

EXHIBIT A

FACILITY USAGE AGREEMENT FOR USE OF NORTHSIDE PARK

This Agreement is made by and between Matt Cody, ("Cody") and the City of Jonesboro Parks and Recreation ("City"), on this 18th day of July, 2014 (the "Effective Date").

WHEREAS, Cody is a resident of the City of Jonesboro, Arkansas who desires to start a not for profit organization organized to promote youth sports activities for underprivileged children through the operation of youth baseball, softball and football camps with no fee for participants; and

WHEREAS, the City is the owner of that certain public park amenities known as the "Northside Park," and hereafter referred to as the "Facilities"; and

WHEREAS, Cody and the City desire to enter this agreement for the purpose of evidencing the agreement of the parties with regard to use of the Facilities by Cody and the respective obligations of the parties regarding the use and maintenance of the Facilities;

NOW, THEREFORE in consideration of the promises and the reciprocated covenants and obligations contained herein, the parties agree as follows:

I. Term

- (a) The term of this Agreement is for a period of one (1) year commencing on the Effective Date and ending at midnight the date prior to the Effective date in the following year.

II. Use of Facilities by Cody

- 1) During the term of this Agreement, Cody shall have the primary right to use field numbers three (3) and four (4) at the City's baseball Facilities for the sole purpose of holding youth camps to teach the skills of the designated sports. Cody may hold a scrimmage game at the conclusion of each camp for the youth participants to demonstrate their newly learned skills. At no time shall the Facilities be used for any official or league games for any of the designated sports.
- 2) Cody understands and agrees that City will maintain a master schedule for the Facilities and Cody will provide schedules of camps one week prior to the start of each season during the Term of this Agreement.
- 3) Cody understands and agrees that at times weather and/or field conditions may result in City denying the use of certain fields during the term of this Agreement. Cody

understands that the Park Supervisor for the Facilities has the authority to deny use of the fields, but City agrees that use will not be unreasonably denied. Determination will be made by 4:00 pm on weekdays and by 7:00 am on Saturdays, if possible. If necessary, weather will be monitored beyond the determination times.

- 4) City shall at all times have the right to inspect the Facilities being used by Cody and all Cody sponsored activities related to the use of the Facilities.
- 5) City shall issue key(s) to Cody for use of the Facilities. The keys may not be reproduced or duplicated by Cody. Cody agrees to return said keys at the end of the term of this Agreement. Upon failure to return any of said keys a fee will be charged for the replacement of keys and locks. Cody will be charged a fee of \$25 for each lock that has to be changed as a result of a key that is not returned to the City at the end of the Agreement.
- 6) Cody understands and agrees that no City maintenance equipment will be used by Cody to conduct camps or scrimmage games. Cody will provide the equipment necessary to administer its own activities and events, and in doing so will keep equipment in the spaces designated by the City.
- 7) If Cody should desire to use the City's Facilities for any special events or programs outside the terms of this Agreement, Cody shall complete an Application for Use of Facilities at the beginning of the season, and any and all additions shall require a separate written agreement between the parties.

III. Obligations of City

CITY agrees to:

- 1) Provide the following maintenance and repairs, to the best of its ability given staff and budget, in a manner generally equal to normal City maintenance and repair of similar City recreational facilities:
 - a) Maintain all fences and gates.
 - b) Provide and maintain parking lots
 - c) Provide secured storage for Cody equipment.
 - d) Haul off trash that has been deposited in trash receptacles as needed and de-litter the grounds as needed.
- 2) It is understood and agreed the City's obligations under this Agreement will be performed as soon as, and to the extent that, budgeted funds are available for performance of its obligations. In no event shall City be obligated to Cody for any monetary damages.

IV. Obligations of Cody

Cody shall:

- 1) Be responsible for making the necessary improvements to the turf and field areas that he will be using under the terms of this Agreement and shall further be responsible for any and all maintenance to said fields which may become necessary during this Agreement.
- 2) Not make any permanent additions to the Facilities without written permission from the City. This includes but is not limited to signs, structures, concrete, seating, goals, and fields.
- 3) Furnish to City a complete camp schedule for the season. The complete camp schedule shall be submitted at least one week prior to the first scheduled camp. The City understands weather is outside the control of Cody and schedules may be modified due to weather, sometimes at the last minute. Cody agrees to notify City of modified schedules as soon as possible.
- 4) Cody is responsible for any of their items stolen or damaged, during the course of the year.
- 5) Pay for utilities, specifically electricity, for any and all field lighting being utilized by him during the term of this Agreement.
- 6) Request approval by the City for placement of any and all concession stands and/or trailers and follow City, County and State Health Codes.
- 7) Not discriminate against any person or persons because of race, color, religion, sex, disability or national origin.
- 8) Establish procedures to ensure individuals with criminal histories that include drug charges, assault charges and sexual assault charges are not permitted to coach or work within the youth camps or other activities.
- 9) Not engage in any business on the Facility or do anything in connection therewith which shall be in violation of any existing state or federal law or municipal ordinances, or use the same in such manner as to constitute a nuisance. City reserves the right to exclude any individual or group from the Facility based on conduct, which it determines in its discretion to be objectionable or contrary to City interests. Cody hereby consents to the exercise of such authority by City over its members, officials and agents.
- 10) Cody agrees to be solely responsible for any and all damages related to and arising out of Cody's use of the Facilities during the term of the Agreement when the

