

**CONCESSION STAND LEASE BETWEEN
GILLETTE GIRLS FASTPITCH ASSOCIATION, INC.
AND THE CITY OF GILLETTE, WYOMING**

1. **Parties.** This Lease is made between Gillette Girls Fastpitch Association, Inc. (“Lessee”), whose address is PO Box 4242 Gillette, Wyoming 82717, and the City of Gillette, Campbell County, Wyoming (“City”), whose address is 201 East 5th Street, Gillette, WY 82716. In consideration of the mutual covenants contained herein, the parties agree as follows:

- A. City's business address for notification under the terms of this lease is:

City of Gillette, Wyoming
201 East 5th Street
Gillette, WY 82716

- B. Lessee's business address for notification under the terms of this lease is:

Gillette Girls Fastpitch Association, Inc.
PO Box 4242
Gillette Wyoming 82717

- C. If the addresses listed above change, the party whose address has changed shall immediately notify the other party to the lease in writing.

2. **Purpose of Lease**

- A. City is the sole owner of the premises described below and desires to lease the premises to a suitable lessee for business purposes.
- B. Lessee desires to lease the premises to provide concessions at Energy Capital Sports Complex.
- C. The parties desire to enter a lease contract (“Lease”) defining their rights, duties, and liabilities relating to the premises.
- D. For consideration, City leases to Lessee the building(s) more commonly known as Building 2, located at Energy Capital Sports Complex in the County of Campbell, State of Wyoming (“premises”) as more fully described in Attachment A, which is attached and made a part of this Lease.

The address of the premises is: 3400 S. Garner Lake Road AKA BLDG2, Wyoming 82718.

Energy Capital Sports Complex is a tract of land located in Campbell County, Wyoming, being more particularly described as follows:

Tract E, Energy Capital Sports Complex ("Subject Property")

3. **Term of Lease.** City leases the above premises for a term commencing on the last date of signature, and terminating on September 30, 2020, or sooner as provided herein. The Lessee is authorized to use the premises from the last date of signature until September 30, 2020 to provide concession for the Subject Property. This Lease is not valid and shall not become effective until it is signed by an authorized representative of the City and an authorized representative of the Lessee. The effective date of the Lease shall be the last date of signature, and the Lease shall commence on the last date of signature or on the date specified in the Term of Lease provision, whichever is later. There is no right or expectation of renewal and any renewal will be determined at the discretion of the City.
4. **Rent Payment.** The rent to be paid by Lessee to City shall be a total of five hundred dollars (\$500.00) for the term of the Lease. Rent shall be paid in full upon execution of the Lease. The rent payment shall be considered a utility payment by the Lessee, with no other compensation necessary to hold the Lease. All rental payments shall be made to City at the address specified above.
5. **Responsibilities of City**
 - A. **Quiet Enjoyment.** City warrants that Lessee shall be granted peaceable and quiet enjoyment of the premises free from any eviction or interference by City if Lessee pays the rent and otherwise fully and punctually performs the terms and conditions imposed on Lessee.
 - B. **Taxes.** City shall pay all taxes, assessments, or other governmental charges that shall or may during the Lease term be imposed on, or arise in connection with the premises.
 - C. **Utilities.** All applications and connections for necessary utility services to the premises, shall be made in the name of the City only, and the City shall be solely liable for utility charges as they become due, including but not limited to those for water, electricity, sewer, and garbage.
6. **Responsibilities of Lessee**
 - A. **Use of the Premises.**
 - (i) Lessee understands and agrees that it is subject to all federal, state, and local health statutes, rules, regulations, and ordinances, regardless whether the Lessee is operating as a nonprofit organization. Further, the Lessee agrees that it will comply with any

health inspection by any federal, state, and/or local health organization.

- (ii) Lessee shall not sell food, beverages, or other merchandise in glass containers or in containers that may pose a risk or hazard to the safety of the customers of the concession stand(s) on the premises, or to participants or spectators at the Subject Property.
- (iii) Lessee shall not sell any alcoholic beverages.
- (iv) Lessee shall keep an area within a radius of 50 feet from the premises free at all times from trash, garbage, and other litter arising out of sales of food, beverages, from the premises.
- (v) Lessee shall obtain all permits and licenses, including but not limited to health and business permits or licenses required to operate a concession stand on the premises.
- (vi) Lessee shall empty trash at the end of the day into the designed City dumpster. The City is responsible for the disposal of trash from the dumpster.
- (vii) Lessee shall perform all necessary labor and services; furnish all cleaning supplies, and provide all food supplies, including but not limited to: all food, food stuffs, beverages, and containers to operate concession stand(s) on the premises.
- (viii) Lessee shall not order any supplies, food or services on behalf of the City.
- (ix) Lessee shall operate concession stand(s) on the premise only during regular park hours for the Subject Property or when the fields are in use.

