AGENDA
LAWTON YOUTH SPORTS TRUST AUTHORITY
SPECIAL MEETING
LAWTON CITY HALL- 212 SW 9th STREET, LAWTON, OKLAHOMA
3rd FLOOR CONFERENCE ROOM
THURSDAY, OCTOBER 13, 2022– 2:00PM

AGENDA

I. CALL TO ORDER/ ROLL CALL

II. REPORTS

- **A. Programs Committee-** Receive a report from Moini regarding the activities of the Program Committee.
- **B. Facilities Committee-** Receive a report from Chairman Henry regarding the activities of the Facilities Committee.
- **C. Parks & Recreation-** Receive a report from the City of Lawton Parks & Rec Division.
- **D. Eastern Sports Management-** Receive a report from Eastern Sports Management.

III. BUSINESS ITEMS:

- **A. Consider approving the minutes of the September 8, 2022 meeting.**

- **B. Consider approving a lease agreement between the City of Lawton and Lawton Youth Sports Trust Authority for the Lease of Land and Agreement for Use of a portion of Eastside Park and authorize the Chairman and Secretary to execute said lease agreement.**

- **C. According to Section 3.3 of the Management Agreement, consider authorizing Eastern Sports Management to conduct Indoor Facility Conceptual Planning Services and authorize the Chairman to execute an Authorization Letter to Eastern Sport Management.**

IV. ADJOURN

"The City of Lawton encourages participation from all of its citizens. If participation at any public meeting is not possible due to a disability, notification to the City Clerk at (580) 581-3305 at least 48 hours prior to the scheduled meeting is encouraged to make the necessary accommodations. The City may waive the 48-hour rule if interpreters for the deaf (signing) is not the necessary accommodation."

ITEM NO. **3A**

MTG. DATE **October 13, 2022**

LAWTON YOUTH SPORTS AUTHORITY
AGENDA ITEM COMMENTARY

ITEM TITLE: Consider approving the minutes of the September 8, 2022 meeting.

INITIATOR: Donalynn Blazek-Scherler, Recording Secretary

INFORMATION SOURCE: City Clerk's Office

BACKGROUND: Minutes from the September 8, 2022 meeting have been drafted and are awaiting approval

EXHIBITS: Draft minutes from September 8, 2022 meeting.

KEY ISSUES: N/A

FUNDING SOURCE: N/A

RECOMMENDED ACTION: Approve the minutes for the September 8, 2022 meeting.

MINUTES

LAWTON YOUTH SPORTS TRUST AUTHORITY

SPECIAL MEETING

LAWTON CITY HALL- 212 SW 9th Street, Lawton, Oklahoma

3rd FLOOR CONFERENCE ROOM

THURSDAY, SEPTEMBER 8, 2022 2:00 P.M.

Chairman Henry called the meeting to order at 2:00 p.m. in the Third Floor Conference Room in City Hall. Notice of meeting and agenda were posted on the City Hall notice board as required by law.

I. ROLL CALL

PRESENT:	Sean Fortenbaugh Brian Henry Albert Johnson, Jr. Hossein Moini Carey Monroe Clint Powell Randy Warren Steve Coleman
ABSENT:	Krista Ratliff
ALSO PRESENT:	Dewayne Burk, Deputy City Manager Michael Cleghorn, City Manager Tim Wilson, City Attorney's Office Christine James, Parks & Rec Director Matt Elliott, Eastern Sports Management (Via Phone) Donalynn Blazek-Scherler, Recording Secretary Kim McConnell, Lawton Constitution Eric Swanson, Southwest Ledger

I. REPORTS

A. Programs Committee- Receive a report from Moini and take action as necessary.

Chairman Henry stated I have just a quick update, and we will combine the Programs and Facilities meetings. We introduced John Wack, the Principal at Eastern, to Kevin Hime and Jason James with Lawton Public School. The relationship between LPS, Eastern, and us, well, we have to be tied at the hip. We share facilities, their kids are our kids, and our kids are their kids. We wanted to make sure all the folks got to meet each other. As we push forward, we may see where there may be even more opportunities for things in the future, potentially. We use the LPS facilities for volleyball and basketball right now. They have plans for some improvements that may benefit some of the youth sports programs and vice-versa.

B. Facilities Committee- Receive a report from Chairman Henry and take action as necessary.

Chairman Henry stated for those of you that thought the facilities committee wasn't going to do anything, we're really about to ramp up on that. We did have some discussion with John and mentioned it to Michael as well. It's time to start looking back at the facility, or the complex as we were calling it, to see what that might look like. Be on the look out in the next couple of weeks as we get that process started.

SKIP TO: D. Eastern Sports Management- Receive a report from Eastern Sports Management and take action as necessary.

Elliott stated I have a few quick updates on Fall Season, and then I have a little bit about Winter Season programming. Just to give you an idea on systems implementation system, Day Smart, the platform we use to register and house player cards, coaching cards, waivers, and things like that, is operational in all facets. We have seen a lot of positive feedback in the community so far with the ease of use of the system and the level of ability to store things online. Previously, things were just kept as paper documents, so the community has been pleased with that so far.

Elliott stated as far as our teams go, we currently have 42 teams registered in total. That includes 29 youth teams and 13 adult softball teams. We're still anticipating adding a couple here as registrations winds down. We are finalizing rosters, and we will have schedules coming out on Monday. Coaches' meetings and refs' meetings will be next week. Booster club members and presidents are invited to attend those as well.

Elliott stated from a people standpoint, we are finalizing the hiring of what used to be referred to as a "facility supervisor". We refer to them as "league marshals", but it's basically the same job description with different terminology. We're finalizing reaching out to referees and getting them scheduled.

Chairman Henry asked if the youth numbers were for volleyball and football together.

Elliot stated yes, that's both volleyball and football. I can give you the breakdown by age. Starting with flag football, kindergarten through 1st grade has 6 teams, 2nd and 3rd has 8 teams, and 4th and 5th grade has 3 teams pending a 4th. We may get creative in that league with how we're scheduling. The idea is that we can potentially schedule against YMCA teams as well just to create a better league environment with more competition. I have a meeting with John at the YMCA on Tuesday to discuss how we can organize that.

Monroe stated we've played against Boys and Girls Club in the age groups for flag. There's also Flowermound and Bishop. I would reach out to them as well.

Moini stated Flowermound is playing in this league.

Elliot stated for youth tackle, we have 4 teams in the 4^{th} and 5^{th} grade with a 5^{th} team pending a couple players. That's it as far as tackle football goes. For youth volleyball, we have 3 10U teams and 4 12U teams as it stands right now. For adult softball, we have 5 teams currently registered in the men's league and 8 teams registered in the co-ed league with 2 more pending. The pending teams are not counted in the numbers we currently have registered.

Chairman Henry thanked Elliott for his time and for pulling away to provide an update.

