

## AGREEMENT

This Agreement is made and entered into this 1st day of **June 1**, 2003 between Coca-Cola Bottling Company of Jonesboro, Arkansas having a principal place of business at 2215 East Highland Jonesboro, Arkansas 72402 ("Bottler") and City of Jonesboro and Parks and Recreation, having a principal place of business at 1212 South Church Street Jonesboro, Arkansas ("Account"). The parties are entering into this exclusive sponsorship agreement because the Bottler has made a soft drink proposal to City of Jonesboro and The Parks & Recreation, and Account wishes to grant to Bottler, and Bottler wishes to obtain, the exclusive rights (i) to offer Beverages for sale or sampling at the facilities and (ii) to market and associate Beverages with the Account and to promote their consumption and sale generally and on the Facilities. NOW, THEREFORE, in consideration of the promises herein contained, the parties hereto agree as follows:

1. Definitions.

(a) "Approved Cups" means disposable cups (12 oz., 16 oz., 24 oz., and 32 oz. minimum sizes) approved by The Coca-Cola Company ("Company") from time to time as its standard trademark cups.

(b) "Beverage" or "Beverages" means (i) all hot and cold, carbonated and noncarbonated, nonalcoholic beverages, including but not limited to, carbonated soft drinks, frozen carbonated and noncarbonated beverages, packaged waters, natural or artificially flavored fruit juices, fruit juice-containing drinks and fruit-flavored drinks (sweetened or unsweetened), tea products, hypertonic, isotonic, and hypotonic drinks, energy and fluid replacement drinks ("Sports Drinks"); and (ii) all drink or beverage bases, whether in the form of syrups, powders, crystals, concentrates or otherwise, from which such drinks and beverages could be prepared. "Beverage" or "Beverages" shall not include fresh-brewed unbranded coffee and tea products or milk.

(c) "Facilities" means the Earl Bell Community Center and Earl Bell Pool and all outdoor activities at Earl Bell and Allen Park Community Center. Including, without limitation Skate Park, Sprayground, Offices at Earl Bell and Maintenance Facilities for Earl Bell, including for each such location, the grounds, parking lots, all buildings, branded and unbranded food service outlets, concession stands, press rooms, vending locations at Earl Bell.

(d) "Products" shall mean Beverage products purchased from Bottler. "Competitive Products" mean any and all Beverages other than Products.

2. Term. Bottler shall have the rights provided herein for a term of Five (5) years, beginning **June 1**, 2003 ("Term"), unless mutually extended by written Agreement of the parties or unless sooner terminated as provided herein. "Agreement Year" means each twelve-month period beginning with the first day of the term.

A. The five year term for Allen Park and all its facilities; so mentioned in item 1-(c) will begin upon completion date.

3. Grant of Exclusive Beverage Availability and Beverage Merchandising Rights Account hereby grants to Bottler the following exclusive Beverage availability and merchandising rights:

(a) Exclusive Beverage Availability at Facilities. Bottler shall have the exclusive right to make Beverages available for sale and distribution at Facilities. Account agrees that Products shall be the exclusive Beverages sold dispensed, served or sampled at Facilities and at all functions at the Facilities. Account agrees that Account and all other persons serving Beverages at

Facilities, including without limitation concessionaires, food service vendors, team use, and booster clubs, shall purchase all Products, Approved Cups directly from Bottler. In particular, Account shall cause each and every administration and any other applicable persons or entities to do the following:

(i) Products in 20 oz. bottles (including POWERADE, packaged water and carbonated Products) shall be available at all concessions at all Facilities.

(ii) Obtain Beverage vending services from Bottler, who shall have the exclusive right to provide Beverage vending at Facilities. Account shall permit Bottler to place a minimum of Ten (10) vending machines in mutually agreed upon locations as required to meet Beverage availability needs at Facilities. Account shall further permit Bottler to place additional vending machines in all new parks or buildings used at any time during the Term by the Account,

(b) Exclusive Beverage Merchandising Rights. Bottler shall have the exclusive right to merchandise Beverages at Facilities including the following specific rights:

(i) Point -of-Sale Advertising. Materials promoting Products at the point of sale at Facilities shall be clearly visible to the purchasing public and shall be displayed in a manner and location acceptable to Bottler. Account shall be given the right to preview all materials and to reject any materials reasonably deemed by the Account to be inappropriate, or disruptive. Also, Bottler shall have the right to place vending machines and other dispensing equipment with full trademark panels on all sides, and the trademarks for Products shall be prominently listed on the menu boards of all food refreshment outlets at Facilities;

(ii) Promotions. Bottler shall have the right to undertake Product promotions, designed to increase the sale of Products at Facilities. The Account reserves the right to reasonably limit the location, size, frequency and nature of any such promotion.

