

MEMORANDUM

To: Dr. Janet Vinson

From: Larry Shackelford

Date: September 13, 2021

Re: Broken Arrow Amateur Basketball Association Lease Agreement

SUBJECT

Discussion, motion and vote on motion to approve or disapprove the lease agreement between Broken Arrow Public Schools and the Broken Arrow Amateur Basketball Association to lease up to 12 gyms for a flat rate of \$1,000 per gym for the length of their league.

SUMMARY

The Association will lease up to 12 gyms, list of gyms to be received by October 28, 2021. The term of the lease will begin on the date hereof and end on June 30, 2022. This agreement is expected to be renewed annually. Renewal must take place prior to the season and be approved by the Board of Education.

FUNDING

None

RECOMMENDATION

Approve

LEASE AGREEMENT

THIS LEASE AGREEMENT (the “Agreement”) is made and entered into this 14th day of September 2021, between **INDEPENDENT SCHOOL DISTRICT NO. 3 OF TULSA COUNTY, OKLAHOMA a/k/a BROKEN ARROW PUBLIC SCHOOLS (“Lessor”)** and **Broken Arrow Amateur Basketball Association. (“Lessee”)**.

1. **Leased Premises.** In consideration of the rent to be paid and the covenants to be performed by Lessee, Lessor does hereby lease to Lessee and Lessee hereby leases from the Lessor, the Leased Premises described below, together with the non-exclusive right to use adjacent parking facilities around the building in which the Leased Premises are located. Lessor hereby represents and warrants that, as of the date of this Agreement, Lessor owns fee simple title to the Leased Premises and the Leased Premises is not subject to any restrictions, encumbrances or other title matters that could adversely affect Lessee’s intended use of the Leased Premises. The “Leased Premises” shall consist of the following:

Up to 12 Elementary Gymnasiums throughout the Broken Arrow School District for basketball practices of the Lessee’s league. Practices shall take place Monday through Friday 6:00PM – 9:15PM.

The Lessee will provide a listing of gyms to be used by October 28, 2021 so that coordination with site staff can be accomplished.

Floor plans of the Leased Premises are attached hereto as Exhibit “A” and incorporated herein.

2. **Term.** The term of this Agreement shall begin on the date hereof and end on June 30, 2022. This Agreement is expected to be renewed annually until such time that relationships between the parties change and no longer meet the criteria set out below. Renewal must take place prior to the season and be approved by the Board of Education.

3. **Rent.** Lessee agrees to pay to Lessor the full amount upon receipt of invoice during the Term as rent for the use and occupancy of the Leased Premises. This amount includes the cost of utilities defined as electricity, gas, water, sewer, and trash. This amount does not include the cost of a building supervisor during the practices. Lessee is expected to appoint qualified building supervisors during the practices. Supervisors cannot be coaching during their assigned supervision time. Building Supervisors are required to attend a short orientation/training prior to the start of the season. All Rent shall be paid without counterclaim, offset or deduction. Rent will be charged at a Flat Rate of \$1,000 per gym per season. Season is expected to be no longer than November through March. This rent is being offered at a flat rate and will continue to be offered as long as Broken Arrow Public Schools Basketball Coaches are a part of the Board of Directors. This organization is viewed as a feeder program into our District Teams.

4. **Use of Premises.** Lessee shall use the Leased Premises only during the agreed upon times for team practices. If it is desired for the Lessee to hold games or use different facilities than defined above, rates will be negotiated at that time for those specific facilities and will be in addition to the Flat Rate for practices. Lessee shall define a schedule of practices and assign courts and Supervisors prior to each month of the season. If Lessee deviates from submitted schedule notification needs to be made in advance to Lessor so that Heat and Air may be adjusted

accordingly. If it is determined that Lessee has not provided a Supervisor during practices, a Supervisor will be provided by the Lessor at the cost of \$35 per hour, this will be in addition to the Flat Rate paid for practices. Lessee agrees to comply with all local, state, and federal laws and ordinances relating to Lessee's use and occupancy of the Leased Premises. Lessee shall comply with all current rules and regulations and those established from time to time by Lessor, provided such additional or amended rules and regulations do not impair Lessee's rights under this Agreement or increase Lessee's obligations under this Agreement without Lessee's consent.

5. **Custodial Services.** Lessee shall properly dispose of all rubbish and garbage in the dumpster or other containers provided by Lessor. Lessor shall perform and provide for, at Lessor's sole cost and expense, all other custodial services reasonably required on the Leased Premises.