Elliott stated he would like to add that he appreciates the welcoming environment of the community and everyone involved. He stated he thinks everyone has been collaborative and constructive and helpful and welcoming. It has made his job infinitely easier.

Elliott stated the only other thing he has is a tidbit about Winter sports. He believes Parks and Rec ran basketball last year with no other offerings. He stated one of the ideas we are toying with, as far as Winter sports go, is futsal. That way we can offer somewhat of an indoor soccer, which could be a unique opportunity. We're also looking at continuing the volleyball season and reaching out to Lawton Public Schools to see if we can get a Winter season. In addition to that, we are looking at some of our skills development programs. We can have kids at a young age building skills, and they might proceed into one of our leagues as they get older. That's our process and our foundation. It really starts at a young age with youth sports, and as they grow, they become more involved. Those are just some tidbits we are looking at for Winter and some programming opportunities as well as they come up.

Monroe stated did he say football or futsal.

Chairman Henry stated he said futsal.

Elliott stated it is currently all the rage.

Monroe stated I'm excited we'll get to try it out and see what the community interest is.

Elliott stated yes, it's a lot of fun, and kids like it a lot. It's a fast sport because it's played on a hard court, so the ball moves quickly. It's a nice way to develop soccer skills because it's a much more skill-based sport since the ball moves quicker. It's really a good way for kids, especially ones that aren't used to playing soccer in the wintertime, to continue to develop skills.

Coleman stated he had someone reach out to him about officiating and asked Elliott if they should just contact him to ask those questions.

Elliott stated yes, they can just reach out to me. They can either email the program at the Play Lawton email, they can call the phone number on the website, or they can call my cell phone number. I'm trying to make myself as available as possible. We're currently working on organizing officials and getting schedules for them, so anyone that is interested, just have them reach out.

Moini stated he would like to ask James for feedback about how things have been as far as the relationship with the team since she has been working closely with them.

James stated easy-peasy. I've met Matt, Andrew, and John. They've all had shifts of two or more of them together at one time. They've been easy to work with. They have taken what little information I could provide them with and just ran with it. We've given them a list of names and phones, and they've done all the contacting. We've had a pretty good response from the public as well.

Chairman Henry stated there was a surprise in there. Adult softball?

James stated yes, they are going to take over and run it. They said they would do it, and they are used to doing it. They volunteered, and I said sure. They are used to running hundreds of sports at one time, so they thought that with adult softball some of the kids would be interconnected. We just didn't have enough for them to do. They have mentioned other adult sports as well.

Chairman Henry stated he has heard they run an adult volleyball league.

James stated those are the parents of the kids who are playing, so it's just a good building block for them.

BACK TO: C. Parks & Recreation- Receive a report from the City of Lawton Parks & Rec Division and take action as necessary.

James stated the only other thing she has is a usage agreement that is in draft form in the attorney's office now. It's regarding the facility at Eastside Ballpark.

Chairman Henry asked that when that is done, it be sent to him. He stated the Facilities Committee will be the sounding board for that.

James stated I started with the agreement we used to have with LPS and just tweaked it to match our situation.

Chairman Henry asked if the usage agreement for the gyms for volleyball are already in place.

James stated no because youth sports was coming along, so we didn't pursue that. She stated there is usually a blanket agreement with LPS that's already in place through the City. Then, we have a usage agreement with each principal at each school that we use.

Chairman Henry stated we had quite a bit of conversation with Kevin and Jason last week as well. I think to say they are all in is an understatement.

James stated yes. They usually use Central Middle School. That principal there has apparently been there for some time, so it would be routine for them to enter into an agreement like that.

Monroe stated the Activities Director for Lawton High voiced concerns to me because I think they are remodeling their gym, or something. She's concerned about the LPS teams and practice space and conflicts there. She stated I haven't heard anything in this arena about it.

James stated that's why we have a big one that says "yes, we'll work together", and then an individual one with each school. The school used to provide us with that school's schedule, and we would work around the school schedule. So, that would depend on if Lawton High was using Central's building or something like that. They would provide us with that information.

II. BUSINESS ITEMS:

A. Consider approving the minutes of the August 17, 2022 meeting.

Motion by Monroe, **Second** by Warren, to approve the minutes of the August 17, 2022 meeting. **AYE:** Henry, Johnson, Moini, Monroe, Powell, Warren, Coleman, Fortenbaugh. **NAY:** None. ***MOTION PASSED.***

B. Consider accepting the recommendation that Hatch, Croke, and Associates act as the accounting firm for Lawton Youth Sports Trust Authority and take action as deemed necessary.

An engagement letter between Lawton Youth Sports Trust Authority and Hatch, Croke, and Associates was provided. A copy of this engagement letter is available in the City Clerk's Office.

Chairman Henry stated Scott's office does a lot of work for the City of Lawton and their various trusts and authorities. All of the legal language is in there, but basically, they will put together all of our books, like the revenues and expenditures. They will also assist in submitting the payment requests through the City for reimbursement of services.

Chairman Henry stated by the way, when Eastern started, they said they wouldn't ask for their first reimbursement for 45 days.

Moini stated we are getting there pretty quick, though.

Chairman Henry stated yes, we're about to have to do that.

Chairman Henry stated he has had discussions with Scott about the volume that he sees right now. Instead of a flat fee each month that would start at $500.00 or more, he is willing, because it's the sports authority, to charge an hourly fee that totals up to no more than $500.00. The breakdown is $65.00 an hour for an admin person, $125.00 an hour for a CPA, and Scott thinks combined it would be an average of $75.00 an hour for what we will be doing. There may be months where it is $500.00, like at the beginning while we are getting it all set up, or at the end when we are putting everything together, but overall, it will be less than the $500.00 flat fee.

Chairman Henry stated we did approve the budget, and so did City Council. We have money in there for financial services to include an audit at the end of the year, so we do have a place in the budget for this. He stated one other thing is that they will prepare the checks, our executive team will sign them, and they will also prepare any 1099's of ours. That will not include Eastern's 1099's. There will be a few of those because Eastern will hire all of those folks.

Motion by Warren, **Second** by Fortenbaugh, to accept Hatch, Croke, and Associates to act as the accounting firm for the Lawton Youth Sports Trust Authority and authorize execution as necessary.

III. ADJOURN

Motion by Warren, **Second** by Moini, to adjourn the meeting of September 8, 2022. **AYE:** Moini, Monroe, Powell, Warren, Coleman, Fortenbaugh, Henry, Johnson. **NAY:** None. ***MOTION PASSED.***

There be no further business, the meeting adjourned at 2:23 PM.

ITEM NO. **3B**

MTG. DATE **October 13, 2022**

LAWTON YOUTH SPORTS AUTHORITY
AGENDA ITEM COMMENTARY

ITEM TITLE: Consider approving a lease agreement between the City of Lawton and Lawton Youth Sports Trust Authority for the Lease of Land and Agreement for Use of a portion of Eastside Park and authorize the Chairman and Secretary to execute said lease agreement.