4. Grant of Exclusive Beverage Advertising and Promotional Rights. Account hereby grants to Bottler the exclusive right to advertise and promote Beverages on and with respect to the Facilities, Account events and/or the Teams.

5. Consideration

(a) Upfront Sponsorship Fees. For the exclusive promotional rights at the Facilities, exclusive Beverage availability rights at the Facilities and other rights described herein. Bottler agrees to pay to Account in Year 1 a total of Fifteen Thousand **(\$15,000)** for the entire Term. Such funds shall be payable within thirty (30) days of the date that this Agreement is fully executed.

(b) Yearly Sponsorship Fees. For the exclusive promotional rights, exclusive Beverage availability rights and other rights described herein, Jonesboro Parks and Recreation Annual sponsorship to include Thirty Five Hundred Dollars **(\$3,500)** For Iron Will Endurance Series, Earl Bell Community Center, Allen Park Spray Ground, Allen Park Skate Park, and Youth Tackle Football Team.

The items described in Sections 5 (a) shall be collectively referred to herein as "Sponsorship Fees".

(c) Commissions. Bottler shall pay the Account commissions on full-service vending sales based on the following rates and initial vend prices:

**Park Locations** – Earl Bell, Allan Park

<u>Package</u>	<u>Year 1-6 Commission</u>	<u>Vend Price</u>	<u>Year 7-10 Commission</u>	<u>Vend Price</u>
20 oz. bottle – sports drinks	10%	\$1.00	10%	\$1.05
20 oz. bottles - carbonated	10%	\$1.00	10%	\$1.05
20 oz. bottles – <b>non-carbonated</b>	10%	\$1.00	10%	\$1.05
12oz cans- carbonated	10%	\$.60	10%	\$.65

The commission shall not be payable on any sales from vending machines not filled or serviced by Bottler. The commission shall be calculated based upon cash collected through the vending machines, net of taxes and fees. ("Commissions").

Bottler may adjust the vend prices on an annual basis as necessary to reflect changes in its costs, including cost of goods, subject to the Account's approval, such approval not to be unreasonably withheld.

(d) Bottler agrees to supply Account, upon proper notification, (1) concession trailer for special events. The concession trailer will have electrical hookups. The Bottler will retain ownership of the concession trailer. (2 weeks)

(e) Bottler agrees to annually provide Account with a maximum of fifty cases of 12 oz. can Products, valued at approximately Three Hundred Fifty Dollars (\$350.00) per year, at no charge to Account. Request for such Product shall be administered through only one Account representative.

(f) Bottler will provide Maintenance on Coca Cola Scoreboards Only, for the following locations:  
Earl Bell Community Center  
Allan Park

6. **Competitive Products.** During the entire Term and any renewal or extension thereof:

(a) **No Competitive Products may be sold, dispensed or served anywhere on the Facilities.**

(b) **No permanent or temporary advertising, signage or trademark visibility for Competitive Products will be displayed or permitted anywhere on the Facilities.**

(1) Exception: Earl Bell Gym until December 31, 2004

(c) Account will not enter into any agreement or relationship whereby any Competitive Products are associated in any manner with Account or the Facilities in any advertising or promotional activity of any kind.

(d) **Should Account learn of any Competitive Products advertising or promoting any association with the Account or Facilities, Account shall use its best efforts to stop such advertising or promotion to protect the exclusive associational rights granted to Bottler in this Agreement.**

7. **Pricing.** Bottler shall provide Beverages to Account and/or its concessionaires at the prices set out in Exhibit A. Pricing is subject to increase in the event of general increases in Bottler's wholesale pricing. Bottler agrees that yearly pricing increases will not exceed five (5%) percent. Any notification of a change in pricing will be communicated to Account thirty (30) days prior to changes.

8. **Equipment.**

(a) During the Term, Bottler will loan to Account, pursuant to the terms of Bottler's equipment placement agreement, at no cost, Beverage dispensing equipment reasonably required and as mutually agreed upon to dispense Beverages on the Facilities and any additional equipment reasonably required by Account in order to replace defective or worn out Beverage dispensing equipment ("Equipment").

