDER AS CONTEMPLATED BY THIS AGREEMENT, OR UNDER THE CONSTRUCTION AGREEMENT. The provisions of this paragraph shall not apply after the date the Leasehold Mortgage is fully released by LENDER."

(h) Damage or Destruction Prior to June 1, 2027. Section 27.2 of the Agreement is hereby deleted in its entirety and replaced with:

"27.2 Damage or Destruction Prior to June 1, 2027: Should the Water Park be substantially damaged by a Force Majeure Event occurring prior to June 1, 2027, the CITY and MFE may agree, in writing, to terminate this Agreement. If they agree to do so, in that event any and all insurance proceeds payable as a result of the Force Majeure Event shall be divided by the parties pro rata based on their proportionate share of each in the total investment in the cost to acquire the Water Park Improvements and Capital Improvements; thereafter neither party shall have any further obligation to the other party under this Agreement, except with respect to liabilities occurring and based upon events occurring prior to the effective date of such termination. The Water Park shall be deemed to have been "substantially damaged" if the cost of restoring the Water Park to its condition immediately before such damage, after applying any insurance proceeds, is 50% or more of the replacement cost of the Water Park Improvements. If the Water Park is not substantially damaged or if the parties do not agree to terminate this Agreement, then the parties agree to apply all insurance proceeds to commence and complete, with all due diligence, restoration of the Water Park to its condition and character just prior to the occurrence of such casualty. In the event of any casualty to the Water Park or the Water Park Improvements, the CITY shall promptly notify LENDER of the occurrence of such casualty and of the receipt of insurance proceeds for any such loss.

(i) Default by MFE. Section 28.1(a) of the Agreement is hereby deleted in its entirety and replaced with:

“(a) Default by MFE. MFE’s failure to perform any covenant or provision of this Agreement (and such failure to perform is not cured within thirty (30) days after delivery of written notice to MFE from the CITY specifying with particularity the nature of the default). The CITY shall, concurrently with the delivery of any notice of default hereunder to MFE, deliver a copy of each such notice to LENDER at the address set forth in Section 16. If the failure to perform relates to MFE’s failure to pay rent or other financial obligation due and payable hereunder, MFE shall have ten (10) days after written notice to cure the default. If the failure to perform does not involve the payment of rent or other financial obligation and cannot reasonably be cured within thirty (30) days, MFE shall not be in default of this Agreement if MFE commences to cure the failure to perform within the thirty (30) day period and thereafter diligently and in good faith prosecutes the cure to completion.”

(j) LENDER’s Right to Cure. The following is hereby inserted into Section 28 of the Agreement as a new Section 28.1.1 thereof:

“28.1.1 LENDER’s Right to Cure. Notwithstanding anything contained herein to the contrary, LENDER shall have the right to cure any default by Borrower hereunder in accordance with the time prescribed by Section 28.1(a) hereof. In the event there is an occurrence of an event of default by MFE, and LENDER forecloses on its security interest in the Leasehold Mortgage or otherwise takes possession of MFE’s interest in the Premises, and LENDER cures such default as prescribed herein, then the CITY shall operate the Water Park for LENDER, and LENDER shall have 30 days to present the CITY with a replacement operator who: (i) is mutually acceptable to the CITY and LENDER, (ii) can meet the obligations of this Agreement; and (iii) has a minimum of five year’s experience in operating a water park of comparable size and with sufficient financial resources to undertake the obligations of this Agreement. In the event these conditions are satisfied, the CITY shall join with LENDER to permit said operator to operate the Water Park for LENDER under the terms and conditions of this Agreement (but unless and until such time as an approved replacement operator begins operating the Water Park, the CITY shall continue to operate the Water Park for LENDER). In the event LENDER does not receive a written notice of default concurrently with any such notice which is delivered to MFE, LENDER’s right to cure shall not commence until LENDER receives such notice, and therefore the remedies available to the CITY pursuant to Section 28.3 shall not be available unless and until the expiration of LENDER’s right to cure. Notices shall be deemed received if delivered in accordance with Section 16.”

