

MEMORANDUM

To: Dr. Janet Vinson

From: Jason Jedamski

Date: November 2, 2021

Re: Climb Tulsa, LLC

SUBJECT

Discussion, motion and vote on motion to approve or disapprove the new agreement between Climb Tulsa LLC and Broken Arrow Public Schools for \$25.00 per student J. Jedamski

ENCLOSURE/ATTACHMENTS

New Agreement

SUMMARY

Discussion, motion and vote on motion to approve or disapprove the new agreement between Broken Arrow Public Schools and Climb Tulsa, providing facility and climbing instruction for Vanguard Academy students. J Jedamski

FUNDING

Vanguard Academy activity account 837

RECOMMENDATION

Approve

BROKEN ARROW PUBLIC SCHOOLS

Educating Today

Leading Tomorrow



Contract Committee Review Request
MUST BE COMPLETED IN FULL

Date: 11/02/2021

Contract/Agreement Vendor:

Name of Vendor & Contact Person

Vendor Email Address

Describe Contract (Technology, program, consultant-prof Development, etc.)

Please use Summary below to fully explain the contract purchase, any titles, and details for the Board of Education to review.

Reason/Audience to benefit

BOE Date

Amount of agreement

Person Submitting Contract/Agreement for Review:

PLEASE SEND THROUGH APPROPRIATE APPROVAL ROUTING BEFORE SENDING TO BOARD CLERK

Principal &/or Director or Administrator:

Does this Contract/Agreement utilize technology? YES/NO

If yes, Technology Admin:

Leadership Team Member:

Funding Source:

Fund/Project

OCAS Coding

Consent

Action

Summary

This area must be complete with full explanation of contract

The Contract/Agreement should be received at least 2 weeks prior to a Board Meeting to ensure placement on the Agenda. The Contract Committee meets most Tuesdays at 8:00a.m. All Contracts/Agreements, regardless the amount, must be first approved by the Contract Committee and then presented to the Board of Education for approval and signature. The item will be placed on Electronic School Board for the board agenda by Janet Brown. By following this process, the liability of entering into an agreement is placed with the district rather than an individual.

Climb Tulsa, LLC

Mutual Indemnification Agreement

This Agreement is between Climb Tulsa and Broken Arrow Public Schools. This is a legally binding Agreement.

In consideration of Climb Tulsa allowing Broken Arrow Public Schools to use its facilities and to participate in or observe any of the activities now available or to become available at Climb Tulsa, including without limitation: facility orientations; climbing, spotting, belaying, classes, private coaching, and any other activity associated with climbing; fitness training and workouts with weights, weight machines and other fitness equipment; fitness classes; special events, or other social events; renting equipment; and otherwise using its facilities, including outdoor areas (all of which is referred to throughout as the "Activities"); and in consideration of any other services provided by Climb Tulsa in connection with the Activities, Climb Tulsa, LLC and Broken Arrow Public Schools hereinafter referred to individually as a "Party" and collectively as the "Parties") agree and acknowledge, as follows:

1. Risks of Activities. The Parties acknowledges that climbing on an artificial climbing wall is inherently HAZARDOUS and entails many known and unanticipated dangers and risks which could result in harm or loss to participants, to property, or to others. Such dangers and risks include, but are not limited to: falling off the wall; collisions with climbing walls, holds or other objects; entanglement with ropes; loose and/or damaged holds; failure of ropes, climbing hardware, mechanical or personal belay and/or belayer, or any part of the climbing wall structure or other equipment; misuse of equipment or techniques; being struck by objects or people; climbing out of control or beyond one's personal limits; inadequate directions or instructions; the actions, including the negligence, of other climbers, visitors, participants, students or other persons who may be present, including employees, volunteers, staff or other agents; of the Parties and the actions and negligence of the Parties. The Parties also acknowledge that there are risks and dangers associated with using exercise equipment and fitness machines and in participating in classes or other group exercise classes. Such risks and dangers include, but are not limited to: misuse of the equipment; mechanical or other malfunctions of the equipment; overexertion and fatigue; using improper form; germs and bacteria.

The Parties understand that the known and unknown dangers and risks of the Activities can result in physical or emotional harm of all types, including SERIOUS INJURY AND DISABILITY (such as strains, sprains, torn muscles/ligaments, dislocated or broken bones, abrasions, infections, concussions, head, neck or spinal injuries), as well as PERMANENT DISABILITY, PARALYSIS AND DEATH.

2. Assumption of Risks. Participation in the Activities is purely voluntary, and participants elect to participate in spite of the risks. The Parties expressly accept and assume all risks and dangers of their participation in the Activities or participation by those individuals, inherent or otherwise, known or unknown and whether or not described above, EVEN IF ARISING FROM THE NEGLIGENCE of either Party, its employees, staff, volunteers, students or others.

3. Mutual Indemnity. The Parties hereby release, waive, forever discharge and hold harmless each other and their owners, directors, officers, employees, managers, volunteers, contractors, staff,

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students or students that they invite to participate in the Activities, and agents (the "Released Parties") from and against any and all claims, demands, causes of action, damages, expenses, losses and liabilities (including attorneys' fees and costs), on account of any injury, illness, death, property damage, or other loss arising out of or in any way related to their participation in or observation of the Activities (which includes use of Climb Tulsa's facilities and equipment), INCLUDING to the fullest extent allowed by law any such injury, illness, death, property damage or other loss CAUSED BY THE NEGLIGENCE Of either Party.

Should either party be required to incur attorney's fees and costs to enforce this Agreement, Climb Tulsa and Broken Arrow Public Schools both agree to indemnify and hold each other harmless from and against all such fees and costs to the extent that Climb Tulsa or Broken Arrow Public Schools should prevail.

4. Miscellaneous. This Agreement will be governed by the laws of the State of Oklahoma (except with regard to conflict of laws). Any legal action arising under this Agreement shall be brought exclusively under the jurisdiction and venue of the appropriate state or federal courts within or for the City and County of Tulsa, Oklahoma. If any portion of this Agreement is deemed invalid or unenforceable by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect. This Agreement shall be binding on the Parties and any heirs, next of kin, personal representatives, executors and administrators.

By signing below, the Parties acknowledge that they understand that they are waiving, their right to maintain a lawsuit against each other or any of the other Released Parties on the basis of any claim.

By signing below, the Parties have acknowledged that each Party has read and understands this Agreement and is waiving its rights for themselves, any minors or students in either Parties' care, and their heirs, next of kin, personal representatives, executors and administrators, their rights to maintain a lawsuit against the other Party on the basis of any claim from which either party has released herein. The Parties further acknowledge that this Agreement will apply every time while the Parties or participants of the Parties on the premises, using the facilities, or participating in the Activities.

"Broken Arrow Public School"

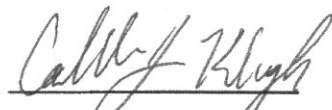
Steve Allen, Board President

701 S. Main Street

Broken Arrow, OK 74012

Date

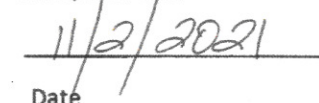
"Climb Tulsa"



Caleb Klugh, General Manager

4923 E. 32nd Street

Tulsa, OK 74135



Date