

## **Exhibit A**

# **FACILITY USAGE AGREEMENT FOR ASSOCIATION USE OF JOE MACK CAMPBELL PARK**

### **CCSA Soccer**

This Agreement is made by and between the CCSA, Inc. (and/or Association), and the CITY OF JONESBORO PARKS AND RECREATION (CITY).

WHEREAS, CCSA is an Arkansas nonprofit organization organized to promote youth sports activities through the operation of its youth soccer program; and

WHEREAS, the CITY is the owner of that certain public park amenities known as the "Joe Mack Campbell Park", and hereafter referred to as the "Facilities"; and

WHEREAS, the Association is defined as a non-profit organization who provides activities in association with the City of Jonesboro Parks and Recreation Department.

WHEREAS, CCSA 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 CCSA and respective obligations of the parties regarding the use and maintenance of the Facilities;

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 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**

1. During the period of September 1<sup>st</sup> to November 10<sup>th</sup> and March 1<sup>st</sup> to May 31<sup>st</sup> CCSA shall have the primary right to use the CITY'S soccer facilities, and concession stands as assigned by CITY. The period shall be referred to as the "Primary Usage Period." CCSA may use the facilities during the Primary Usage Period for CCSA's regular youth spring and fall seasons, league playoffs, hosting

District or State Tournaments and make-up games; Junior High spring and fall seasons, playoffs and tournaments; classic soccer regular seasons, tournaments or playoffs.

2. Use of facilities shall also include one week-long summer camp outside of the Primary Usage Period.
3. Any events conducted by CCSA, or individuals actually representing CCSA as a coach or officer, outside of the "Primary Usage Period" and shall be subject to the standard rental rate for facilities.
4. At any time the soccer facilities are not being used by CCSA, CITY may assign such facilities, excluding concession stands, to other associations or parties.
5. CCSA has the "primary right" to use concession stands for any and all games, tournaments, or events that take place at the soccer complex during the "primary usage period" listed above. If the CCSA elected not to provide concessions during any event, then the organization holding the event may provide concessions outside of the concession stand. CCSA understands and agrees that the CITY will maintain a master schedule for the Facilities concession stands. CCSA understands that the CITY reserves the right to operate concession stands outside of the "primary right" dates of the concession stands.
6. CCSA may allow city high school teams (i.e. Jonesboro, Valley View, Nettleton, Brookland and Westside) to use the soccer fields for school sponsored games (not including tournaments) under this field usage agreement provided the Association notify the CITY of the scheduled times.
7. CCSA may host a high school tournament or assist a high school in hosting a tournament at Joe Mack Campbell Park provided that CCSA pay the tournament fee and provide field maintenance, restroom maintenance and cleaning throughout the tournament.
8. CCSA understands and agrees that at times weather and/or field conditions may result in CITY denying the use of certain fields during the Primary Usage Period. CCSA 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.
9. CITY shall at all times have the right to inspect its Facilities being used by CCSA and all CCSA sponsored activities related to the use of such facilities.
10. If CCSA, or anyone acting on behalf of CCSA, should desire to use the CITY'S Facilities for additional programs, leagues, tournaments, special events or programs outside the Primary Usage Period, CCSA shall complete an Application for Use of Facilities at the beginning of the season. Any and all additions, tournaments or special

programs outside the Primary Usage Period shall not be included in this Agreement, but shall require the completion of the Application for Use of Facilities.

11. The CITY reserves the right to exclude any individual or group from its facilities based on conduct, which it determines in its discretion to be objectionable or contrary to CITY interests. The Association hereby consents to the exercise of such authority by CITY over its officials, agents and members. If CITY exercises such authority, the CITY will notify the Association in writing

### **III. Obligation of the 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 fences and gates.
  - b) Maintain all turf areas on the fields to include mowing, weed control, fertilizing and herbicide spraying.
  - c) Provide sand, soil, etc. to be used in leveling or backfilling low areas when deemed necessary.
  - e) Provide utilities for lighting fields, parking and walking track.
  - f) Provide and maintain parking lots
  - g) Provide secured storage for CCSA equipment.
  - i) Maintain all bleachers, benches and pavilions.
  - j) Haul off trash that has been deposited in trash receptacles as needed and de-litter the grounds as needed.
  - k) Maintain structural integrity of concession stands, restrooms and storage buildings, pavilions, and concrete areas, including repair or replacements of damaged roofs, doors, and windows.
  - l) Maintain all area and field lighting systems. Repair or replace lights, poles, wiring fuses, transformers and other equipment related to the lighting of each field to be used by CCSA.
  - n) Maintain field irrigation system and watering schedules of turf areas.
  - o) Maintain adjacent park irrigation systems and the scheduling of watering turf areas.
  - p) Maintain restroom facilities, including cleaning and stocking with toilet tissue.
  - q) Maintain, repair or replace parking areas.
2. Promote CCSA's soccer program in the CITY'S brochure. Provide a meeting place for board meetings at no cost based upon availability and provided CCSA makes reservations in advance. Take calls for information and refer interested parties to CCSA when necessary.