(k) Default by MFE. Section 28.4 of the Agreement is hereby deleted in its entirety and replaced with:

“28.4. Other Terminations. The CITY may terminate this Agreement upon 30 days written notice to MFE if: (a) the CITY is not in default under the Construction Agreement; (b) the CITY has not terminated the Construction Agreement; and (c) MFE has either: (i) failed to submit the Capital Contribution to the CITY by November 20, 2007; (ii) failed to submit to the CITY the bonds and insurance coverages required by the Construction Agreement and failed to commence construction of the Water Park Improvements pursuant to the Construction Agreement by November 30, 2007; or (iii) failed to complete construction of the Water Park Improvements in compliance with the

Construction Agreement by September 1, 2009; provided however, the CITY shall not have the right to terminate this Agreement if the reason for delay in item (c) above is caused by the CITY and MFE is not otherwise in default under the Construction Agreement. If the CITY terminates this Agreement pursuant to this Section 28.4, the CITY shall, within 30 days of such termination, return the Capital Contribution as defined in the Construction Agreement) and all interest earned thereon to LENDER. The CITY expressly waives and agrees not to plead, claim, or take advantage of, its sovereign immunity and any defenses that may be asserted on the basis of sovereign immunity, and any other defenses of unenforceability, with respect to the foregoing sentence. The CITY and MFE expressly agree that any notice of termination pursuant to this Section 28.4 shall be given prior to the Effective Date of this Agreement, and that the provisions of this Section 28.4 shall be binding on the parties and enforceable upon execution of this Agreement and prior to the Effective Date of this Agreement. Notwithstanding the foregoing, in the event the CITY elects to terminate this Agreement because of MFE's failure to commence construction or to submit the bonds and insurance coverages required pursuant to items (c)(i) or (c)(ii) above, the CITY shall give written notice of such termination on or before December 31, 2007; the CITY shall have unconditionally waived its right to terminate this Agreement if it fails for any reason to give written notice of termination on or before December 31, 2007. Further, the CITY, MFE and LENDER agree that an event of force majeure shall not excuse failure to meet the deadlines in this Section 28.4. The termination dates in this Section 28.4 shall apply independently and notwithstanding any cure period contained in this Agreement or the Construction Agreement."

(l) LENDER's Rights. The following is hereby inserted into the Agreement as a new Section 35 thereof:

"35. LENDER'S Rights

35.1 Third Party Beneficiary: LENDER is an intended third party beneficiary of the terms of the Agreement affecting LENDER.

35.2 Assignment of Loan. LENDER may at any time assign to one or more financial institutions or other persons or entities all, or a proportionate part of the Loan and the Leasehold Mortgage, along with LENDER'S rights and obligations under this Agreement, without the CITY's consent. The foregoing notwithstanding, any assignment of this Agreement by LENDER after LENDER forecloses or otherwise assumes possession of the Premises shall be subject to the CITY's consent per Section 18.1 of the Agreement and the CITY's right of first refusal per Section 18.3 of the Agreement, as provided in Section 18.2 of the Agreement."

(m) Principal on the Loan. The following is hereby inserted into the Agreement as a new Section 36 thereof:

"36. Principal on the Loan. Upon request from the CITY from time to time, LENDER shall promptly furnish to CITY a statement showing the current principal balance on the Loan."

(n) Capital Contribution. The following is hereby inserted into the Agreement as a new Section 37 thereof:

"37. Capital Contribution. The CITY and MFE hereby agree that the \$2,000,000 advanced by LENDER and delivered to the CITY pursuant to the terms of the Loan (the "Capital Contribution") shall be advanced directly to the CITY and held in an account pursuant to Section A.15.1.1 of the Construction Agreement. In the event this Agreement does not become effective or the CITY terminates this Agreement pursuant to Section 28.4 of this Agreement, the CITY shall return the Capital Contribution directly to LENDER simultaneously therewith."

4. Binding Nature of Agreement. This Agreement constitutes a legal and binding obligation of the parties, subject to and in accordance with its terms and conditions, and the Agreement has not heretofore been amended or modified in any manner except as amended hereby.

5. Counterpart Execution. This Agreement may be executed any multiple counterparts.

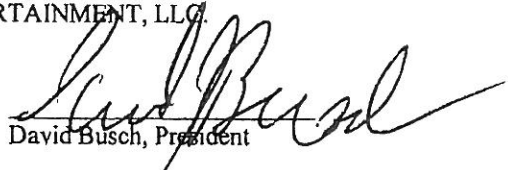
6. Conflicts. To the extent there are any conflicts between this First Amendment and the Agreement, this First Amendment shall govern and control. In all other respects, the terms and conditions of the Agreement shall remain the same.

SIGNATURE PAGE TO IMMEDIATELY FOLLOW

EXECUTED this the ____ day of November 19, 2007.

