

1 **Section 2.** The adoption of this resolution, and the execution of the Agreement, hereby ratifies all
2 actions that have been taken by TFTCA for the City prior to the date of execution and, if necessary,
3 extending to December 31, 2021.

4 **Section 3. Severability.** In the event any title, section, paragraph, item, sentence, clause, phrase, or
5 word of this resolution is declared or adjudged to be invalid or unconstitutional, such declaration or
6 adjudication shall not affect the remaining portions of the resolution which shall remain in full force and
7 effect as if the portion so declared or adjudged invalid or unconstitutional were not originally a part of the
8 resolution.

9 **Section 4. Repealer.** All laws, ordinances, resolutions, or parts of the same, that are inconsistent with
10 the provisions of this resolution, are hereby repealed to the extent of such inconsistency.

11 **ADOPTED: December 1, 2020**

12 **ATTEST:**

APPROVED:

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15 **Susan Langley, City Clerk**

Frank Scott, Jr., Mayor

16 **APPROVED AS TO LEGAL FORM:**

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19 **Thomas M. Carpenter, City Attorney**

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1 **Exhibit A**

2 **THE FIRST TEE OF CENTRAL ARKANSAS FACILITIES AGREEMENT**

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4 THIS FACILITIES AGREEMENT (Agreement) is made and entered into as of this ___day of December,
5 2020, by and between The Jack Stephens Youth Golf Academy, Inc., an Arkansas not-for-profit
6 corporation, doing business as The First Tee of Central Arkansas (TFTCA), and the City of Little Rock, an
7 Arkansas municipal corporation (City).

8 **WITNESSETH:**

9 **WHEREAS**, TFTCA is a licensee of the World Golf Foundation, Inc., a Florida not-for-profit
10 corporation, to provide The First Tee Program; and,

11 **WHEREAS**, TFTCA has provided The First Tee Program at the Facility since the dedication of the
12 Facility on April 11, 2001; and,

13 **WHEREAS**, the Facility was funded and built by Jackson T. Stephens beginning in 1999 on 110 acres
14 of City owned property and consists of nine regulation golf holes, nine Par-3 golf holes, a sixteen (16)-acre
15 driving range, a practice putting green, practice pitching green, equipment shed and a 7,000 square-foot
16 Learning Center; and,

17 **WHEREAS**, in 1999 the City entered into an Agreement for the operation of the Facility, and the entity
18 that operated the Center is now known as TFTCA, and there have been discussions and proposed
19 modifications to the original Agreement; and,

20 **WHEREAS**, this Agreement clarifies the current and ongoing relationship between the City and
21 TFTCA, and the parties agree that any prior Agreements or discussions for any purpose whatsoever are
22 expired, void, or not subject to enforcement so that this is the only Agreement which represents the
23 relationship between the parties; and,

24 **WHEREAS**, the parties agree that the First Tee Facilities Agreement will be replaced by this
25 Agreement; and,

26 **WHEREAS**, TFTCA desires to continue to provide The First Tee Program at the Facility and the City
27 desires to provide access to and the use of the Facility by TFTCA in accordance with the terms and
28 provisions of this Agreement, and because TFTCA was selected as the provider who meets the best interests
29 of the City pursuant to the terms of a competitive selection process set forth in Bid No. 19-662.

30 **DEFINITION:**

31 **“Facility” or “Facilities.** Unless otherwise provided within the terms of this Agreement, the Facility
32 refers to the existing 9-hole regulation golf course, the Par-3 Course, the Practice Facilities, the Driving
33 Range, and, the Learning Center; further, unless otherwise provided in the future, any additions,
34 modifications, or changes in these Facilities during the life of this Agreement shall be automatically

1 incorporated into this definition.