6. **Indemnification.** Lessee shall indemnify, defend and hold Lessor harmless from and against all liabilities, obligations, damages, claims or actions, and from all associated costs, including reasonable attorneys' fees, arising from injury to persons or damage to property caused by the negligence or willful misconduct of Lessee or Lessee's agents, employees, contractors, or invitees. If any third-party action or proceeding is brought against Lessor, the Lessee, upon written notice from the Lessor, shall at Lessee's sole cost and expense, resist or defend the same through counsel satisfactory to Lessor. This indemnity is supplemental to, and not in lieu of, the insurance required of Lessee.

7. **Insurance.**

a. During the Term of this Agreement, Lessee shall carry and maintain commercial general liability insurance against claims for injury, wrongful death or property damage occurring upon, in or about the Leased Premises. The policy shall be issued by a reputable insurance company, licensed to transact business in the State of Oklahoma, with a combined single limit of not less than One Million Dollars (\$1,000,000.00). The policy shall name the Lessor as "additional insured". Lessee hereby certifies that it will maintain said insurance throughout the term of this Agreement and Lessee shall send to Lessor evidence of coverage as often as the policy is revised or renewed. Each insurance policy shall contain an agreement that the policy shall not be cancelled without thirty (30) days' prior written notice to Lessor.

Lessee agrees to maintain, at Lessee's own expense, property damage insurance (fire, etc.) in sufficient amount to cover personal property owned by the Lessee and located on the Leased Premises.

b. Lessor agrees to maintain, at Lessor's own expense, property damage insurance (fire, etc.) in sufficient amount to cover the Building and personal property owned by Lessor and located on the Leased Premises (including, without limitation, the Leasehold Improvements).

8. **Notices.** All notices and other communications to be given shall be delivered to the parties by email or by personal delivery to the following addresses:

As to Lessor:

Broken Arrow Public Schools

Attn: Superintendent
701 South Main Street
Broken Arrow, Oklahoma 74012-5528

As to Lessee:

Broken Arrow Amateur Basketball Association
Attn: Jessica Welch
1005 S. Main Street
Suite 250
Broken Arrow, OK 74012

or at such other address as either party may designate to the other by written notice in the manner provided above.

12. **Miscellaneous.**

a. **Entry by Lessor.** Lessor may, during the term of this Agreement at all reasonable times and during usual business hours, enter upon the Leased Premises for the purpose of inspecting the same, effecting repairs or responding to any emergency.

b. **Non-Waiver.** Lessor's or Lessee's failure to insist upon strict performance of any covenant of this Agreement or to exercise any option or right contained herein shall not be a waiver or relinquishment for the future of such covenant, right or option but the same shall remain in full force and effect.

c. **Applicable Law.** This Agreement shall be governed by and construed under the laws of the State of Oklahoma.

d. **Partial Invalidity.** If any provision of this Agreement, or portion thereof, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

e. **Entire Agreement.** This Agreement contains all the agreements and understandings made between the parties and may only be modified in writing signed by the parties or their respective successors in interest.

f. **Assignment or Subletting.** Lessee shall not assign this Agreement or any interest herein, or sublease all or any part of the Leased Premises, without the prior written consent of Lessor.

g. **Quiet Possession.** Lessor covenants and agrees that, so long as Lessee keeps and performs each and every covenant and condition contained herein to be kept and performed by Lessee, Lessee shall quietly possess and enjoy the

Leased Premises without hindrance or molestation by Lessor or any party claiming under or by Lessor.

h. **Successors and Assigns.** The covenants and agreements contained in this Agreement are binding on the parties hereto and their successors and assigns. All rights and liabilities herein given to or imposed upon either of the parties hereto shall extend to their successors and assigns except as otherwise provided herein.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date and year first written above.

**INDEPENDENT SCHOOL DISTRICT NO. 3
OF TULSA COUNTY, OKLAHOMA, a/k/a
BROKEN ARROW PUBLIC SCHOOLS**

By: _____ **Date:** _____
President, Board of Education
“LESSOR”

Broken Arrow Amateur Basketball Association
1005 S. Main Street
Suite 250
Broken Arrow, OK 74012

By: _____ **Date:** _____
Jessica Welch
“LESSEE”

EXHIBIT "A"

Shaded area indicates area to be leased to Lessor.

EXHIBIT "B"
2018-2019 School Year Facility Use Rental Fees

Gymnasium Rental Rate

Elementary Gymnasiums: **Rental Fee is \$150 per hour with a 3-hour minimum rental. Use of an elementary gym includes: the court, restrooms, and building supervisor.**

Middle School Gymnasiums: **Rental Fee is \$200** per hour with a 3-hour minimum rental. Use of an elementary gym includes: the court, restrooms, and building supervisor.**

HS Gymnasiums: **Rental Fee is \$350** per hour with a 3-hour minimum rental. Use of an elementary gym includes: the court, restrooms, and building supervisor.**

**Rental rates are subject to change