B. **Access to Premises.** Lessee shall permit City or its agents to enter the premises at all reasonable hours to inspect the premises or make repairs provided that Lessee's use of the premises shall not be unreasonably impaired.

C. **Surrender of Possession.** Lessee shall, on the last day of the term, or on earlier termination and forfeiture of the Lease, peaceably and quietly surrender and deliver the premises to City free of sub-tenancies, including all buildings, additions, and improvements constructed or placed thereon by Lessee, except moveable trade fixtures, all in good condition and repair.

D. **Trade Fixtures.** For purposes of this lease trade fixtures are removable

personal property that the Lessee attaches to the leased premises or land for business purposes. Trade fixtures are removable by the Lessee prior to the expiration of the Lease, however, the Lessee is liable for any damages caused by the removal of the trade fixture. Trade fixtures are distinguished from fixtures which are considered improvements to real property and which must be left intact when the Lessee vacates the premises.

7. Special Provisions

A. Alterations, Additions, and Improvements

- (i) Lessee shall not at any time during the Lease term, make alterations, additions, or improvements in and to the premises, except with prior written consent of the City. Alterations shall be performed in a workmanlike manner and shall not weaken or impair the structural strength, or lessen the value, of the premises.
- (ii) All alterations, additions, and improvements on or in the premises at the commencement of the term, and that may be erected or installed during the term, shall become part of the premises and the sole property of the City, except that all moveable trade fixtures installed by Lessee shall be and remain the property of Lessee.

B. Destruction of Premises

- (i) Substantial destruction. If the premises are damaged by fire or other casualty which shall, in the opinion of the City, make the premises substantially unusable, the obligation to pay rent shall cease until the premises are, in the opinion of the City, substantially usable by Lessee.
- (ii) Partial destruction. In the event of partial destruction of the premises, Lessee shall be entitled to a proportionate reduction of rent while repairs are being made. Proportionate reduction shall be based on the extent to which, in the opinion of the City, the destruction and repairs interfere with the business carried on by Lessee. Such a proportionate reduction in rent shall become effective only after City provides written notice of such to Lessee, and shall remain in effect only for so long as agreed to, in writing, by the City.

C. Insurance

- (i) City. During the term of the Lease and for any further time that the Lessee shall hold the premises, the Lessee shall obtain and maintain

at its expense insurance on the premises, with all standard extended coverage, including insurance against loss or damage by fire.

- (ii) Lessee. During the term of the Lease and for any further time that Lessee shall hold the premises, Lessee shall obtain and maintain at its own expense insurance on its personal property and all standard extended coverage. Additionally, the Lessee shall provide proof of the following insurance coverages:
 - (a) Commercial General Liability Insurance. The Lessee shall provide coverage against claims arising out of bodily injury and death and from damage to or destruction of property of others, including loss of use thereof, and including products and completed operations, with minimum limits of two million dollars (\$2,000,000.00) per occurrence and two million dollars (\$2,000,000.00) general aggregate.
- (iii) The City shall be named as an additional insured by an endorsement on the Lessee's general liability policy for the term of this agreement. The parties intend and agree that the City does not waive governmental immunity by entering into this section of the Lease and specifically retains governmental immunity and all defenses available to it pursuant to WYO. STAT. §§ 1-39-101-120 and all other applicable law.
- (iv) It is understood and agreed that the Lessee's policies are primary and not contributory. All insurance certificates shall be submitted to the City for review and approval before the effective date of this lease. All insurance certificates provided by the Lessee must include a clause stating that the insurance may not be canceled, amended, or allowed to lapse until the expiration of at least thirty (30) days advance written notice to the City.
- (v) The Lessee will report any damage to the property to the City employee administering this Lease. The Lessee will also advise the City of any potential or pending liability claim filed against it arising from the use of the premises.

D. Repairs

- (i) City shall keep in good repair all structural portions including fixtures, the exterior and interior walls, floors, and ceilings of the leased space.
- (ii) Lessee at its own expense shall repair any damage or injuries caused by Lessee, its customers, members, invitees, agents, or employees.

- (iii) Lessee shall keep the non-structural portions of the premises, including any improvements made by Lessee such as trade fixtures, in good repair at its own expense.
 - (iv) On termination of this Lease, Lessee shall ensure that the premises are in the same condition and repair as when received by it except for normal wear and tear.
- E. **Successors and Assigns.** This Lease and the terms and conditions hereof apply to and are binding on the legal representatives, successors, assignees, agents, and employees of both parties.
- F. **Time is of the Essence.** Time is of the essence in all provisions of this Lease.
- G. **Unlawful or Dangerous Activity.** Lessee shall neither use nor occupy the premises or any part thereof for any unlawful, disreputable, or ultra-hazardous business purpose nor operate or conduct business in a manner constituting a nuisance of any kind. Lessee shall immediately, upon notification of any unlawful, disreputable, ultra-hazardous use, or nuisance, take action to halt such activity.