INITIATOR: Brian Henry, Chairman

INFORMATION SOURCE: Christine James, Parks & Rec Director

BACKGROUND: In February 2022, the Lawton Youth Sports Trust Authority was created for the purposes of promoting high quality youth athletic programs in the City of Lawton. Per the agreements of the Lawton Youth Sports Trust Indenture, LYSA is to lease, rent, furnish, or provide acquired property, buildings, improvements, and facilities for the activities and operations of the Lawton Youth Sport Trust Authority. The City of Lawton Parks & Recs Department and the Lawton Youth Sports Trust Authority have agreed that it is in the best interest of both parties to execute a lease agreement that terminates on December 31, 2023 for the lease of land and use of facilities for a section of Eastside Park, more particularly described as "A parcel of land lying in the SE ¼ of Section 27, Township 2 North, Range 11 West, of the Indian Meridian, Comanche County, Oklahoma, further described as the S/2 NW/4 SE/4 & N/2 NW/4 SW/4 SE/4 SW5/ SE/4.

EXHIBITS: Lease Agreement between the City of Lawton and Lawton Youth Sports Authority for a portion of Eastside Park .

KEY ISSUES: Is the Lawton Youth Sports Authority agreeable to the terms of the lease agreement?

FUNDING SOURCE: Facilities Fund

RECOMMENDED ACTION: Approve a lease agreement between the City of Lawton and Lawton Youth Sport Trust Authority for the Lease of Land and Agreement for Use of a portion of Eastside Park and authorize the Chairman and Secretary to execute said lease agreement.

LEASE AGREEMENT

THIS AGREEMENT is entered into this ____day of _______, 2022 by and between the City of Lawton, Oklahoma, a municipal corporation (hereinafter called "City"), and The Lawton Youth Sports Trust Authority, a public trust (hereinafter called "Authority").

WITNESSETH:

In consideration of the mutual covenants herein contained, the parties hereby stipulate and agree that the purpose of this Lease Agreement is to aid the Authority in its mission to promote, create and grow youth sports opportunities in the City of Lawton by administering a diverse set of programs that foster increased participation in athletics.

1. **Lease of Land.** City hereby lets and leases to the Authority, for good and valuable consideration of ten dollars ($10.00) payable to the City at commencement of the lease, a portion of Eastside Park, more particularly described as follows:

> A parcel of land lying in the SE ¼ of Section 27, Township 2 North, Range 11 West, of the Indian Meridian, Comanche County, Oklahoma, further described as the S/2 NW/4 SE/4 & N/2 NW/4 SW/4 SE/4 & E/2 SE/4 SW/4 SE/4;

Location map attached.

2. **Provisions.** The provisions of the Agreement for Use of Recreational Complex ("Eastside Park") are as follows:

(A) Authority shall have the exclusive use of four (4) ball fields, as described on the attached map, for the complete term of this agreement.

(B) Utilization of the ball fields by the Authority shall be for the operation of public youth and or adult sports programing.

(C) During the period that Authority has exclusive use of the ball fields, Authority shall in addition have exclusive use of the scoreboards and lights associated with the fields. During this period the City shall continue to assume all responsibility for all maintenance of the four (4) ball fields including lights, grounds, turf, weed control, mowing, edging and fencing associated with the fields. The concession stands, restrooms, playground, and common areas may be utilized by the Authority, but not exclusively, and will continued to be maintained by the City. Authority will be provided the necessary keys for use of the facilities. Authority shall ensure that all facilities are secured at the completion of each day's activities.

(D) City will turn the water to the main line of the system on and off as requested by Authority. City will control the operation of the system.

(E) Authority will be responsible for trash and debris cleanup after the Authority's use of the fields.

(F) Authority will be responsible for the repair of any damages caused by its use.

(G) City shall bear all cost for electricity used at Eastside Park.

(H) During the term of this agreement, any alleged liability which may have been caused by or during such use, for example property damage or personal injury to third parties, shall be administered by the party with the exclusive use subject to the terms and conditions of the Oklahoma Governmental Tort Claims Act, Oklahoma Statutes, title 51 (1991), §151 et seq., including the exemptions from liability found at §155. In no way is it intended that this section impose liability for any damages unless said liability is determined by a court of competent jurisdiction. Each party shall be responsible for damage to the complex carried by the negligent act of its employees, agents and servants.

3. **Term.** This lease shall commence on the date first written above and shall terminate on December 31, 2023, unless terminated earlier as agreed upon by both parties.

4. **Concessions.** Authority shall honor any "Lease and Non-Exclusive Concession Operation Agreement" between the City and third party.

5. **Improvements.** Any improvements to the leased premises desired by Authority shall be made solely at Authority's expense.

6. **Disposition of Property.** Upon the expiration or termination of this Lease Agreement, any improvements made by the Authority shall become the sole property of the City. City will not pay or reimburse Authority for any such improvements made to the leased premises.

7. **Assignment and Sublease.** The Authority may assign or sublease under this agreement provided any assignment or sublease continues fulfillment of the Authority's purpose as set forth in Article III of the Authority's Trust Indenture. Nothing in this paragraph shall prevent the City from permitting another organization or entity to

operate concessions as provided in paragraph 4.

8. **Successors and Assigns.** This Lease Agreement and all the terms, covenants, conditions and provisions thereof shall inure to the benefit of and be binding upon the legal representatives, successors and assigns of the parties hereto.

9. **Interpretation.** The parties, in making the Agreement, have entered into it with the hope that the use of the facilities to be provided at the recreation complex shall be of great advantage to the people of the City of Lawton, and they pledge to each other on all occasions, when and if questions arise concerning the true intent and meaning of this contract, that they will endeavor to so treat each other as to give evidence of the highest good faith and the greatest consideration each for the other, in order that unseemly and unfortunate differences may never develop between them.

10. **Governing Law, Jurisdiction, and Venue**. This Agreement will be governed by the laws of the State of Oklahoma. Jurisdiction and venue will be in the District Court of Comanche County, Oklahoma, or the Federal Western District of Oklahoma.

11. **Complete Agreement.** This written document, contains the entire agreement of the parties with respect to the subject matter hereof, and can be amended only by a written agreement signed by both parties.

12. **Waiver.** No waiver of any breach of covenant, condition, term or provision herein contained shall be construed as a waiver of the covenant, condition, term or provision itself or any subsequent breach thereof.

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

LAWTON YOUTH SPORTS TRUST
AUTHORITY, a public trust

BY:______________________________
Brian Henry, CHAIRMAN

ATTEST:

____
SECRETARY

(SEAL)

CITY OF LAWTON, A Municipal
Corporation

BY:________________________________
STANLEY BOOKER, MAYOR

ATTEST:

____
TRACI L. HUSHBECK, CITY CLERK

(Seal)

Approved as to form and legality this _____day of ___________, 2022.