2 **NOW, THEREFORE**, in consideration of the foregoing recitals and mutual covenants contained
3 herein, TFTCA and the City hereby agree as follows:

4 **1. TERM:** The term of this Agreement (Term) will be from the date of signature until December 31,
5 2020, and then for one (1)-year to begin on January 1, 2021, and end on December 31, 2021, which may
6 be renewed upon the written mutual consent of the parties for an additional one (1)-year term up to four (4)
7 times, but in no event past December 31, 2025. Either party may terminate this Agreement by giving notice
8 at least ninety (90) days prior to the end of any five (5)-year term.

9 **2. TFTCA USAGE OF LEARNING CENTER:**

10 2.1 TFTCA will be allowed to continue to use the office space as shown in Exhibit A to this
11 Agreement and currently being used as of the date this Agreement is executed, for the
12 exclusive use by TFTCA Staff, so long as circumstances do not change and the City needs
13 exclusive use of the space. If there is a modification of the location of the space, this
14 Agreement shall be modified with a newly dated Exhibit A to illustrate the modified office
15 space location within the Facilities. Such newly designated space shall be subject to all of
16 the other terms and conditions of this Agreement.

17 2.2 TFTCA may have exclusive use of the classroom space within the Learning Center after
18 coordination with the City, as long as circumstances do not change and the City needs
19 exclusive use of the space. If the City determines it is necessary for it to use the classroom
20 space, TFTCA shall be provided appropriate classroom space within the Facilities. Such
21 newly designated space shall be subject to all of the other terms and conditions of this
22 Agreement.

23 2.3 TFTCA will be provided adequate equipment-storage within the Learning Center which is
24 shown on Exhibit A to this Agreement. This location will remain throughout the Agreement
25 unless the City, after reasonable notice and because of City needs, requires relocation.

26 2.4 The City will coordinate with TFTCA to make the Facilities available for TFTCA
27 Programming. However, TFTCA shall provide at the beginning of each quarter or January
28 1st, April 1st, July 1st, and October 1st notice of the date of usage. If such notice is not
29 provided, the City in its sole discretion may decide whether to make the Facilities available.

30 **3. TFTCA USAGE OF GOLF COURSES AND PRACTICE AREAS:**

31 3.1 TFTCA will have free access to the Facilities to deliver The First Tee Program.

32 3.2 TFTCA will be provided access to the Par-3 course in coordination with the City to deliver
33 The First Tee Program. This coordinated access shall include:

- 34 (a) the Middle School League (seven (7)-week program);

- 1 (b) the Life Skills Experience (five (5)-week sessions);
- 2 (c) Summer Camp (six (6)-week sessions);
- 3 (d) On-site Outreach;
- 4 (e) the PGA Junior League;
- 5 (f) TFTCA Junior Tournaments (three (3) tournaments: spring; summer; and fall);
- 6 (g) Home School classes (January to May; September to November); and,
- 7 (h) other usage agreed upon in writing by TFTCA and the City.

8 Unless otherwise required for the City to comply with Federal or State Law, particularly, but not limited
9 to the Americans with Disabilities Act, or the Arkansas Civil Rights Act, the usage set forth in this
10 subsection shall be exclusive.

11 3.3 Participants of TFTCA during non-programing hours may use the Facilities free of charge
12 during the duration of a specific program when the participant presents a TFTCA Card and
13 verifies that they are enrolled in the program being offered at that time. A major goal of this
14 Agreement is to permit participants in TFTCA to use the Facilities. If a participant does not
15 have a TFTCA Card, but a TFTCA representative acceptable to the City verifies the
16 individual's participation, then access will be granted. Free access does not include a golf
17 cart.

18 3.4 TFTCA Staff will have access at no additional cost up to five (5) golf carts during
19 programming hours. It is understood that access to these carts is subject to availability. In
20 no event will a cart being used as an accommodation pursuant to the Americans with
21 Disabilities Act, or the Arkansas Civil Rights Act, be subject to this Subsection.

