

ALLEN PARK GYMNASIUM AGREEMENT WITH

Joe Williams

This Agreement is made by and between Joe Williams of 1102 Laurelwood Court (hereinafter called "JW") and the CITY OF JONESBORO PARKS AND RECREATION of 1212 South Church St., Jonesboro, AR 72401 (hereinafter called "CITY"), on this 1st day of February, 2005 (the "Effective Date").

WHEREAS, Joe Williams has created an organization for the purpose of providing training and competition to female junior volleyball athletes.

WHEREAS, the CITY is the owner and operator of certain public park amenities known as the Allen Park Community Center (hereinafter called "FACILITIES").

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

Term

The CITY agrees to grant use and possession of the Allen Park Gymnasium as outlined here to JW for the operation of Junior Olympic Volleyball on Sunday afternoons and Tuesday evenings from February 1st, 2005 to July 1st 2005 and from November 1st to July 1st in 2006 and 2007. This contract shall be for a total of two and one half (21/2) years.

Either party hereto shall give the other notice in writing at least thirty (30) days prior to the expiration of the Term then in effect that it does not intend to extend the term of this Agreement.

If either party cannot fulfill the obligations of the contract it shall give the other notice in writing at least (30) days.

By mutual agreement of both parties the contract can be extended for an additional 1 year. Upon the expiration of the term of this agreement, the term of this agreement shall automatically be extended for additional one (1) year (the "Extended Term") unless either party hereto shall give the other notice in writing at least thirty (30) days prior to the expiration of the term then in effect that it does not intend to extend the term of this Agreement. The "Extended Term" shall be subject to all the terms and conditions of this Agreement save and except the fees for facility rental.

Use of FACILITIES by JW

1. The CITY and JW shall agree on the fees for facility rental. Fees shall be recommended by the Parks Director and JW and approved by the Public Service Committee of the City Council. JW shall pay the CITY \$6,440.00 for use of the gymnasium, locker rooms, and one community room.
2. The FACILITIES will be used by JW for events, practices and games on the dates

and time listed on a schedule to be presented to the Parks and Recreation Department at the beginning of each season.

3. JW will operate programs in accordance to non-discrimination requirements of Title VI of the 1964 Civil Rights Act.
4. It is also agreed that the party sponsoring any community recreation program(s) will furnish and supply all expendable materials necessary for conducting the program.
5. It is further agreed that program personnel must adhere to all provisions of the American's with Disabilities Act (ADA) that apply to a particular program.
6. At any time the FACILITIES are not being used by JW, CITY may assign the FACILITIES to other organizations or parties.
7. The CITY and JW understand and agree that the CITY shall at all times have the right to inspect the FACILITIES being used by JW and all JW sponsored activities related to the use of the FACILITIES.
8. The CITY and JW understand and agree that the CITY shall issue a key(s) to JW for use of the FACILITIES. The keys may not be reproduced or duplicated by JW. Upon failure to return any of said keys a fee will be charged for the replacement of keys and locks.
9. The CITY and JW understand and agree that the CITY may terminate this agreement if:
 - a. JW resigns from Junior Olympic Volleyball
 - b. The CITY and Junior Olympic Volleyball agree that JW should not represent the facility.

Obligations of CITY

CITY agrees to:

1. Provide volleyball standards.
2. Provide weekly court maintenance.
3. Provide the following maintenance and repairs in a manner generally equal to normal CITY maintenance and repair of similar CITY recreational FACILITIES:
 - a. Provide utilities for the facility
 - b. Maintain all area and court lighting systems. Repair or replace lights, wiring fuses, transformers and other equipment related to the lighting of each court to be used by JW.
 - c. Provide and maintain parking lot.
 - d. Maintain court surfacing, nets.
 - e. Maintain all bleachers, benches.
 - f. Maintain bathrooms including cleaning, stocking and repair.
 - g. Haul trash that has been deposited in trash receptacles as needed and de-litter the grounds as needed, Monday through Friday.
 - h. Maintain structural integrity of the facility.

Obligations of JW

JW shall:

1. Conduct volleyball programming to include volleyball tournaments, and practices.
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

courts.

3. Operate its own concession stand at FACILITIES, and all revenues shall be subject to the terms of this agreement. JW agrees to abide by any and all health code requirements for food services. Storage of flammable, hazardous, or toxic substances at the FACILITIES is prohibited.
4. JW is responsible for any of their items stolen or damaged, during the period of their use.
5. 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. JW hereby consents to the exercise of such authority by City over its members, officials and agents.
6. JW agrees to be solely responsible for any and all damages related to and arising out of JW's use of the FACILITIES during the term of the Agreement when the FACILITIES are being used by JW. This includes any and all persons associated with JW who use the FACILITIES during the terms of the Agreement. Nothing contained herein shall be construed to defeat or diminish JW's right to seek recourse against those persons causing the damage.
 - a. JW is not responsible for damages done by organizations using the FACILITIES concurrent to JW's use of the FACILITIES. (i.e. public schools).
 - b. Repair of damage to FACILITIES shall conform to City of Jonesboro Building Codes and require approval of the City Inspector.
7. Follow rules that have been established by the CITY concerning conduct at CITY courts. Examples of rules may include but are not limited to:
 - a. No smoking in facility.
 - b. Participant and spectator parking only in parking lots.
 - c. No pets allowed in the facility.
 - d. Non-marking volleyball shoes only.
 - e. No food or drinks other than water or sports drinks on courts.
 - f. No glass containers allowed on courts.
8. Prior to the commencement of each volleyball season during the Term of this Agreement, JW will provide to the CITY:
 - a. proof of \$1,000,000 liability insurance and indemnification
 - b. financial review of expenditures and revenues related to the management of the FACILITIES with CITY parks director and Mayor from previous year report
 - c. schedule of games including date, time
 - d. schedule of concession operations annual calendar including target starting date and events for each season.

Default of JW

1. If JW defaults in the performance of any of the covenants, terms, conditions or provisions of this Agreement, and after written notice from CITY, JW 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, at its option (but shall not be required to do so), perform the same for the account of JW and any amount paid or expenses incurred by the CITY in the

- performance thereof shall be deemed additional fees and payable when the annual installment of profits shall become due.
2. Additionally, if JW defaults in performance of this Agreement, and after written notice from CITY, JW 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.
 3. If the FACILITIES are abandoned by JW, the CITY may terminate this Agreement. "Abandonment" shall mean no practice or competitive play taking place on allocated court(s) during the entire Term of the agreement.

Default of CITY

1. 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, JW may, but shall not be obligated to perform CITY's duties and shall be entitled to deduct the cost from the payments required to be made by JW to CITY. In no event shall CITY be obligated to JW for any monetary damages.
2. If CITY defaults in the performance of any of the covenants, terms, conditions or provisions of this Agreement, and after written notice from JW, 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 JW may, at its option (but shall not be required to do so), perform the same for the account of CITY and any amount paid or expenses incurred by the JW in the performance thereof shall be deducted from the amounts required to be paid by JW to CITY.

Assignability and Exclusivity

This Agreement is assignable to another party, however, assignability shall be subject to the consent of the City of Jonesboro.

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.

JOE WILLIAMS

By: Joe Williams

Name: _____

Title: _____

Date: _____

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