

PROGRAM PARTNER AGREEMENT

by and between

CITY OF BEL AIRE, KANSAS

and

WICHITA GYMNASTICS, LLC

This Agreement is made and entered into as of this 4th day of March, 2025 by and between the City of Bel Aire, Kansas (City) and Wichita Gymnastics, LLC (WG).

WHEREAS, City owns and operates a recreation facility complex for public recreational uses (Rec Center) located at 5251 E. 48th N., Bel Aire, KS 67220 and,

WHEREAS, to foster public health, improve the quality of life of its interested residents, and increase public utilization of its Rec Center City desires to offer patrons beginner tumbling instruction through a qualified contractor, and

WHEREAS, WG, a Kansas Limited Liability Company, is willing and able to provide competent instructors using an organized curriculum for beginning tumbling classes to be held at the Rec Center;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the City and WG agree as follows:

- I. City agrees to allow WG to use Rec Center facilities for WG's beginning tumbling instruction at preset, scheduled times approved in writing by the Rec Center Director or Assistant Rec Center Director prior to the marketing of class availability. The use of the Rec Center shall be conditioned on the following terms:
 - A. Facility rooms as assigned by the Rec Center Director or Assistant Rec Center Director will be exclusively available to WG for the times and dates on the approved and marketed schedule. Restrooms, common areas and parking at the Rec Center will be available on a shared basis with other Rec Center users.
 - B. WG shall not hold any activities within the Rec Center other than those specifically negotiated with and agreed to by the City.
 - C. WG will be responsible for and provide competent, trained, adult supervision of the participants in the designated, exclusive areas during classes. WG adult staff shall clear, close and secure facilities after each use, unless otherwise arranged with the Rec Center Director or Assistant Rec Center Director

- D. Any classes cancelled due to inclement weather shall be rescheduled to provide participants the full programming as marketed, and make-up classes shall be set at dates and times approved by the City's Rec Center Director or Assistant Rec Center Director
- II. The Parties agree to mutually review and approve all marketing materials for WG classes to held at the Rec Center not less than ____ days prior to the commencement of any given class in order to allow meaningful marketing efforts. City will include the agreed marketing information as part of its routine marketing of Rec Center activity offerings. WG shall undertake other commercially reasonable marketing efforts at its own cost.
- III. City staff will enroll participants, provide WG with a class attendee roster and collect the agreed fees for participation. WG indicates that the equipment listed on the attached Schedule 1 will be satisfactory to conduct the intended classes. The party providing the equipment is indicated on that schedule.
- IV. As payment for Rec Center rental and City's administrative services, City will retain 50% of the gross participation fees collected. WG is not allowed to market merchandise in or at the Rec Center.
- V. The Parties agree to the following assurances throughout the duration of this agreement.
 - A. Background Checks. WG agrees to conduct background checks on all volunteers and instructors that appear at the Rec Center in accordance with the City Background Check Policy attached as Schedule 2. WG acknowledges that all instructors are skilled, trained and have successfully completed a background check. Verification of background check policy shall be provided to the Rec Center Director or Assistant Rec Center Director prior to any classes commencing.
 - B. Liability. WG shall furnish a Certificate of Insurance satisfactory to the City Attorney evidencing coverage for all damages caused by WG agents, servants, employees, guests, invitees, and/or individuals participating at the Rec Center. Such Certificate of Insurance shall name "City of Bel Aire, Kansas, and its officers, employees, agents and volunteers" as additional insured's and shall be in the amount of \$1,000,000.00 combined single limit per occurrence for personal injury, property damage or other liability loss. Said Certificate shall also contain a clause granting a minimum of ten (10) calendar days prior notice to City before any material change or cancellation of insurance is effective. Failure of WG to provide City an approved Certificate of Insurance prior to start of classes shall cancel and make void this Agreement.
- VI. In accordance with this Agreement the Rec Center Director or Assistant Rec Center Director, will provide current health and safety guidelines in place at the Rec Center, developed by the Governing Body, County, and State authorities. As updates become available and/or adopted into Bel Aire Rec rules, WG will be advised and shall comply.

VII. Indemnification.

- A. WG agrees to indemnify and hold harmless City, its agents, servants, employees or invitees, from and against any and all claims of every kind or character for injuries and/or damages to persons, property or other liability loss caused by the negligent acts, errors, or omissions of WG, arising out of or resulting from WG's use and occupancy of the Rec Center.
- B. City agrees to indemnify and hold harmless WG, its agents, servants, employees or invitees, from and against any and all claims of every kind or character for injuries and/or damages to persons, property or other liability loss caused by the negligent acts, errors, or omissions of City, arising out of or resulting from City's use and occupancy of the Rec Center.