22 3.5 TFTCA will be permitted to have exclusive access to the Facility for two (2), one (1)-day
23 special fundraising golf events per year; one in the spring and one in the fall. The request for
24 such dates shall be provided to the City at least three (3) months in advance in order to assure
25 availability. TFTCA will be permitted to have signage acceptable to the City designating the
26 office space and the classroom space and will be permitted to have outdoor signage at the
27 entrance of the Facility.

28 3.6 Upon request of the City by TFTCA, and within the sole discretion of the City, certificates
29 for one (1) or more free rounds of golf at the Facilities, with or without the use of a cart, may
30 be made available to TFTCA as a fundraising mechanism

31 **4. CITY RESPONSIBILITIES FOR THE FACILITY:**

32 4.1 The City shall maintain the Learning Center in substantially the same condition that it exists
33 on the date of this Agreement.

1 4.2 The City shall pay all operating, fire insurance, boiler insurance, and utility expenses
2 associated with the Facility, including such expenses for the Learning Center approved by
3 the City. Phone and internet services for TFTCA office space shall be paid by TFTCA. It is
4 understood that TFTCA's phone and internet service shall not interfere with similar service,
5 or the quality of service, for the City.

6 4.3 The City shall maintain the Facilities to a standard acceptable to the City. If for any reason
7 TFTCA wishes to use a different standard, and such standard increases the cost of
8 maintenance the City provides, the additional cost shall be paid by TFTCA prior to the event.

9 4.4 The City shall maintain at the Driving Range an adequate number of golf balls for the use of
10 TFTCA in providing The First Tee Program, provided that before any action can be taken as
11 to this matter, the City and TFTCA will meet and discuss what constitutes an adequate
12 number of golf balls at the Driving Range, and whether changes need to be made to this
13 paragraph.

14 4.5 During any term of this Agreement, the City agrees not to hold any competing Junior events
15 at the Facility. This prohibition does not place any limitation on use of the Facility for the
16 Monk Wade Junior Classic. The parties understand that the City reserves the right to seek
17 charity or school tournaments to be hosted at the Facility, provided the City shall take
18 reasonable steps to coordinate such events with TFTCA.

19 4.6 The City shall:

20 (i) Comply with any law applicable to the City, whether Federal, State, or local,
21 and shall comply with the anti-discrimination provisions of Little Rock, Ark., Rev. Code
22 § 2-2 (1988);

23 (ii) Advise TFTCA promptly of any of the following caused by TFTCA:

24 (a) property damage to the Facility;

25 (b) any bodily injuries sustained by any person associated with TFTCA at
26 the Facility;

27 **5. ADDITIONAL PROVISIONS:**

28 5.1 (a) **Notice.** Any notice, demand, consent, authorization, request, approval or other
29 communication that any party is required or may desire to give or make upon any other party
30 pursuant to this Agreement shall be effective and valid only if in writing, signed by the party
31 giving such notice, and delivered to the other parties or sent by facsimile transmission, hand,
32 delivery, express twenty-four (24)-hour guaranteed courier or delivery service or by
33 Registered or Certified Mail of the United States Postal Service, postage prepaid and return
34 receipt requested, addressed to the proper parties as follows (or to such other place as any

1 party may by notice to the other specify):

2 To TFTCA: Executive Director
3 The First Tee of Central Arkansas
4 First Tee Way
5 Little Rock, AR 72204
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7 To City: Office of the City Manager
8 500 West Markham Street, 2nd Floor
9 Little Rock, Arkansas 72201

10 And copied to: Director of Parks & Recreation
11 500 West Markham Street, Room 108
12 Little Rock, Arkansas 72201
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14 Notices shall be deemed given when received, but, if delivery is affirmatively rejected, then notice shall
15 be deemed given on the earlier of the date that delivery is refused or the third day after the same is
16 deposited with the United States Postal Service.

17 (b) Notwithstanding any other provision of this Agreement, the identification of the
18 person(s) to receive notice, or the address to which notice is to be directed, may be amended by
19 the simple attachment of an Exhibit to this Agreement which notes such change

20 5.2 **Assignability.** This Agreement shall not be assigned by TFTCA without the prior written
21 consent of the City, which consent shall not be unreasonably withheld.