3. Make determinations on field closures due to weather. 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.
  - a. Rain out determinations shall be evaluated using the following factors:
    - i. Is the game a local game or have teams traveled to compete?
    - ii. Is there an ability to reschedule the games?
    - iii. At what point in the athletic season is the game occurring?
    - iv. At what point in the growing season is the game occurring?
  - b. Games that are local, at the beginning of the athletic and growing season may have a high probability of being cancelled.
  - c. Games that have visiting teams from other cities and/or states, that are take place early in the growing season (i.e. April or May) may have a high probability of being played during wet conditions.
4. Reserve the right to utilize the Soccer Facilities when CCSA league games are not scheduled. If facility is abandoned, the agreement is terminated. "Abandonment" shall be defined as no competitive play taking place on allocated field(s) during the entire term of the agreement.

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, CCSA 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 CCSA to CITY under Article V. In no event shall CITY be obligated to CCSA for any monetary damages.

## **V. Obligations of CCSA**

CCSA shall:

- 1) Pay a usage fee to the CITY. The usage fee shall be used to offset the cost of materials for seeding, fertilizing, and weed control for the soccer complex for the calendar year according to the following schedule:
  - a. 2006-07: \$8,669
  - b. 2007-08: \$8,929
  - c. 2008-09: \$9,197
  - d. 2009-10: \$9,473
  - e. 2010-11: \$9,757
- 2) Pay the annual fee for each period to the City of Jonesboro by the anniversary of the contract each year.
- 3) Agree that the CITY will maintain a master schedule for the Facilities and CCSA will provide schedules of games one week prior to the start of the

season. CCSA understands that the master schedule is made on a first-come first-served basis outside of the "primary usage period" dates designated to CCSA.

- 4) Present the CITY a game schedule one week prior to the start of the season. Failure to provide a game schedule shall result in the following penalties: 1<sup>st</sup> offense: warning letter 2<sup>nd</sup> offense: warning letter and gates locked until schedule is presented 3<sup>rd</sup> offense gates locked and \$500 fine 4<sup>th</sup> offense gates locked and \$1,000 fine 5<sup>th</sup> offense contract voided. Penalties shall be carried over the life of the contract.
  - a. A game schedule is subject to change, however start dates of leagues and approximate dates of games must be provided for maintenance preparation.
- 5) At no cost or expense to the CITY, provide the following maintenance repair:
  - Mark game lines requiring paint on scheduled game days.
  - Maintain nets and goals.
  - The Association shall help police all litter on their field(s) to include playing areas, fences, bleachers, concession stands and adjacent grounds.
  - The Association shall be prohibited from performing any maintenance to any turf or field areas without written permission from the City.
- 6) 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.
- 7) Operate its own concession stand at Facilities, and all revenues generated from such use shall be for the sole and exclusive use of the CCSA. CCSA 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. CCSA is responsible for any of their items stolen or damaged, during the course of the year.
- 8) Be issued keys for use of the Facilities. The keys may not be reproduced or duplicated by CCSA. CCSA agrees to return "seasonal use keys" to the CITY within two weeks after the conclusion of the term of the season. Upon failure to return any of said keys a fee will be charged for the replacement of keys and locks. CCSA 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 season.

- 9) Agree that, except as provided in Article III above, no CITY maintenance equipment will be used by CCSA to conduct games, tournaments, camps or other events. CCSA will provide the equipment necessary to administer its own activities and events.
- 10) Agree that all Facilities are game fields only and not for practice without permission from the CITY. The CITY also reserves the right to let other organizations practice on fields provided notice given to CCSA.
- 11) Agree that only equipment with turf tires will be allowed on the fields at Facilities. Equipment without turf tires may be removed from the park at the request of City personnel.
- 12) Pay for utilities (i.e. electricity, water and telephone) for the concession stand during the primary usage period. The CITY will notify City Water and Light of primary usage period dates.
- 13) Be responsible for turning off lights at the end of play each evening during its priority use period. CCSA shall take into consideration use of the park by other activities or organizations.
- 14) Request approval by the CITY for placement of any and all additional concession stands, and/or trailers and follow city, county and state health and business codes.
- 15) Not discriminate against any person or persons because of race, color, religion, sex, disability or national origin.
- 16) Ensure CITY that all coaches and assistant coaches have not been convicted of a crime of the following nature: drugs, assault/violent crimes, sexual crimes.
- 17) Not engage in any business on the Premises 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.
- 18) Agree to be solely responsible for any and all damages related to and arising out of the Association's use of the Facility during the term of the Agreement when the Facility is being used by the Association. This is subject, but not limited to, any and all persons associated with the Association who use the Facility during the terms of the Agreement. The Association agrees to be solely responsible for all repairs and costs of repairs to the Facility for any and all damages. Repair of damage to concessions stand during event shall conform to City of Jonesboro Building Codes and require approval of the City