____
JOHN RATLIFF, CITY ATTORNEY

ITEM NO. **3C**

MTG. DATE **October 13, 2022**

LAWTON YOUTH SPORTS AUTHORITY
AGENDA ITEM COMMENTARY

ITEM TITLE: According to Section 3.3 of the Management Agreement, consider authorizing Eastern Sports Management to conduct Indoor Facility Conceptual Planning Services and authorize the Chairman to execute an Authorization Letter to Eastern Sport Management.

INITIATOR: Brian Henry, Chairman

INFORMATION SOURCE: Chairman Henry

BACKGROUND: On August 23, 2022, Lawton Youth Sports Trust Authority entered into a Management Agreement with Eastern Sports Management, LLC. Section 3.3 (Indoor Facility Conceptual Planning Services) of this Management Agreement states that "If informed in writing by LYSA at any time after the Effective Date, Manager will perform the following addition services in order to assist LYSA in the conceptual planning of a potential indoor sport complex in Lawton: Market Analysis, Conceptual Facility Design, Site Selection Report, Business Plan Development, and Economic Impact Study". Through the execution of the attached Authorization Letter, LYSA is triggering this section of the Management Agreement and requesting Eastern Sports Management, LLC begin their role in the Indoor Facility Conceptual Planning.

EXHIBITS: Management Agreement dated August 23, 2022 and Proposed Authorization Letter

KEY ISSUES: N/A

FUNDING SOURCE: N/A

RECOMMENDED ACTION: Authorize Eastern Sports Management to conduct Indoor Facility Conceptual Planning Services and authorize the Chairman to execute an Authorization Letter to Eastern Sports Management.

MANAGEMENT AGREEMENT

THIS MANAGEMENT AGREEMENT (the "**Agreement**") is entered into effective as of August 9, 2022 (the "**Effective Date**") by and between Eastern Sports Management, LLC, a Virginia Limited Liability Company ("**Manager**"), and the Lawton Youth Sports Authority a Public Trust of the City of Lawton in Oklahoma ("**LYSA**").

WHEREAS, Manager is in the business of providing professional guidance in connection with the operation of sports facilities and sports programs; and

WHEREAS, LYSA is charged by the City of Lawton to oversee and grow sports programming in the Lawton area ("the **Programs**"); and

WHEREAS, LYSA issued a Request for Proposals (RFP) on May 16, 2022 seeking Youth Sports Management Services, Manager submitted a response to the RFP on June 7, 2022, and LYSA selected Manager on June 22, 2022; and

WHEREAS, LYSA desires to contract with Manager to assist in the management of sports programming and sports facilities and to provide such other services as are more particularly identified and described herein, and Manager desires to accept such engagement and perform such services, all in accordance with the terms and subject to the conditions of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and undertakings hereinafter contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

I. TERM

1.1 Term of Agreement. This Agreement shall commence upon the Effective Date and shall continue in full force and effect for a term of five (5) years (the "**Term**"), unless sooner terminated as provided herein. Upon the expiration of the Term, the contract shall auto renew for 1 year terms, unless the parties negotiate in good faith to renew or replace this Agreement; provided however, that under no facts or circumstance shall either party be obligated to agree to any such renewal or replacement, whether upon the same terms as set forth in this Agreement or upon any other terms. The Term is further divided into an initial four-month period from the Effective Date (the "**Study Period**") and a 56 month period from the end of the Study Period to the end of the Term ("**Operations Period**").

II. TERMINATION

2.1 Termination by LYSA. LYSA may terminate this Agreement:

(a) At any time after the first twelve (12) months of the Term by giving Manager at least ninety (90) days prior written notice of such termination and paying Manager a lump sum equal to fifty percent (50) of the Management Fees (as defined herein) for each month remaining in the Term;

(b) At any time during the Term pursuant to Section 2.3 or Section 2.4 below.

2.2 Termination by Manager. Manager may terminate this Agreement:

(a) At any time during the first ninety (90) days of the Term in the event that LYSA has grossly misrepresented the financial or legal status of the Programs, or a material adverse change in the financial condition of LYSA or the Programs occurs within such period; or

(b) At any time during the Term pursuant to Section 2.3 or Section 2.4 below.

2.3 Termination for Breach. If either party shall breach any of the covenants undertaken herein or any of the duties imposed by this Agreement, such breach shall entitle the non-breaching party to terminate this Agreement; provided, however, that the non-breaching party shall first give the breaching party at least thirty (30) days written notice specifying such breach in reasonable detail, and, if at the end of such time the breaching party has not cured or removed such breach, then the non-breaching party may terminate this Agreement immediately or at any designated future time by delivering to the breaching party a written notice of termination specifying the effective date of such termination. If the Manager is the breaching party, then it will not be entitled to receive a lump sum payment equal to fifty percent (50) of the Management Fees (as defined herein) for each month remaining in the Term.

2.4 Termination upon Expiration, Mutual Consent of the Parties or by Operation of Law. Upon the expiration of this Agreement, whether by lapse of time, pursuant to the terms of this Agreement or by the mutual consent of the parties, by operation of law, or in any other manner whatsoever. If the Manager consents to the termination of this agreement, then it will not be entitled to receive a lump sum payment equal to fifty percent (50) of the Management Fees (as defined herein) for each month remaining in the Term.

(a) LYSA shall:

(i) Immediately and permanently discontinue the use of Manager's trade name or logo, and remove or destroy, at LYSA's sole cost and expense, all signs containing Manager's trade name or logo, the use of which is prohibited;

(ii) Promptly surrender to Manager all stationary, letterheads, forms, printed matter, promotional displays, and advertising containing Manager's trade name or logo, the use of which is prohibited; and

(iii) Immediately and permanently discontinue all references to Manager as an authorized manager of LYSA, and modify all advertising already placed or contracted for which would otherwise be published, broadcast, displayed, or disseminated after the date of termination hereof to delete the reference to Manager as an authorized manager of LYSA.

(b) Manager shall:

(i) Promptly cause all funds collected by Manager on behalf of LYSA, or which are in Manager's control pursuant to this Agreement, to be paid or turned over to LYSA without setoff or other diminution;

(ii) Immediately and permanently discontinue the use of LYSA's trade name or logo, and remove or destroy, at Manager's sole cost and expense, all of Manager's signs and promotional materials containing LYSA's trade name or logo, the use of which is prohibited;

(iii) Promptly surrender to LYSA all stationery, letterheads, forms, printed matter, promotional displays, and advertising containing LYSA's trade name or logo, the use of which is prohibited; and

(iv) Immediately and permanently discontinue all references to Manager as an authorized manager or agent of LYSA, and modify any advertising already placed or contracted for which would otherwise be published, broadcast, displayed, or disseminated after the date of termination hereof to delete the reference to Manager as an authorized manager of LYSA.