22 5.3 **Third-Party Beneficiaries.** This Agreement shall be for the sole benefit of the parties hereto,
23 and no other person or entity shall be entitled to rely upon or receive any benefits from this
24 Agreement or any provision hereof.

25 5.4 **Amendments.** Subject only to the identification of notice provisions as set forth in Subsec-
26 tion 5.1(b), this Agreement shall only be amended or changed in any respect whatsoever by
27 a further Agreement in writing duly executed by the parties hereto.

28 5.5 **No Waiver.** No consent to or waiver of any breach of any provision of this Agreement by
29 any party hereto shall be construed as a consent to or waiver of any other breach of the same
30 or any other provision hereof.

31 5.6 **Approvals.** Each party shall use their best efforts to reasonably approve or disapprove any
32 required document, proposal, selection, submitted to it for approval under this Agreement.
33 Unless otherwise specifically stated herein, all approvals required hereunder shall be in
34 writing, unless subsequently ratified by written approval.

35 5.7 **Governing Law/Persons Bound.** This Agreement shall be construed and enforced in
36 accordance with the laws of the State of Arkansas and shall be binding upon and inure to the
37 benefit of the parties hereto and their respective successors and permitted assigns. The

1 parties agree that for any legal action which may arise, jurisdiction and venue shall be in
2 Little Rock, Pulaski County, Arkansas.

3 5.8 **No Agency, Partnership, Joint Venture or Employment Relationship.** This Agreement
4 shall not be construed as in any way establishing a partnership, joint venture, express or
5 implied agency or employer-employee relationship between or among any of the parties
6 hereto.

7 5.9 **Section Headings.** The section headings of this Agreement are for convenience and
8 reference only and in no way modify, explain, enlarge or restrict any of the provisions hereof.

9 5.10 **Entire Understanding.** This Agreement and the documents referenced, incorporated, or
10 both, herein contain the complete and entire Agreement of the parties respecting the
11 transactions contemplated herein, and supersede all prior negotiations, Agreements,
12 representations and understandings, if any, among the parties respecting the matters. Further,
13 neither the City nor TFTCA shall be deemed to have been the drafter of this Agreement for
14 purposes of interpretation of any of its terms and conditions. Because each party hereto has
15 contributed materially in the negotiation and drafting of this Agreement, the parties agree
16 that it shall not be construed more strictly against any one party.

17 5.11 **Counterparts.** This Agreement may be executed by the parties hereto individually or in
18 combination, in one or more counterparts, each of which shall be deemed by the City and
19 TFTCA as an original and all of which shall constitute one and the same Agreement.

20 5.12 **Exhibits.** All recitals and all attachments and exhibits referred to in this Agreement are
21 incorporated herein by reference and shall be deemed part of this Agreement for all purposes
22 as if set forth at length herein.

23 5.13 **Severability.** If any provision hereof is declared or held to be invalid or unenforceable, such
24 declaration or holding shall not affect the remaining provisions hereof that shall remain in
25 full force and effect, provided that such invalidity or unenforceability does not substantially
26 deprive either party of the benefit of its respective bargain.

27 5.14 **Time of the Essence.** Time is of the essence with respect to the parties' performance of their
28 respective obligations hereunder.

29 **IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the date first above
30 written.

31 **CITY OF LITTLE ROCK, ARKANSAS**

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34 **Frank Scott, Jr., Mayor**
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1 **ATTEST:**

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4 **Susan Langley, City Clerk**

5 **APPROVED AS TO LEGAL FORM**

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8 **Thomas M. Carpenter, City Attorney**

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10 Date: _____

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12 **The Jack Stephens Youth Golf Academy, Inc.**

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15 **Monica Blake, Executive Director**

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18 _____
18 **Joseph B. Hurst, Jr.,**

19 **President of the Board of Directors**

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21 Date: _____

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