



Date: August 14, 2012

To: Thomas Bonfield, City Manager

Through: Keith Chadwell, Deputy City Manager

From: Kevin Dick, Director, Office of Economic and Workforce Development (OEWD)
Joy Mickle-Walker, Office of Economic and Workforce Development (OEWD)

Subject: Amendment to Assignment Agreement for the Durham Athletic Park (DAP) Operating Agreement

Executive Summary

This item is to recommend approval and execution of an amendment to the assignment agreement between the City of Durham and the Durham Bulls Baseball Club, Inc. (“Durham Bulls”) for the operation of the Durham Athletic Park (DAP). The amendment to the assignment agreement would allow the City to extend the agreement from August 31, 2012 to September 30, 2013 and increase the contract amount by \$79,700.00 from \$23,333.36 to \$103,033.36 for an additional thirteen (13) months.

Recommendation

City staff recommends that City Council authorize the City Manager to execute an amendment to the Assignment Agreement with the Durham Bulls Baseball Club, Inc. extending the operation of the DAP an additional thirteen (13) months to September 30, 2013 for an contract amount of \$79,700.00. The recommended \$79,700.00 increase is based upon data over the last six months that indicates that an annualized operating loss is projected by staff and the Durham Bulls. Supporting documentation is attached.

Background

Minor League Baseball (MiLB) approached the City in early 2007 with an interest in operating the DAP and establishing a Minor League Baseball Museum adjacent to the DAP. An operating agreement between the City and MiLB was approved by Council on August 8, 2007, and established responsibilities for the operations of the Durham Athletic Park. The operating agreement went into effect on August 1, 2009 with an expiration date of August 31, 2012. The intention for the facility during the course of renovation and from the outset of the operating agreement was as a multi-use facility that would house baseball events, as well as multi-cultural events such as corporate picnics and musical events. The agreed upon contract amount for operating the DAP was \$35,000 per year.

On October 30, 2009, an amendment to the agreement was executed with provisions related to certain day to day operations.

On September 1, 2011, MiLB conveyed its intentions to end the operating agreement on December 31, 2011. On November 28, MiLB sent a letter to the City requesting City approval to assign the operating agreement to the Durham Bulls Baseball Club.

The Assignment Agreement was approved by City Council on January 2012 with the Durham Bulls taking over operations of the DAP. This assignment agreement was intended to last from January 2012 to August 31, 2012 for a pro-rated amount of \$23,333.36. Since then the Durham Bulls have operated the park and are now willing to extend their responsibilities to September 2013 with an increase in the contract amount to offset current estimates of operating losses for the thirteen month term.

Issues/Analysis

The Durham Bulls have a familiarity with the local market for events as well as the maintenance requirements for a baseball stadium that meets NCAA Division One standards (two key aspects of DAP operations). This familiarity has helped them operate the park to an acceptable standard.

However, consistent with the experience of the previous operator, the Durham Bulls have experienced financial losses in the operation of the DAP and it is anticipated that these losses will continue although not at the level MiLB experienced. In order for the park to be operated efficiently staff is recommending an increase in the contract amount paid by the City to the Durham Bulls. Although they have achieved cost savings in the day to day operations, their annualized losses necessitate a contract increase by \$79,700.00 from \$23,333.36 to \$103,033.36 for an additional thirteen (13) months.

OEWD is recommending an increase of \$79,700.00 based upon the following:

- It is estimated that the Bulls may lose up to \$73,000.00 over a 12 month period we are recommending an increase of \$79,700.00 to cover 13 months of operation. And we are recommending 13 months so that there is an operator for the Blues Festival in September 2013.
- Durham Bulls have achieved operational cost savings by a field supervisor position in house and using existing staff to manage the facility.
- Taking the cost savings methods by the Durham Bulls into account and considering City budgetary constraints OEWD is recommending a monthly contract amount increase of \$6130.77.
- OEWD determined based upon experience in working with each operator yielded the knowledge that the DAP cannot be operated with the city contribution of \$35,000.00 per year for example three of the seventeen line items add up to more than \$35,000.00: staffing needs, field maintenance costs and utilities costs.

The thirteen (13) month extension is recommended instead of a twelve (12) month extension because it is anticipated that an operator would need to be in place in September 2013 to accommodate cultural events such as the Bull Durham Blues Festival.

The extension includes a sufficient amount of time to negotiate a longer operating agreement between the City of Durham and the Bulls to continue operations of the DAP. OEWD and the Bulls will work together with the goal of eliminating operating losses for the facility through such means as:

- The sales of additional sponsorships
- Finding financial assistance through other sources (i.e. grants) for upgrading equipment like a PA system which will make the facility more marketable.

OEWD seeks to create a long term partnership with the Bulls to operate the DAP and with that end, we will need to increase the contract amount in order maintain adequate operations of the facility.

Alternatives

City Council can choose to not approve the Amendment to the Assignment Agreement. This would leave the City of Durham without an Operator for the facility after August 31, 2012. Current resources do not exist within the City to operate the facility in its desired capacity as a multi-use facility available for baseball and multi-cultural events.

Financial Impact

The Assignment contractual amount would be increased from approximately \$2,916.67 per month (i.e., \$23,333.00 for a 12 month period) to approximately \$6130.77 per month (i.e., \$79,700.00 for an additional thirteen (13) month period). The amount of \$29,617.67 will be coming from OEWD's Special Contractual Services budget. The remainder of \$50,082.33 will be taken from the Downtown Fund.

SDBE Summary

SDBE provisions are contained in the operating agreement.

Exhibits

Exhibit A: Durham Athletic Park Operating Agreement

Exhibit B: Amendment 1 to DAP Operating Agreement

Exhibit C: DAP Assignment Agreement

Exhibit D: Durham Athletic Park Budget January – December 2012