2.5 Termination Fees. Upon the expiration or termination of this Agreement, whether by lapse of time, pursuant to the terms of this Agreement, upon the mutual consent of the parties, by operation of law, or in any other manner whatsoever, LYSA shall pay to Manager all Management Fees, if any, which arose prior to the effective date of such termination and are due and payable pursuant to the terms of this Agreement. No other fees or payments shall be due to the Manager upon termination unless expressly provided in this Agreement. This Section 2.5 shall survive the sale of LYSA and insolvency of LYSA, and the rights and obligations shall pass to their successors, receiver, administrator, or liquidator, or if Manager elects to terminate the Agreement, all fees and payments outlined above shall be due and payable as an unsecured creditor against the tangible assets of LYSA and the Programs.

III. DUTIES OF MANAGER

3.1 Study Period Services. Subject to the other terms and conditions of this Agreement, during the Term, Manager shall provide the following services during the Study Period (collectively, the "**Study Period Services**"):

(a) Assume management and operation of existing City of Lawton Parks and Recreation (**City P&R**") youth sports programming already listed for registration as of the Effective Date and scheduled to be run in the fall of 2022.

(b) Conduct a marketing campaign to bolster existing City youth sports programs.

(c) Identify, Recruit, Interview, and Hire a Senior Program Director to oversee the day-to-day operations of sports programming in Lawton (the "**Director**"). The Director shall at all times be and remain an employee of Manager, and shall have such responsibilities as Manager may assign to him or her from time to time.

(d) Conduct a study of the Lawton area sports market:

(i) Market Analysis
- Audit existing LYSA Programming
- Potential customer and participant phone calls and interviews
- Demographic analysis
- Competitive analysis

(ii) Transition Plan Development
- Review Existing Operations at LYSA and Lawton P&R.
- Audit Sports asset Maintenance and Use
- Audit current employee and contractor utilization
- Develop Transition plan from current administration and operation to outsourced, third-party administration and operation.
- Develop outsourced Management and Operation Agreement.

(iii) Business Plan Development
- Website and Registration Software Plan
- Marketing Plan
- Pro Forma Development

3.2 Operations Period Management Services. Subject to the other terms and conditions of this Agreement, during the Operations Period of the `Term, Manager shall provide the following services (collectively, the "**Services**"):

(a) **Personnel and Human Resources Services**:

(i) Recruit, hire, train, supervise, and, if necessary, terminate staff of the Programs;

(ii) Prepare and implement a personnel policy manual for staff of the Programs, and which shall contain job descriptions, wage and salary schedules, and general personnel policies for the Programs;

(iii) Monitor and update the personnel policy manual for the Programs as necessary to comply with applicable federal, state, and local statutes, regulations, and industry standards;

(iv) Institute, monitor, and modify, as needed, appropriate employee benefits for all staff of the Programs, including but not limited to, group insurance benefits, medical benefits, bonus plans, and pension plans;

(b) **Financial Services**:

(i) Develop, implement, and supervise the maintenance of a bookkeeping system kept in accordance with generally accepted accounting principles, and provide start-up and ongoing training for such bookkeeping system;

(ii) Within ninety (90) days of the Effective Date, develop and deliver to LYSA for approval an initial operating budget for the Programs for the current fiscal year setting forth an estimate of operating revenues and expenses, which shall be sufficiently detailed and contain an explanation of operating revenues and expenses as well as all budget assumptions, and thereafter deliver to LYSA on an annual basis the following budget information and documentation for the Programs with respect to the next fiscal year no later than forty five (45) days after the end of the prior fiscal year:

(A) A capital expenditure budget outlining a program of recommended capital expenditures for the City facilities used to deliver the Programs;

(B) An operating budget setting forth an estimate of operating revenues and expenses for the Programs;

(C) A statement of cash flows for the Programs; and

(D) A projection of cash receipts and disbursements of the Programs based upon the proposed operating budgets in such detail as may be required by LYSA (the initial operating budget and all annual budget information and documentation referenced above shall be referred to herein collectively as the "**Budgets**");

(iii) Maintain current bank accounts for the operation of the Programs;

(iv) Supervise the preparation of and delivery to LYSA on or before the tenth (10^{th}) day of each month during the Term the following information and documentation related to the most recent previous month end:

(A) Reports with respect to the income, expenses, and cash flows, and overall performance of the Programs;

(B) Copies of all bank reconciliations for the Programs;

(C) Accounts receivable reports, accounts payable reports, operating statements, trial balances, and detail general ledgers for the Programs; and

(D) Such other information and documentation regarding the Programs as LYSA may reasonably request from time to time;

(v) Maintain orderly payment of vendor invoices, employee payroll, payroll taxes, and other obligations of the Programs, provided that Manager's responsibility under this Section 3.2(b)(v) shall be limited to the exercise of reasonable diligence and care that a commercially reasonable manager would exercise to apply the funds collected in the operation of the Programs to the Programs' obligations in a timely and prudent manner, and Manager shall have no separate liability with respect to any obligation of the Programs except to the extent due to any breach of this Agreement by Manager, any material misrepresentation of Manager, any misappropriation of LYSA's or the Programs' funds, or fraud or any criminal act of Manager or its officers, employees, agents, or representatives;

(c) **Marketing Services**:

(i) Develop and maintain an ongoing marketing program for attracting customers to the Programs, which shall be submitted to LYSA for its prior review and approval, and thereafter provide quarterly reports to LYSA regarding the success of the marketing program and any proposed modifications thereto;

(d) **Administration Services**:

(i) Prepare and implement an operational plan for the management of all aspects of the Programs, including but not limited to, staffing, accounting, billing, collections, maintenance, repairs, and food services (the "**Operational Plan**"), which shall be submitted to LYSA for prior review and approval and implemented in accordance with the other overall policies and procedures approved by LYSA, and thereafter, on a quarterly basis, Manager shall provide LYSA with an update on the progress of the implementation of the Operational Plan and any proposed modifications thereto;

(ii) Maintain the facilities used to deliver the Programs in good condition and repair in accordance with the Budgets approved by LYSA, provided that any capital expenditures or repairs required with respect to the facilities used to deliver the Programs and not included in the approved Budgets shall require the prior written approval of LYSA;

(iii) Timely file all reports, applications, licenses, permits, authorizations, and approvals for the Programs that are required by local, state or federal laws, rules, regulations or court decisions;

(iv) Timely collect and remit all normal operating business taxes, including, but not limited to sales taxes, property tax, personal property tax, franchise tax, annual license renewals, or other fees and reports necessary for the lawful operation of the Programs in accordance with the approved Budgets (but specifically excluding personal income taxes of LYSA's trustees);

(v) Purchase supplies, equipment, furniture, furnishings, and such other materials, equipment, and services that are necessary or desirable for the efficient operation of the Programs in accordance with the approved Budgets;

(vi) Subject to LYSA's prior approval, negotiate, execute, administer, and terminate all service contracts in accordance with the approved Budgets and Operational Plan, and review all service contracts on a periodic basis and modify as needed in accordance with the approved Budgets and Operational Plan;

(e) **Policy and Goal Services:**

(i) Implement other policies, procedures, and goals for the Programs, subject to the approved Budgets and Operational Plan and the overall review and approval of LYSA.

