

EXHIBIT A

FACILITY USAGE AGREEMENT WITH **EXPERIENCE WORKS** FOR THE USE OF E. BOONE WATSON CULTURAL CENTER

This Agreement is made by and between EXPERIENCE WORKS an Arkansas not for profit corporation, ("EW") and the CITY OF JONESBORO PARKS AND RECREATION ("CITY"), on this 17th day of June, 2008 (the "Effective Date").

WHEREAS, EW is an Arkansas not for profit organization created to improve the lives of older people through employment, community service and training; and

WHEREAS, the CITY is the owner of that certain public facilities known as the "E. Boone Watson Center", and hereafter referred to as the "Facilities"; and

WHEREAS, the CITY does not have the funds to staff the facilities for regular operating hours; and

WHEREAS, EW is seeking a public facility for offices and is willing to aid in managing the facilities as part of its day to day operations; and

WHEREAS, EW and the CITY agree that a contract between the two organizations to operate the facilities is mutually beneficial;

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

I. Term

(a) The Term. Unless otherwise terminated pursuant to the terms hereof, the term of this Agreement is for a period of five (5) years commencing on the Effective Date and ending at midnight on the fifth (5th) anniversary thereof.

II. Use of Facilities by EW

- 1) During the period of January 1st to December 31st of each year EW shall use the office space at the facilities for daily operations of EW. In exchange for the office space EW shall provide general supervision of the facility ensuring the safety of the patrons and the security of the facility.
- 2) EW understands and agrees that except for the office the Facilities are available for rental on a first-come first-serve basis. EW understands and agrees the CITY will maintain a master schedule for the Facilities and if EW should desire to use the Facilities for additional events or programs EW shall complete an Application for Use of Facilities.

- 3) EW understands and agrees that, except as provided in Article III below, no CITY equipment will be used by EW to conduct business. EW will provide the equipment and supplies necessary to administer its own operations.

III. Obligations of CITY

CITY shall:

- 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 outdoor amenities such as the parking lot, grass and flower beds.
 - b) Maintain the structural integrity of the interior and exterior of the facilities.
 - c) Maintain the heat and air systems.
 - d) Maintain the interior of the facilities except for the specific items detailed in section IV.
 - e) Provide utilities for the facilities: air, water, sanitation, 1 phone line, internet connection?
 - f) Provide secured storage for EW equipment.
 - g) Provide the existing office furniture
 - h) Maintain restrooms, museum and rental rooms of the facilities, including cleaning and stocking
 - i) Pay for the cost of cleaning supplies, restroom supplies, kitchen supplies (not including food),
- 2) Not rent the office space, or permit use of the office space by facility patrons; however, the City shall maintain access to the office for after-hours supervision and emergencies.
- 3) Issue key(s) to EW for use of the Facilities. The keys may not be reproduced or duplicated by EW. Keys shall be returned at the end of the agreement. Upon the loss of said keys a fee will be charged a fee of \$25 for each lock that has to be changed as a result of a lost key or a key that is not returned to the CITY at the end of the season.
- 4) At all times have the right to inspect the Facilities being used by EW and all EW sponsored activities related to the use of the Facilities.

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. If CITY is unable to fulfill its obligation due to budget constraints, EW may, but shall not be obligated to perform CITY's duties. In no event shall CITY be obligated to EW for any monetary damages.

IV. Obligations of EW

EW shall:

- 1) Staff and open the facilities to the public from 8:00 a.m. to 4:30 p.m. Monday through Friday. (EW shall not be required to staff the facilities on holidays observed by the State of Arkansas.)
- 2) Supervise the facility. Tasks may include, but are not limited to:
 - Sign in all center patrons
 - Monitor the use of the facility by patrons
 - Enforce the facility rules as established by the City
 - Ensure the safety of patrons.
 - Ensure the safety of the facility.
 - Answer phones
 - Open the museum for self-guided tours.
 - Refer Parks and Recreation questions to the staff at the Earl Bell Community Center.
- 5) Pay for the cost of additional phone lines, internet, gas, office supplies,
- 6) Not staff more than four employees at one time in the office.
- 7) Schedule and meet with CITY Parks Director on at least an annual basis to discuss facility needs and concerns.
- 8) Conduct its own operations and shall not use city staff to conduct its business.
- 9) Not make any permanent modification to the facilities without permission from the City.
- 10) Abide by any and all health code requirements. Storage of flammable, hazardous, or toxic substances at the Facilities is prohibited.
- 11) Be responsible for any of their items stolen or damaged, during the course of the year.
- 12) Not discriminate against any person or persons because of race, color, religion, sex, disability or national origin.
- 13) Maintain all keys they are issued. EW agrees keys shall be returned at the end of the agreement. Upon the loss of said keys a fee will be charged a fee of \$25 for each lock that has to be changed as a result of a lost key or a key that is not returned to the CITY at the end of the season.
- 14) Establish procedures to ensure individuals with criminal histories that include drug charges, assault charges and sexual assault charges are not permitted to work at the

facilities.

- 15) 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. EW hereby consents to the exercise of such authority by City over its members, officials and agents.
- 16) Agree that all Facilities are intended to be public facilities and not for use without permission from CITY.
- 17) EW agrees to be solely responsible for any and all damages to the facilities related to and arising out of EW's use of the Facilities during the term of the Agreement when the Facilities are being used by EW. This includes, but is not limited to, any and all persons employed by EW who use the Facilities during the terms of the Agreement. EW agrees to be solely responsible for all repairs and costs of repairs to the Facilities for any and all damages. Repair of damage shall conform to City of Jonesboro Building Codes and require approval of the City Inspector. Nothing contained herein shall be construed to defeat or diminish EW's right to seek recourse against those persons causing the damage.
- 18) Follow rules that have been established by the CITY Parks and Recreation Planning and Advisory Committee and City Staff concerning conduct at CITY facilities. Examples of rules may include but are not limited to:
- 19) Each year EW will provide to the CITY:
 - proof of liability insurance (if any)
 - contact information for the staff at the center
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V. Default of EW

a) If EW defaults in performance of this Agreement, and after written notice from CITY, EW 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.

c) If the Facilities are abandoned by EW, the CITY may terminate this Agreement. "Abandonment" shall mean the facilities are not staffed and opened by EW for two weeks.

VI. Default of CITY

- b) If CITY defaults in performance of this Agreement, and after written notice from

EW, 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 EW may terminate this Agreement.

VII. Assignability and Exclusivity

This Agreement is a privilege for the benefit of EW only and may not be assigned in whole or in part by EW to any other person or entity. Both parties understand that EW use of the Facilities is nonexclusive, except during the Primary Usage Period.

IX. 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.

EW

By: Experience works
Name: Christy Owen
Title: Employment and Training Coordinator

CITY:
Doug Formon
Mayor
CITY OF JONESBORO
1212 S. Church St.
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.

EXPERIENCE WORKS

By: _____
Name: _____
Title: _____
Date: _____

CITY OF JONESBORO

By: _____
Name: DOUG FORMON
Title: MAYOR
Date: _____

ATTEST

Donna Jackson, City Clerk, CMC

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