8. **General Provisions**

- A. **Applicable Law/Venue.** The construction, interpretation, and enforcement of this Lease shall be governed by the laws of the State of Wyoming. The Courts of the State of Wyoming shall have jurisdiction over this Lease and the parties and the venue shall be the Sixth Judicial District, Campbell County, Wyoming. The parties intend and agree that the City does not waive governmental immunity by entering into this Agreement and specifically retains governmental immunity and all defenses available to them pursuant to WYO. STAT. §§ 1-39-101-120 and all other applicable law.
- B. **Entirety of Lease.** This Lease, consisting of nine (9) pages, contains the entire contract between the parties and supersedes all prior negotiations, representations, leases, or other contracts, either written or oral. This Lease cannot be changed except by a written instrument subsequently executed by the parties.
- C. **Governmental Immunity.** The City does not waive governmental immunity by entering into this Lease and specifically retain all immunities and defenses available to them pursuant to WYO. STAT. §§ 1-39-101-120 and all other applicable law. Designations of venue, choice of law, enforcement actions, additional insured and similar provisions should not be construed as a waiver of governmental immunity. The parties agree that any ambiguity in this Agreement shall not be strictly construed, either against or for either

party, except that any ambiguity as to governmental immunity shall be construed in favor of governmental immunity.

- D. **Hold Over; and Unlawful Detainer.** Lessee shall vacate the premises, on the last day of the term, or on earlier termination and forfeiture of the Lease, and deliver the premises to City. If the Lessee remains on the premises after the expiration of the term of this Lease, Lessee shall immediately be considered a tenant-at-sufferance and responsible for the following. If Lessee holds possession of the Leased Premises after the term of this Lease, Lessee shall immediately pay Lessor an amount equal to one hundred and fifty percent (150%) of the then current Base Rent.
- (i) If suit shall be brought for an unlawful detainer of the Leased Premises, for the recovery of any Base Rent due under the provisions of this Lease, or for Lessee's breach of any other condition contained in this Lease, Lessee shall pay to Lessor a reasonable attorney fee which shall be deemed to have accrued on the commencement of the action and shall be paid on the successful completion of the action by Lessor.
- E. **Indemnification.** The Lessee shall release, indemnify, defend, and hold harmless the City, and their officers, agents, employees, successors and assignees from any cause of action, claims, or demands arising out of Lessee's performance under this Lease.
- F. **Notice.** All notices to be given with respect to this Lease shall be in writing. Each notice shall be sent by registered or certified mail, postage prepaid, and return receipt requested, or by facsimile, e-mail, or in person, to the party to be notified, at the address set forth above. Every notice, if mailed, shall be deemed to have been given at the time it shall be deposited in the United States mail in the manner prescribed herein. Notice sent by facsimile or e-mail shall be deemed to have been given at the time sent. Nothing contained herein shall be construed to preclude personal service of any notice.
- G. **Severability.** Should any portion of this Agreement be judicially determined to be illegal or unenforceable, the remainder of the Lease shall continue in full force and effect, and either party may renegotiate the terms affected by the severance.
- H. **Termination.** This Lease may be terminated, without cause, by Lessee upon thirty (30) days written notice. This Lease may be terminated immediately for cause if the Lessee fails to perform in accordance with the terms of this Lease. The parties agree that upon termination of the Lease all alterations, additions, and improvements on or in the premises shall become part of the premises and the sole property of the City.

- I. **Third Party Beneficiary Rights.** The parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Lease shall not be construed so as to create such status. The rights, duties, and obligations contained in this Lease shall operate only between the parties to this Lease and shall inure solely to the benefit of the parties to this Lease. The provisions of this Lease are intended only to assist the parties in determining and performing their obligations under this Lease.
- J. **Waivers.** The failure of City to insist on a strict performance of any of the terms and conditions hereof shall not be deemed a waiver of the rights or remedies that City may have regarding that specific term or condition.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

Signatures. The parties to this Lease through their duly authorized representative have executed this Lease on the dates set out below, and certify that they have read, understand, and agree to the terms and conditions of this Lease.

The effective date of this Lease is the date of the signature last affixed to this page.

LESSOR

Louise Carter-King, Mayor

Date

LESSEE

Gillette Girls Fastpitch Association, Inc.

Date

(S E A L)
ATTEST:

Cindy Staskiewicz, City Clerk

ATTACHMENT A

BOOTH 4 FLOOR
BLDG 1/MEETING ROOM & RR
BLDG 2/CONC
BOOTH 2 FLOOR

(1 of 3)

Addresses City Physical

Full Address	3400 S GARNER LAKE RD AKA BLDG2
--------------	------------------------------------

[Zoom to](#)