Notwithstanding the foregoing or anything else to the contrary of terms contained herein, the Services shall not include, and Manager shall not undertake or permit, any action which would: (a) cause LYSA or the Programs to operate in an improper or illegal manner; (b) result in a default or breach of any contract or agreement to which LYSA or the Programs are a party or by which they or their assets are bound; (c) violate LYSA's governing documents or any duly adopted action of LYSA or its members or managers; (d) affect the tax classification or any tax election made by LYSA; (e) cause the dissolution or liquidation of LYSA or the Programs; or (f) would reasonably be expected to have a material adverse effect on the assets or operations of LYSA or the Programs.

3.3 Indoor Facility Conceptual Planning Services. If informed in writing by LYSA at any time after the Effective Date, Manager will perform the following additional services in order to assist LYSA in the conceptual planning of a potential indoor sport complex in Lawton:

(a) Market Analysis

(i) Potential facility participant phone calls and interviews
(ii) Potential event organizer phone calls and interviews
(iii) Demographic analysis
(iv) Competitive analysis

(b) Conceptual Facility Design

(i) Design Charrette with development of Three Options
(ii) Develop Selected Option
(iii) Deliverables
- Design Narrative
- Architectural Site Plan
- Floor Plans
- Two interior renderings

(c) Site Selection Report

(i) Research available sites for new facility.
(ii) Rank sites according to criteria including:

- Acreage
- Geometry
- Topography
- Existing Conditions
- Utilities
- Stormwater Management
- Price
- Hotels
- Transportation

(iii) In consultation with LYSA, the City and other community groups, select the best site for purposes of developing conceptual site plan and conceptual budget.

(d) Business Plan Development

(i) Meetings with Lawton Stakeholders
(ii) Pro Forma Development
(iii) Conceptual Stage Project Budget

(e) Economic Impact Study

(i) Study Elements

- Amount of direct and indirect sales and revenues to be generated in the community
- Number of new direct and indirect jobs created in the community
- Salaries to be paid to these workers
- Number of new workers moving to the community
- Number of new residents
- Number of out-of-town and area visitors to the facility
- Taxable sales expected in the community including sales generated by direct and indirect workers, sales at the facility and sales generated in the city by out-of-town visitors to the facility
- Lodging sales expected in the community

(ii) City Revenue Analysis

- Sales taxes
- Property tax on new commercial property on local tax rolls
- Hotel taxes and other taxes and user fees
- The annual net benefits for the City and local taxing districts will be calculated for ten years

3.4 Third Parties. In the event Manager determines it is necessary or advisable to engage any third parties to perform any part of the Services, Manager shall use all commercially reasonable efforts to cause such third parties to perform such Services in timely, competent, and professional manner; provided however, that Manager shall remain primarily liable for the performance of any such Services delegated to such third parties.

3.5 Restrictions on Manager. Notwithstanding the foregoing or anything else to the contrary herein, Manager shall not take any of the following actions without the prior written approval of LYSA: (a) hire or terminate any employee or staff member of LYSA or an employee that is providing consistent services to LYSA; (b) borrow money or otherwise incur any indebtedness on behalf of LYSA or the Programs; (c) bring, defend, compromise, or settle any claim or lawsuit on behalf of LYSA or the Programs; (d) sell or transfer any assets or rights of LYSA or the Programs; (e) undertake any unbudgeted improvements, repairs, or other modifications to the facilities used to deliver the Programs in excess of $1,000 (except in the event of an emergency); or (f) enter into any merger, consolidation, or restructuring transaction involving LYSA. When presented by Manager with any request for approval on any of the above or any other matter requiring approval, LYSA will provide a decision on such request as expeditiously as possible.

3.6 Licensure and Accreditation. Manager represents and warrants to LYSA that it is fully licensed and duly accredited, to the extent required by any applicable governing authorities, to perform the Services under this Agreement, and shall maintain at Manager's sole cost and expense all such required licenses and authorizations throughout the Term of this Agreement.

IV. DUTIES OF OWNER

4.1 Management and Study Fees. In exchange for Manager's performance of the Services, Manager will draw from the Programs' bank account a monthly management fee on or before the first (1st) day of each Month during the Term (the "**Management Fee**"), the amount of which shall be calculated as follows:

(a) Months 1 through 4 of the Term— $17,500 per month;

(b) Months 5 through 24 of the Term – $7,500 per month;

(c) Months 25 through 60 of the Term – $10,000 per month; and

(d) If desired by LYSA in writing, $40,000 for Indoor Facility Conceptual Planning Services

4.2 Payment. Provided that Manager is not in default of this Agreement at the time payment is due and there are sufficient funds in the Programs' bank account(s), Manager shall be authorized to transfer the Management Fee due to Manager pursuant to this Agreement from the Programs' bank account(s) to its own bank account in satisfaction of LYSA's obligations to pay such amounts pursuant to this Section 4.3.

4.3 Transition of Program Financial Management/Additional Fund Requirements. During the Study Period, specifically with regards to the fall 2022 City P&R programming, all registration fees and payment of contract labor and other vendor fees will be managed by City P&R. When Manager lists Winter 2022/23 programming for registration online, Manager will then forward all registration revenue into the Programs' bank account and be responsible for payment of all expenses related to those programs from the Program's bank accounts.

It is anticipated by the Manager and LYSA that during at least the first 36 months of the Term that Program expenses (including the Management Fee) will be greater than Program revenues. Manager will provide an estimate of those projected shortfalls for the coming calendar year 2/23 by the end of the Study Period. During the course of the term, whether projected in Manager's Budgets or not, in the event there are insufficient funds in the Programs' bank account(s) to meet the operating and capital expense requirements of the Programs, Manager shall immediately notify LYSA in writing setting forth Manager's calculation of the amount necessary to satisfy such operating and capital expense requirements, subject to any required prior approvals by LYSA as set forth herein, and LYSA shall be responsible for depositing such amount into the Programs' bank account(s). Manager shall have no obligation or responsibility to contribute any additional funds to satisfy the operating or capital expense requirements of the Programs.

4.4 Insurance CoverageManager will arrange, upon the request of LYSA, for the purchase of insurance coverage with respect to the Programs. Manager shall maintain insurance sufficient to cover Manager's indemnity obligations under this Agreement, which insurance shall name LYSA as additional insureds thereof and shall provide LYSA with at least thirty (30) days' prior notice of termination or a substantial change in coverage .

4.5 Requested Information. To the extent not already within the possession, custody, or control of Manager, during the Term of this Agreement, LYSA agrees to timely provide Manager with copies of all information and documentation related to the Programs which may be reasonably requested by Manager from time to time in order to enable Manager to provide the Services and to discharge its other duties under this Agreement.

