

## **BEVERAGE MARKETING AGREEMENT**

This Beverage Marketing Agreement (the "Agreement") is made on < **July 1 2002**> between < **PEPSIAMERICAS ("Pepsi")** and < **Jonesboro Parks and Recreation at Allen Park Community Center**> (the "Customer"). PEPSI and CUSTOMER hereby agree as follows:

1. Beverages shall be defined as any and all non-alcoholic drinks except milk and hot beverages.
2. Brands shall mean any and all Beverages sold and distributed by PEPSI and any and all Beverages PEPSI may sell or distribute in the future including, but not limited to, carbonated soft drinks, non-carbonated soft drinks, juices, juice containing beverages, teas, sports or isotonic drinks, bottled waters and bottled coffees. All Beverages include all bottled, can and fountain beverages.
3. Facilities shall mean each one of CUSTOMER'S locations whether owned, operated, controlled leased or utilized by it including each and every vending location, special events, concession vending areas, cafeteria and all other locations that become operational for CUSTOMER during the Term of this Agreement (collectively the "Facilities"). PEPSI shall be allowed to participate in the bidding process that designates beverage suppliers to sell in said concession.
4. CUSTOMER hereby licenses and appoints PEPSI, through its Brands, as the sole, exclusive and official Beverage supplier, distributor and advertiser of CUSTOMER and the Facilities. CUSTOMER shall cause the Brands to be exclusively available at the Facilities and no Beverages or Beverage-related items including, but not limited to, cups or premium items, that compete with or are the same as or similar to the Brands shall be made available, advertised and/or promoted at the Facilities or by CUSTOMER. In the occasion of special events, camps, clinics and other similar events held in the Facilities, all distributed and sold beverages must be PEPSI Brands and the organizers and/or promoters must use PEPSI as their beverage supplier.
5. The term of this Agreement shall commence on **July 1, 2002** and end on **July 1, 2012**. (the "Term")
6. In exchange for CUSTOMER'S 10-year exclusive commitment and other valuable consideration and upon full execution of this Agreement, the parties agree as follows:
  - a. PEPSI will give two (2) basic basketball scoreboards for the gym.
  - b. The Allen Park Community Center will give exclusive sales to PEPSI.
  - c. Jonesboro Parks and Recreation will purchase all drinks from PEPSI.
  - d. PEPSI will maintain the scoreboards.

The Commission structure will be as follows:

<u>Beverage</u>	<u>Per Case Commission</u>	<u>Initial Vending Price</u>
20 oz. Bottles	24%	\$1.00
12 oz. Cans	24%	& .60

7. In the event this contract is terminated, the Customer shall allow Pepsi access to the Facilities for not less than sixty (60) days to take possession of each and every piece of Pepsi's equipment without any claim of trespass. The CUSTOMER also agrees to return to PEPSI the scoreboards and all equipment associated with them..

8. PEPSI shall be afforded space in a prominent position for exclusive Brand identification at various locations at the Facilities including, but not limited to any and all menu and message boards, in the event any space is provided for Brand identification. CUSTOMER shall purchase, install, be responsible for and maintain all such signage at all times. Any and all space afforded to PEPSI shall be clearly visible to the purchasing public. CUSTOMER expressly covenants and agrees that it will be responsible for policing those locations in the immediate vicinity of the Facilities under its control to insure that assigned areas for Brand identified advertising are maintained and further covenants and agrees that it will prohibit the placement of any and all advertising or promotional materials of any Beverages that compete with or are the same as or similar to the Brands at all areas in and around the Facilities.

9. During the Term, PEPSI shall provide and supply CUSTOMER with all necessary equipment to dispense the Brands at the Facilities without charge, provided that all Beverages are supplied to CUSTOMER at the Facilities by PEPSI as set forth above and that the only products dispensed from such equipment are the Brands. PEPSI will provide service on all equipment without charge. All rights, title and interest in all PEPSI equipment shall at all times remain with PEPSI.

10. CUSTOMER guarantees and warrants that the execution, delivery and performance of this Agreement will not and does not violate any agreements with or the rights of third parties. CUSTOMER represents and warrants to PEPSI that all appropriate approvals required to enter into this Agreement have been granted and the individual executing this Agreement has been duly authorized. Further, CUSTOMER also agrees that at no time will it challenge, contest, disclaim or deny the authority of the individual signing this Agreement or use as a basis to void, cancel or nullify this Agreement and claim that the individual signing below was not authorized to sign this Agreement.

11. In the event any of the covenants, agreements, terms or provisions contained in this Agreement shall be invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, agreements, terms and provisions contained herein shall not in any way be affected, prejudiced or disturbed thereby. Any failure by either party hereto to enforce one or more of the terms or conditions of this Agreement shall not constitute a waiver of such terms or conditions or of either party's right to thereafter enforce this Agreement.

12. In the event that there is a modification in any local, state or federal laws and/or regulations limiting or eliminating the sale and distribution of any of the Beverages included in this Agreement, CUSTOMER will permit PEPSI to either: (1) substitute the beverage for any other of Pepsi's Brands; (2) obtain a refund proportionate to PEPSI'S anticipated rate of return for the affected Beverage(s) (3) terminate this Agreement. Any refund due PEPSI shall be calculated from the day this Agreement became commercially frustrated due to the change in the above mentioned laws and/or regulations to the end of the Term.

13. This Agreement fully expresses the entire understanding of PEPSI and the CUSTOMER. Any and all prior understandings are hereby canceled. No future changes in the terms of this Agreement shall be valid, except when and if reduced to writing and signed by both parties, by legally authorized officials thereof.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date and year first above written.

*Pepsi Americas—Derek McPike*

By: *Derek McPike*  
Title: *On-premise*

*8-13-3*