Inspector.

- 19) Agree to provide sufficient notice of all scheduled make-up game times which may require additional maintenance from the park staff.
- 20) Follow, and assist in enforcing rules that have been established by the Parks and Recreation Board and City Staff concerning conduct at CITY fields. Examples of rules may include but are not limited to:
  - a. Vehicles may not be driven up and parked at fields during activities.
  - b. No metal cleats may be worn on the walkways or playground equipment.
  - c. No rollerblading, scooters, etc. are allowed near the concession areas.
  - d. No smoking in bleacher areas.
  - e. Only authorized vehicles may be driven on sidewalks.
  - f. Spectator and association parking must be only in parking lots
  - g. No pets allowed in the park.
- 21) Agree that activity initiated by an Association coach or director that occurs on fields that have been closed will result in a letter and fine issued to CCSA. 1<sup>st</sup> offense \$20; 2<sup>nd</sup> offense \$50; 3<sup>rd</sup> offense \$100; 4<sup>th</sup> offense \$500; 5<sup>th</sup> offense \$1,000. Penalties shall not be carried over the life of the contract, but shall be applied per calendar year of the contract.
- 22) Provide the following information in the form of a presentation at the beginning of each calendar year to the Public Services Committee:
  - current by-laws for organization
  - proof of insurance and indemnification
  - financial review of expenditures and revenues
  - list of current officers with addresses, phone numbers and e-mail (if applicable).
  - annual calendar including target starting date and events for each season.

#### **V. Default of CCSA**

a) If CCSA defaults in the performance of any of the covenants, terms, conditions or provisions of this Agreement, and after written notice from CITY, CCSA 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 CCSA and any amount paid or expenses incurred by the Landlord in the performance thereof shall be deemed additional rent and payable when the next installment of rent shall become due.

b) Additionally, if CCSA defaults in performance of this Agreement, and after written notice from CITY, CCSA 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 CCSA, the CITY may terminate this Agreement. "Abandonment" shall mean no competitive play taking place on allocated field(s) during the entire Term of the agreement.

## **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 CCSA, 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 CCSA 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 CCSA in the performance thereof shall be deducted from the amounts required to be paid by CCSA to CITY under Article V.

b) Additionally, if CITY defaults in performance of this Agreement, and after written notice from CCSA, 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 CCSA may terminate this Agreement.

## **VII. Assignability and Exclusivity**

This Agreement is a privilege for the benefit of CCSA only and may not be assigned in whole or in part by CCSA to any other person or entity. Both parties understand that CCSA's use of the Facilities is nonexclusive, except as described above in this contract.

## **VIII 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 certified mail, postage prepaid, return receipt requested. Notices shall be mailed to the CCSA President and the Secretary. Notice shall be effective upon signing the date of the signing of the receipt.

CCSA:

Robin Nix , 1720 S. Caraway Road, Jonesboro, AR 72401



Dave Ferguson, Blue Cross and Blue Shield, 707 E. Matthews,  
Jonesboro, AR 72401

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CITY:  
Jason C. Wilkie; Director  
CITY OF JONESBORO  
Parks and Recreation  
1212 S. Church St.  
Jonesboro, AR 72401

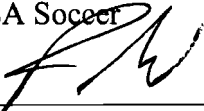
Any such notice shall be effective upon receipt if delivered in person or upon actual deposit in an official receptacle of the United States Postal Service, if mailed as aforesaid.

**Miscellaneous Provisions.**

- 1.) No modification of this Agreement shall be effective unless it is made in writing and is signed by the authorized representatives of the parties hereto.
- 2.) This Agreement shall be construed under and in accordance with the laws of the State of Arkansas, and all obligations of the CCSA and the CITY created hereunder are performable 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 wherein 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.

CCSA Soccer



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President

Date: 10/23/06