V. GENERAL COVENANTS AND CONDITIONS

5.1 Customer Fees and Charges. During the Term of this Agreement, Manager shall have the right to invoice and to collect on behalf of LYSA all charges for services rendered to customers of the Programs. All amounts collected by Manager pursuant to such invoices shall belong to LYSA, and Manager shall have no right or interest in such amounts. All amounts shall be deposited into a deposit account in the name of Manager and for the benefit of LYSA.

5.2 Confidentiality. During the course of this Agreement, each party may disclose to the other party certain non-public, confidential, or proprietary information or materials, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential," including, without limitation: (a) all information concerning the disclosing party and its affiliates', and its and their customers', suppliers' and other third parties' past, present and future business affairs including, without limitation, finances, customer information, supplier information, products, services, organizational structure and internal practices, forecasts, sales and other financial results, records and budgets, and business, marketing, development, sales, and other commercial strategies; (b) the disclosing party and its affiliates' unpatented inventions, ideas, methods and discoveries, trade secrets, know-how, unpublished patent applications, and other confidential intellectual property; (c) all designs, specifications, documentation, components, source code, object code, images, icons, audiovisual components and objects, schematics, drawings, protocols, processes, and other visual depictions, in whole or in part, of any of the foregoing; (d) any third-party confidential information included with, or incorporated in, any information provided by the disclosing party or its affiliates; and (e) all notes, analyses, compilations, reports, forecasts, studies, samples, data, statistics, summaries, interpretations and other materials that contain, are based on, or otherwise reflect or are derived from, in whole or in part, any of the foregoing (**"Confidential Information"**). Notwithstanding the foregoing, Confidential Information shall not include information that: (f) is or becomes publicly available through no breach by the receiving party; (g) was previously known to the receiving party prior to the date of disclosure, as evidenced by contemporaneous written records; (h) was acquired from a third party without any breach of any obligation of confidentiality; (i) was independently developed by the receiving party without reference to the Confidential Information of the other party; or (j) is required to be disclosed pursuant to a subpoena or other similar order of any court or government agency, provided, however, that the party receiving such subpoena or order shall promptly inform the other party in writing and provide a copy thereof, and shall only disclose such Confidential Information as is necessary to comply with such subpoena or order. Except as expressly provided herein, the receiving party shall not disclose any Confidential Information to any individual or entity without the disclosing party's prior written consent or use any Confidential Information for any purpose other than the transactions contemplated by this Agreement. Subject to the foregoing nondisclosure and non-use obligations, the receiving party agrees to use at least the same care and precaution in protecting such Confidential Information as the receiving party uses to protect the receiving party's own Confidential Information and trade secrets, and in no event less than reasonable care. Each party acknowledges that due to the unique nature of the other party's Confidential Information, the disclosing party will not have an adequate remedy in money or damages in the event of any unauthorized use or disclosure of its Confidential Information; and therefore, in addition to any other remedies that may be available at law, in equity or otherwise, the disclosing party shall be entitled to injunctive relief to prevent such unauthorized use or disclosure. Upon the expiration or termination of this Agreement, each party will promptly deliver to the other party all property belonging to the other and all material containing or constituting Confidential Information, including any copies in their possession or control, whether prepared by such party or by others. The LYSA may require from time-to-time assistance in providing the Manager's records in response to open records request. The LYSA agrees to withhold the proprietary information and trade secrets of the Manager to the extent allowable by law. If disclosure is mandatory, LYSA will not release the requested information until after the Manager has been notified about the forthcoming disclosure.

5.3 Competition; Non-Solicitation. LYSA acknowledges that Manager works in the sports facility consulting and management business throughout the United States. During the Term, Manager shall devote such time and resources as may be necessary to: (i) manage the business and affairs of the Programs; (ii) perform the Services to the best of its abilities in a timely, competent, and professional manner; and (iii) observe all of the other terms and conditions of this Agreement. Notwithstanding the foregoing, Manager may continue to engage in its existing business ventures, including but without limitation, the acquisition of real property or interests therein and the development, operation and/or management of indoor and outdoor athletic facilities or interests therein; but only to the extent such activities and interests do not interfere with or affect Manager's ability to discharge its duties and obligations under this Agreement. Notwithstanding the foregoing or anything else to the contrary herein, Manager shall not manage, own, operate, or have any other interest in any individual or entity located within one hundred fifty (150) miles of the Programs.

5.4 Waiver as Affecting Future Performance. No term or provision of this Agreement may be waived except in a writing signed by the party against whom enforcement of such waiver is sought. No waiver of any breach of this Agreement shall be held to be a waiver of any other subsequent breach. All remedies afforded in this Agreement shall be taken and construed as cumulative, that is, in addition to every other remedy provided herein or by law.

5.5 Circumstances Excusing Performance. This Agreement is subject to force majeure, and in the event that either party hereto shall be prevented from the performance of any act required hereunder by reason of strikes, lockouts, labor troubles, inability to produce materials, failure of power, fire, winds, Acts of God, restrictive governmental laws for regulations, riots, insurrection, war or other reason of a like nature not reasonably within the control of the party not performing any of its obligations under the terms of this Agreement (and which was not reasonably foreseeable at the time of the Effective Date), then performance of such obligations shall be excused for the period of the force majeure event and the period for the performance of any such obligations shall be extended for an equivalent period.

Notwithstanding the foregoing, Manager and LYSA will meet semi-annually to assess Manager's performance with respect to its obligations and responsibilities under this Agreement. Manager will prepare in its annual report a review of the previous years actual revenue and expense figures in comparison to the projections made under Section 3.2 (b), with explanations for variances. This annual review will be the basis for LYSA to renew the Agreement for addition renewal Terms.

5.6 Applicable Law. Both parties shall, at their sole cost and expense, comply with all applicable requirements of all county, municipal, state, federal and other applicable governmental authorities now in force, or which may hereafter be in force, pertaining to the performance of this Agreement and shall faithfully observe all applicable municipal and county ordinances and state and federal statutes now in force or which may hereafter be in force; provided that either party shall have the right to contest in good faith any such requirement, ordinances and statutes.

5.7 Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Oklahoma without giving effect to its conflict of law rules. The parties agree that any controversy or claim arising out of or relating to this Agreement or the breach hereof, or any other dispute between the parties arising from or related to this Agreement (including, without limitation, contract claims, tort claims, as well as claims based on any federal, state, or local law, statute, or regulation), shall first be submitted to the district court sitting in Comanche County, Oklahoma, for resolution, and each party (a) consents to submit itself to the personal and/or in rem jurisdiction of any federal or state court sitting in Comanche County, Oklahoma; (b) agrees that it will not attempt to deny or defeat such personal and/or in rem jurisdiction by a motion or other request for leave from any such court; and (c) agrees that it will not bring any action relating to this Agreement in any court other than a federal or state court sitting in Comanche County, Oklahoma. Each party irrevocably and unconditionally waives any objection that it may have or hereafter have to the laying of venue of any such action or proceeding arising out of or based on this Agreement in any federal or state court sitting in Comanche County, Oklahoma, and each party hereby further irrevocably and unconditionally waives any claim that any such action or proceeding in any such court has been brought in an inconvenient forum.