Facilities are being used by Cody. This includes, but is not limited to, any and all persons associated with Cody who use the Facilities during the terms of the Agreement. Cody agrees to be solely responsible for all repairs and costs of repairs to the Facilities for any and all damages. Nothing contained herein shall be construed to defeat or diminish Cody's right to seek recourse against those persons causing the damage.

11) Follow rules that have been established by the City Parks and Recreation Board and City Staff concerning conduct at City fields. Examples of rules may include but are not limited to:

- a. No unauthorized Vehicles may be driven up and parked at fields during activities; to include sidewalks.
- b. No metal cleats may be worn on the walkways.
- c. No tobacco use (smoking or smokeless) on the fields or in observation areas.
- d. Only authorized vehicles may be driven on sidewalks.
- e. Participant and spectator parking only in parking lots.
- f. No dogs

12) Activity initiated by Cody, or a coach or volunteer in his program that occurs on fields that have been closed or are not part of the terms of this Agreement, will result in a \$100.00 fee to Cody. This includes removing or tampering with "Field Closed" signs.

13) Prior to the commencement of this Agreement, Cody will provide to the City proof of insurance and indemnification in a policy amount not less than \$1,000,000.00 in value.

V. Default of Cody

- a) If Cody defaults in performance of this Agreement, and after written notice from City, Cody fails to cure such default within thirty (30) days after receipt of such notice (or fails to cure with due diligence if the default is of such nature as to require more than 30 days), then City may terminate this Agreement.
- b) If the Facilities are abandoned by Cody, the City may terminate this Agreement. "Abandonment" shall mean no camps taking place on allocated field(s) for a period of six continuous months.

VI. Default of CITY

- a) If City defaults in the performance of any of the covenants, terms, conditions or provisions of this Agreement, and after written notice from Cody, City fails to cure such default within thirty (30) days after receipt of such notice (or fails to cure with due diligence if the default is of such nature as to require more than 30 days), then

Cody may terminate this Agreement.

VII. Escape Clause

Either party seeking to terminate this agreement may do so with a written letter of termination to the other party. Upon receipt of the letter of termination the contract shall be good for three (3) full months before becoming null and void.

IX. Assignability and Exclusivity

This Agreement is a privilege for the benefit of Cody only and may not be assigned in whole or in part by Cody to any other person or entity. Both parties understand that Cody's use of the Facilities is nonexclusive, with the exception of the fields designated in this Agreement.

X. Notices

Unless otherwise provided herein, any notice, tender or delivery to be given hereunder by either party to the other may be effected by personal delivery with a signed receipt, in writing or by registered or e-mail, or certified mail, postage prepaid, return receipt requested. Notice shall be effective upon signing the date of the signing of the receipt.

Matt Cody

Address P.O. Box 1968 State University, AR 72467

Phone 870-882-3339

City:

Wixson Huffstetler; Director

CITY OF JONESBORO

Parks and Recreation

3009 Dan Avenue

Jonesboro, AR 72401

Any such notice shall be effective upon receipt if delivered in person or upon actual deposit in an official receptacle of the United States Postal Service, if mailed as aforesaid.


X. Miscellaneous Provisions.

- 1) No modification of this Agreement shall be effective unless it is made in writing and is signed by the authorized representative's of the parties hereto.
- 2) This Agreement shall be construed under and in accordance with the laws of the State of Arkansas and venue for any litigation concerning this Agreement shall be in Craighead County, Jonesboro, AR.

- 3) Nothing in this Agreement shall be construed to make the City or its respective agents or representatives liable in situations it is otherwise immune from liability.
- 4) In case any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
- 5) Each party represents to the other that the individual signing this Agreement below has been duly authorized to do so by its respective governing body and that this Agreement is binding and enforceable as to each party.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year set forth below.

Matt Cody

By: 
Name: Matthew Cody
Title: Program Director
Date: July 18, 2014

CITY OF JONESBORO

By: _____
Name: Harold Perrin
Title: MAYOR
Date: _____

ATTEST

Donna Jackson, City Clerk, CMC

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