VIII. Term. The term of this Agreement is for a fixed term of one (1) year commencing on the effective date. There is no need for further notice from either party.

IX. Term. The initial term of this Agreement shall be one (1) year commencing on the effective date. Thereafter, the term of this Agreement shall automatically renew on the anniversary of the effective date of every year, unless either Party gives written notice to the other party of intent to terminate no less than 30 days prior to the renewal date.

X. In the event of breach of this Agreement by either Party, the aggrieved Party shall give the breaching Party a 30-day notice to cure, which may be extended by agreement. Failure to cure within the time allowed is just cause for immediate termination.

XI. This Agreement may be modified, changed, or amended only as may be mutually agreed upon in writing. The City's mandatory contractual terms appended as Exhibit A to this Agreement are incorporated herein by reference.

Remainder of this Page Intentionally Left Blank

PASSED and ADOPTED by the Governing Body of the City of Bel Aire, Kansas,
this 4th day of March, 2025.

APPROVED by the Mayor, this _____ day of March, 2025.

City of Bel Aire, Kansas

Date

Jim Benage, Mayor

ATTEST:

Melissa Krehbiel, City Clerk

APPROVED AS TO FORM ONLY:

Maria A. Schrock, City Attorney

Wichita Gymnastics, LLC

Date

Signature

Printed Name

Title (President, Corporate Officer, Managing Member...)

CITY OF BEL AIRE, KANSAS
TERMS AND CONDITIONS
Exhibit A

The attached Purchase Order/Quotation, along with these Terms and Conditions shall together serve as the Contract between the City of Bel Aire, Kansas, a municipal corporation, and the Vendor named on the Purchase Order/Quotation.

1. The delivery of equipment, material, supplies and/or services listed on the Purchase Order/Quotation shall be FOB the City's project site or other location affirmed in writing by an authorized City official.
2. After the items listed on the Purchase Order/Quotation have been delivered and accepted as conforming goods or services by an authorized City official, the City will approve payment to the Vendor of the amount due made according to the City's standard accounting practices.
3. No additional terms or conditions, other than those stated herein, and no agreement or understanding in any way modifying the terms and conditions herein stated, shall be binding upon the City unless in writing and signed by the City Attorney. In case of conflict among terms with this Contract, those stated in this Exhibit A shall control.
4. The goods, equipment and services specified in this Contract are for the City's exclusive use. Therefore, it is understood the Federal Excise Tax or State of Kansas Sales Tax shall not be imposed, and Vendor will refund the same if included in the price paid. The City's exemption certificate will be furnished where required or upon request.
5. All orders are priced F.O.B approved destination and must be shipped "PREPAID" unless otherwise specified. No freight or express charges will be allowed on the invoice unless previously agreed upon and provided for on the original purchase order and separately approved by an authorized City official.
6. This order must not be filled at a higher price than quoted without specific authorization granted by the City's Governing Body.
7. When the items shown on this order have been delivered, the Vendor is to mail an invoice for the same to the department address shown on these contract documents, with a copy separately to the City Treasurer. Partial payments will be made only when agreed upon prior to issuance of the Purchase Order/Quotation and approved by the City's Governing Body.
8. The City and vendor agree that this Contract shall be interpreted under the laws of the State of Kansas without regard to its choice of law provisions, and that venue of any dispute requiring litigation shall be in any court of appropriate jurisdiction in Sedgwick County, Kansas.
9. No party shall be required to submit any dispute to arbitration, but a good faith mediation attempt shall be a condition precedent to litigation as a resolution process. The parties waive trial by jury.