5.8 No Partnership Intended or Created. This Agreement does not in any way create a relationship of principal or agent between Manager and LYSA, and under no circumstances shall one be considered an agent of the other. Neither shall act or attempt to act, or represent itself, directly, or by implication, as an agent of the other or in any manner assume or create or attempt to assume or create any obligation on behalf of or in the name of the other, nor shall either act or represent itself as an affiliate of any other authorized franchisee of the other. Further, this Agreement shall not be deemed to create any relationship of partnership or joint venture between the parties hereto, and no employees of one shall be deemed, under any circumstances, to be an employee of the other.

5.9 Severability. In the event that any provision of this Agreement, or the application thereof, becomes or is declared by a court of competent jurisdiction to be illegal, void or unenforceable, the remainder of this Agreement shall continue in full force and effect and shall be interpreted so as reasonably to effect the intent of the parties hereto. The parties shall use their reasonable best efforts to replace such void or unenforceable provision of this Agreement with a valid and enforceable provision that shall achieve, to the extent possible, the economic, business and other purposes of such void or unenforceable provision.

5.10 Section Headings. The section headings appearing in this Agreement have been inserted for the purpose of convenience and ready reference. They do not purport to, and shall not be deemed to, define, limit or extend the scope of intent of the section to which they pertain.

5.11 Inclusion of All Terms and Conditions in Writing. This Agreement embodies the whole agreement of the parties with respect to the subject matter hereof. There are no promises, terms, conditions or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations or agreements, either verbal or written, between parties hereto regarding the subject matter hereof.

5.12 Written Modification-Amendment. No term or provision of this Agreement may be modified or amended except in writing signed by the party against whom enforcement of such modification or amendment is sought.

5.13 Indemnification.

(a) LYSA shall indemnify, defend, and save Manager, its directors, officers, employees, representatives, agents, successors and assigns (collectively, the "**Manager Indemnified Parties**") forever harmless from any and all claims, damages, expenses, costs, liabilities, losses, actions, causes of action, suits, debts, controversies, trespasses, judgements, and demands of every kind and character (including reasonable attorneys' fees and court costs), at law or in equity, which may hereinafter at any time be incurred, suffered, sustained by or imposed upon any Manager Indemnified Parties by reason of, arising out of, by virtue of or incident to any damage to the Programs or the performance or rendering of any of the services contemplated hereunder by LYSA, provided such claim, damage, loss or expense is not caused by the gross negligence or willful misconduct by any of the Manager Indemnified Parties. The provisions of this Section 5.13(a) shall survive termination of the Agreement.

(b) Manager shall indemnify, defend and save LYSA, its directors, managers, officers, members, employees, representatives, agents, successors and assigns (collectively, the "**LYSA Indemnified Parties**") forever harmless from any and all claims, damages, expenses, costs, liabilities, losses, actions, causes of action, suits, debts, controversies, trespasses, judgements, and demands of every kind and character (including reasonable attorneys' fees and court costs), at law or in equity, which may hereinafter at any time be incurred, suffered, sustained by or imposed upon any LYSA Indemnified Parties by reason of, arising out of, by virtue of or incident to the performance or the rendering of any of the Services contemplated hereunder by Manager (including but not limited to the entrance upon or presence at the Programs by any employee, representative, agent, or invitee of Manager), any breach of this Agreement by Manager, any material misrepresentation of Manager, any misappropriation of LYSA's or the Programs' funds, or fraud or any criminal act of Manager or its officers, employees, agents, servants, provided such claim, damage, loss or expense is not caused by the gross negligence or willful misconduct by any of the LYSA Indemnified Parties. The provisions of this Section 5.13(b) shall survive termination of the Agreement.

5.14 Assignments. Neither party may assign this Agreement or any rights, interests, or obligations hereunder without the prior written consent of the other party.

5.15 Binding Effects. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns.

5.16 Notices. Any notice, demand, request or other communication required or permitted hereunder shall be in writing and shall be personally delivered, or sent by a nationally-recognized overnight courier or by U. S. registered or certified mail, return receipt requested, postage prepaid, to the parties as set forth below:

If to Manager:

Eastern Sports Manager, LLC
Attn: John Wack
725 Jackson St.
Suite 207
Fredericksburg, VA 22401

If to LYSA:

Lawton Youth Sports Authority
Attn: Brian T. Henry, Chairman
City Clerk Office
212 SW 9^{th} St.
Lawton, OK 73501

All such notices, demands, requests and other communications shall be deemed to have been given upon being personally delivered to the appropriate address specified above, one day after being deposited with such overnight courier or ten (10) days after being deposited in the U.S. mail. Rejection or other refusal to accept or the inability to deliver because of a changed address of which no notice was given shall not invalidate the effectiveness of any notice, demand, request or other communication. Any notice required under this Agreement may be given on behalf of a party by its legal counsel. Additionally, the Manager must designate a registered agent that can accept service of process and other important document locally. Manager will inform LYSA the name and address of their local registered agent.

5.17 Attornment. Should LYSA sell, convey, or transfer its interest in the Programs or should any mortgagee succeed to LYSA's interest through foreclosure or deed in lieu thereof, then Manager shall, at the request of such successor, attorn to such succeeding party as "LYSA" under this Agreement, provided that such succeeding party assumes all of LYSA's duties and obligations under this Agreement. In the event of such attornment, the successor shall not be liable for any breach of this Agreement which occurred prior to the date such successor succeeded LYSA, and such successor shall not be liable for any of LYSA's default or liability under this Agreement.

5.18 Capacity. Each of the signatories to this Agreement hereby represents and warrants that they have the authority to execute this Agreement on behalf of the party for which they are signing.

5.19 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together will constitute one and the same instrument. The exchange of a fully executed Agreement (in counterparts or otherwise) by facsimile or by electronic delivery in PDF format shall be sufficient to bind the parties to the terms and conditions of this Agreement.

Signatures on Following Page(s)

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the Effective Date.

MANAGER:

Eastern Sports Management, LLC

By: ______________________________
John M. Wack, President

LYSA:

Lawton Youth Sports Authority,
a Public Trust of the City of Lawton in Oklahoma

By: ______________________________
Brian T. Henry, Chairman

10/13/2022

John Wack, President
Eastern Sports Management

Dear Mr. Wack,

This letter will serve notice that the Lawton Youth Sports Authority (LYSA) is requesting Eastern Sports Management (ESM) to conduct the Indoor Facility Conceptual Planning Services, as described in detail in the Management Agreement, Item III – Duties of Manager, specifically, 3.3.

Authorized by:

____

Brian T. Henry, LYSA Chairman

Accepted by:

____

John Wack, ESM President