MANSFIELD FAMILY
ENTERTAINMENT, LLC.

By:


David Busch, President

Attest:



EXECUTED this the 20th day of November, 2007.


CITY OF MANSFIELD

By: *Cathy Anderson for Clayton W. Chandler*
Clayton W. Chandler, City Manager

Attest: *Vicki Collins*
Vicki Collins, City Secretary

ACKNOWLEDGED AND ACCEPTED BY LENDER:

TEXANS CREDIT UNION

By: 
Name: Chris Allen
Title: Vice Pres. Loan


Attest:


EXHIBIT A

PREMISES

BEING 8.742 acres of land located in Lot 3R, Block 1, BIG LEAGUE DREAMS ADDITION, to the City of Mansfield, Tarrant County, Texas, according to the plat recorded in Cabinet A, Slide 12186 of the Plat Records of Tarrant County, Texas. Said 8.742 acres of land being more particularly described by metes and bounds, as follows:

BEGINNING at a 1/2" iron rod set at the North corner of said Lot 3R, Block 1, BIG LEAGUE DREAMS ADDITION, and said POINT OF BEGINNING also being the intersection of the Southwest right-of-way line of Heritage Parkway South, and the Southeast right-of-way line of State Highway No. 360;

THENCE SOUTHEASTERLY 162.15 feet, along the Southwest right-of-way line of said Heritage Parkway South and the Northeast boundary line of said Lot 3R, with a curve to the right, having a radius of 1401.82 feet, a central angle of 06° 37' 39", and a chord bearing S 42° 14' 41" E 162.06 feet, to a point;

THENCE S 57° 47' 24" W 54.82 feet, severing said Lot 3R, to a point in the proposed West edge of a retaining wall;

THENCE along the West edge of said proposed retaining wall, as follows:

1. S 32° 12' 36" E 61.49 feet, to a point at the beginning of a curve to the right;
2. SOUTHWESTERLY 44.30 feet, along said curve to the right, having a radius of 38.67 feet, a central angle 65° 38' 25", and a chord bearing S 00° 36' 37" W 41.92 feet, to a point at the end of said curve;
3. S 33° 25' 50" W 43.58 feet, to a point at the beginning of a curve to the left;
4. SOUTHWESTERLY 26.43 feet, along said curve to the left, having a radius of 56.33 feet, a central angle of 26° 25' 53", and a chord bearing S 19° 59' 23" W 26.19 feet, to a point at the end of said curve;
5. S 06° 32' 56" W 64.41 feet, to a point;
6. S 14° 51' 18" E 28.76 feet, to a point;
7. S 27° 10' 57" E 24.02 feet, to a point at the beginning of a curve to the left;
8. EASTERLY 69.26 feet, along said curve to the left, having a radius of 31.33 feet, a central angle of 126° 39' 16", and a chord bearing N 89° 29' 26" E 56.00 feet, to a point at the end of said curve;
9. N 26° 09' 48" E 26.48 feet, to a point;
10. N 30° 22' 15" E 54.58 feet, to a point at the beginning of a curve to the right;

11. NORTHEASTERLY 46.07 feet, along the said curve to the right, having a radius of 28.67 feet, a central angle of $92^{\circ} 05' 03''$, and a chord bearing $N 76^{\circ} 24' 47'' E 41.27$ feet, to a point at the end of said curve;
12. $S 69^{\circ} 55' 49'' E 60.17$ feet, to a 1/2" iron rod set at the most Easterly corner of said Lot 3R, and the North corner of Lot 4R, Block 1, BIG LEAGUE DREAMS ADDITION, to the City of Mansfield, according to the plat recorded in Cabinet A, Slide 12186 of the Plat Records of Tarrant County, Texas, and lying in the Southwest right-of-way line of aforesaid Heritage Parkway South;

THENCE $S 60^{\circ} 40' 52'' W 195.78$ feet, along the Northwest boundary line of said Lot 4R, Block 1, and the Southeast boundary line of said Lot 3R, Block 1, to a 1/2" iron rod set;

THENCE $S 09^{\circ} 40' 25'' W 352.01$ feet, along the Southeast boundary line of said Lot 3R, Block 1, and the Northwest boundary line of said Lot 4R, Block 1, to a point in the proposed North edge of a sidewalk;

THENCE along the North edge of said proposed sidewalk, as follows:

1. NORTHWESTERLY 92.73 feet, along a curve to the right, having a radius of 963.86 feet, a central angle of $05^{\circ} 30' 44''$, and a chord bearing $N 66^{\circ} 44' 24'' W 92.69$ feet, to a point at the end of said curve;
2. $N 62^{\circ} 47' 31'' W 41.27$ feet, to a point at the beginning of a curve to the left;
3. NORTHWESTERLY 67.91 feet, along said curve to the left, having a radius of 230.50 feet, a central angle of $16^{\circ} 52' 51''$, and a chord bearing $N 68^{\circ} 59' 00'' W 67.67$ feet, to a point;
4. NORTHWESTERLY 2.69 along a curve to the right, having a radius of 3.50 feet, a central angle of $43^{\circ} 58' 36''$, and a chord bearing $N 55^{\circ} 26' 07'' W 2.62$ feet, to a point at the end of said curve;
5. $N 33^{\circ} 26' 49'' W 7.98$ feet, to a point at the beginning of a curve to the left;
6. NORTHWESTERLY 14.10 feet, along said curve to the left, having a radius of 16.50 feet, a central angle of $48^{\circ} 57' 32''$, and a chord bearing $N 57^{\circ} 55' 35'' W 13.67$ feet, to the point at the end of curve, and the beginning of another curve to the left;
7. NORTHWESTERLY 59.16 feet, along said curve to the left, having a radius of 242.50 feet, a central angle of $13^{\circ} 58' 40''$, and a chord bearing $N 89^{\circ} 23' 41'' W 59.01$ feet, to a point at the end of said curve;
8. $S 83^{\circ} 36' 59'' W 73.43$ feet, to a point at the beginning of a curve to the left;
9. SOUTHWESTERLY 12.96 feet, along said curve to the left, having a radius of 16.50 feet, a central angle of $45^{\circ} 00' 00''$, and a chord bearing $S 61^{\circ} 06' 59'' W 12.63$ feet, to a point at the end of said curve;
10. $S 38^{\circ} 36' 59'' W 8.69$ feet, to a point at the beginning of a curve to the right;

11. SOUTHWESTERLY 2.75 feet, along said curve to the right, having a radius of 3.50 feet, a central angle of $44^{\circ} 59' 31''$, and a chord bearing $S 61^{\circ} 06' 59'' W$ 2.68 feet, to a point at the end of said curve;
12. $S 83^{\circ} 36' 59'' W$ 347.88 feet, to a point;
13. $S 06^{\circ} 23' 01'' E$ 40.00 feet, to a point;

THENCE $S 83^{\circ} 36' 59'' W$ 121.77 feet, to a point in the West boundary line of said Lot 3R, and the Southeast right-of-way line of aforesaid State Highway No. 360;

THENCE along the Northwest boundary line of said Lot 3R, and the Southeast right-of-way line of said State Highway No. 360, as follows:

1. NORTHEASTERLY 400.64 feet, along a curve to the right, having a radius of 924.93 feet, a central angle of $24^{\circ} 49' 05''$, and a chord bearing $N 33^{\circ} 19' 51'' E$ 397.51 feet, to a 1/2" iron rod set at the location of a formerly located Texas Department of Transportation right-of-way monument;
2. $N 51^{\circ} 53' 14'' E$ 180.15 feet, to a 1/2" iron rod set at the location of a formerly located Texas Department of Transportation right-of-way monument;
3. $N 46^{\circ} 03' 02'' E$ 99.61 feet, to a 1/2" iron rod set at the location of a formerly located Texas Department of Transportation right-of-way monument;
4. $N 34^{\circ} 25' 08'' E$ 51.17 feet, to a 1/2" iron rod set at the location of a formerly located Texas Department of Transportation right-of-way monument;
5. $N 45^{\circ} 33' 53'' E$ 75.06 feet, to a Texas Department of Transportation right-of-way monument found at the beginning of a curve to the left;
6. NORTHEASTERLY 234.55 feet, along said curve to the left, having a radius of 994.93 feet, a central angle of $13^{\circ} 30' 26''$, and a chord bearing $N 39^{\circ} 00' 37'' E$ 234.01 feet, to Texas Department of Transportation right-of-way monument found;
7. $N 82^{\circ} 29' 09'' E$ 113.88 feet, to a Texas Department of Transportation right-of-way monument found;
8. $N 25^{\circ} 05' 50'' E$ 15.89 feet, to THE POINT OF BEGINNING, containing 8.742 acres (380,783 square feet) of land.