10. The City shall not hold harmless or indemnify the Vendor beyond the liability that may be incurred under the Kansas Tort Claims Act (KSA 75-6101 et seq.).
11. The City shall not be required to purchase insurance against any liability loss or damage to which this Contract relates. The Vendor shall bear the risk of loss to any person or property over which it has authority or control, however exercised.
12. This Contract shall be interpreted and implemented so that the City remains in compliance with the Cash Basis Law (KSA 10-1112 and 10-1113), the Budget Law (KSA 79-2935) and all other laws of the State of Kansas. The City retains the right to unilaterally modify or terminate this Contract at any time if, in the opinion of its legal counsel, the Contract may be deemed to violate the terms of such laws.
13. The obligation to supply goods or services under this Contract is personal to this Vendor, and cannot be assigned, subcontracted or transferred to another without the written consent of the City.
14. This Contract is intended solely for the benefit of the City and the Vendor. The parties do not intend that it benefit, either directly or indirectly, any third party. No third party may sue for damages based on the terms or performance of this Contract.
15. Vendor shall be in default of this Contract in the event that Vendor (i) applies for or consents to the appointment of a receiver, trustee or liquidator of itself or any of its property, (ii) is unable to pay its debts as they mature or admits in writing its inability to pay its debt, (iii) makes a general assignment for the benefit of creditors, (iv) is adjudicated as bankrupt or insolvent, or (v) files a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors, or taking advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute or admits the material allegation of a petition filed against it in any legal proceedings, or if an action shall be taken by vendor for the purpose of accomplishing any of the above actions.
16. Goods or equipment delivered and/or services rendered hereunder must be made according to the terms of this Contract both as to time and quantities, with City reserving the right to cancel, reject or refuse any delivery made and/or service rendered prior to or subsequent to the times specified. If no schedule for delivery appears otherwise in the Contract, delivery shall be completed in a reasonable time, judged by the continuing utility to and viability of the City's related project or service.
17. In the event no quality is specified on the face of the Purchase Order/Quotation, the goods or equipment delivered and/or services rendered hereunder must be of the best quality. If Vendor cannot maintain delivery of goods or equipment and/or rendering of services according to the agreed schedule, Vendor must notify City immediately. Upon Vendor's failure to maintain delivery or otherwise perform hereunder, City reserves the right to procure such goods or equipment and/or services elsewhere, in whole or in part, and assess Contractor with any additional costs incurred, unless Contractor's default arises from causes beyond its control and without fault or negligence. This remedy is in addition to any other remedy which City may have pursuant to

this Agreement or otherwise and/or any warranty that may be implied or imposed by operation of law.

18. Vendor must immediately notify City of any safety recall notices of products, goods and services Vendor has provided to City. In addition, Vendor shall remedy the recalled defect(s), at no cost to City, by: (1) providing products, goods or services reasonably equal to or better than the quality of the products, goods or services without accounting for the recalled defect(s); or (2) providing compensation to City in an amount not less than the original cost of the products, goods or services less a reasonable amount for depreciation. This Section survives expiration or termination of the Agreement.
19. The Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq., as amended) requires every person who enters into a contract with the City for construction, alteration or repair of any public building or public work or for the acquisition of materials, equipment, supplies or service to:
 - a. Observe the provisions of the Kansas Act Against Discrimination and not to discriminate against any person in the performance of work under the present Contract because of race, religion, color, sex, disability, national origin or ancestry, or age unrelated to such person's ability to engage in the particular work.
 - b. In all solicitations or advertisement for employees, the vendor shall include the phrase "Equal Opportunity Employer" or a similar phrase to be approved by the Kansas Human Rights Commission.
 - c. Upon request, inform the Kansas Human Rights Commission and/or the City of Bel Aire Finance Department in writing the manner in which such person will recruit and screen personnel to be used in performing the Contract.
 - d. Vendor shall include the provisions of sub-paragraphs (a), (b), (c), and (d) of this paragraph in each of its subcontract or purchase order and/or contract so that such provisions will be binding upon such subcontractor or vendor.
 - e. Exempted from these requirements are:
 - (1) Any vendor who has already complied with the provisions set forth in these sections by reason of holding a contract with the Federal Government or a contract involving Federal funds (proof of compliance required).
 - (2) Any vendor who employs fewer than four (4) employees during the term of this Contract.
 - (3) Vendors who hold contracts with the City of Bel Aire with a cumulative total of five thousand dollars (\$5,000.00) or less during the City's Fiscal Year.
- f. Reports requested by the Kansas Human Rights Commission shall be made on forms prepared by the Commission, copies of which are available from the Kansas Human Rights Commission, Contract Auditor, 900 S.W. Jackson Street, Suite 851 S., Topeka, Kansas, 66612. During the performance of any City contract or agreement the vendor shall comply with all the provisions of the Civil Rights Act of 1964, as amended; the Equal Employment Opportunity Act of 1972; Executive Orders 11246, 11375, 11141, Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967, the Rehabilitation Act of 1973; the Americans with Disabilities Act and/or any laws, regulations or amendments as may be promulgated thereunder. Any finding adverse to the vendor under K.S.A. 1976 Supp. 44-1031, as amended or other State statutes, Federal statutes or regulations pertaining to discrimination, which finding or

decision or order has become final, shall be a breach of this Contract and any such contract may be cancelled, terminated or suspended in whole or in part by the City or its contracting agency.