(b) Account agrees that it will execute any UCC Financing Statements, or other documents evidencing Bottler's ownership of the Equipment, upon request of Bottler. The Equipment may not be removed from the Facilities without Bottler's written consent, and Account agrees not to encumber the Equipment in any manner or permit the Equipment to be attached thereto except as authorized by Bottler. Account will be responsible to Bottler for any loss or damage to said Equipment, reasonable wear and tear excepted.

9. Delivery and Service Calls Bottler will provide at a minimum twice a week delivery. If necessary, Bottler will provide three to four times a week delivery service. Emergency delivery service will be provided by offering same day delivery whenever reasonably possible.

The Bottler agrees to the following response times for service calls for Account:

Equipment: Bottler agrees to respond to service on equipment within four hours of original call. If service requires major repair such as refrigeration unit or compressor, Coca-Cola will replace refrigerator/cooler with new cooler within eight hours.

Scoreboards: Bottler agrees to provide twenty four hour response time on the scoreboards Coca-Cola maintains for Account.

10. Loss of Beverage Availability or Advertising Rights-Termination.

(a) If (i) any of the Products are discontinued on the Facilities or not made available as required herein by Account, its agents or concessionaires; (ii) any of the rights granted to Bottler herein are materially restricted or limited during the Term; (iii) any of the provisions concerning Competitive Products are not materially complied with; whether or not any event is beyond the reasonable control of Account, then Bottler may elect, at its option, but not as its sole remedy, to terminate this Agreement and Account shall pay to Bottler the amounts set forth in section 11 below;

(b) Account also agrees that Bottler shall have the right, but not the obligation, to terminate this Agreement without further liability if (i) any of the Facilities or a material portion of the Facilities is closed; or (ii) government regulation prohibits the availability of Beverages as outlined in Section 3; whether or not beyond the reasonable control of Account. In the event of such termination Account shall pay to Bottler the amounts set forth in section 11 below, or at Bottler's option, Bottler may extend the Term for a corresponding period.

(c) Account may terminate this Agreement for non-performance by Bottler after a thirty (30) day written notice and an opportunity to cure.

11. Repayment on Termination. Upon termination of this Agreement for any reason, Account will refund any paid and not yet earned Sponsorship Fees, Upfront Commissions and any other prepaid fees and payments pro rated to the date of termination or, if earlier, the date of any default hereunder by Account.

12. Right of First Refusal for Advertising and Beverage Availability. Upon termination of this Agreement, Bottler shall have the right of first refusal of any similar agreement regarding advertising and Beverage availability rights.

13 Representations, Warranties and Covenants. Account represents warrants and covenants to Bottler as follows:

(a) Account Authority. Account has full power and authority to enter into this Agreement and to grant and convey to Bottler the rights set forth herein. Upon expiration or revocation of such authority, then at its option and not as its sole remedy, Bottler may terminate this Agreement, and Account shall return any equipment and pay to Bottler a pro rata portion of the Sponsorship Fees.

(b) Account Binding Obligation. All necessary approvals for the execution, delivery and performance of this Agreement by Account have been obtained, and this Agreement has been duly executed and delivered by Account and constitutes the legal and binding obligation of Account enforceable in accordance with its terms.

14. Assignment. This Agreement or any part hereof shall not be assigned or otherwise transferred by either party without the prior written consent of the other party. Notwithstanding the foregoing, Bottler shall be entitled to assign its rights and obligations under this Agreement pursuant to the sale of substantially all of its assets.

15. Retention of Rights. Account shall not obtain, by this Agreement, any right, title or interest in the trademarks of the Company, nor shall this Agreement give Account the right to use, refer to, or incorporate in marketing or other materials the name, logos, trademarks or copyrights of the Company.

16. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee.

17. Entire Agreement. This Agreement, together with the Bottler's soft drink proposal made to the Account shall constitute the complete and exclusive expression of the intentions of the parties hereto and shall supersede all previous communications, representations, Agreements, promises or statements, either oral or written, by and between either party. This Agreement may be amended only in writing signed by each of the parties hereto

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be duly executed as of the date first above written.

**COCA-COLA BOTTLING COMPANY OF JONESBORO, ARKANSAS**

By: Travis Kiech

Printed Name: Travis Kiech

Title: Ed. Mgr.

Date: 6/10/03

**CITY OF JONESBORO, ARKANSAS (PARKS AND RECREATION)**

**\* Final approval pending CCE Legal/Corporate.**