

Minutes, City of Southaven, Southaven, Mississippi

CITY OF SOUTHAVEN

Top of Mississippi

8710 Northwest Drive
Southaven, MS 38671



Phone: 662.393.6939
Fax: 662.393.7294

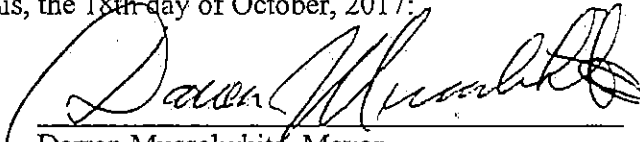
NOTICE OF SPECIAL CALLED MEETING OF THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF SOUTHAVEN, MISSISSIPPI

In accordance with Mississippi Code Annotated §21-3-21, notice is hereby given that a Special Meeting of the Mayor and Board of Aldermen of the City of Southaven shall be held on Monday, the 23rd day of October, 2017 at 9:30 AM in the Boardroom of Southaven City Hall, located at 8710 Northwest Drive, Southaven, Mississippi.

The subject matters of business (Agenda) to be acted upon at this Special Meeting are as follows, to-wit:

1. Volleyball Contract
2. Acceptance of Tennis Pro Shop Bid
3. Executive Session – Lease of City Property

This Special Meeting of the Mayor and Board of Aldermen is hereby called by the Mayor, Darren Musselwhite, on this, the 18th day of October, 2017:


Darren Musselwhite, Mayor

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MINUTES OF THE SPECIAL CALLED MEETING OF OCTOBER 23, 2017 OF THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF SOUTHAVEN, MISSISSIPPI

BE IT REMEMBERED that the Mayor and Board of Aldermen of the City of Southaven, Mississippi met in a Special Session on the 23rd day of October, 2017 at nine-thirty o'clock (9:30) a.m. at City Hall.

Present were:

William Brooks	Alderman At Large
Kristian Kelly	Alderman, Ward 1
Ronnie Hale	Alderman, Ward 2
George Payne	Alderman, Ward 3
Joel Gallagher	Alderman, Ward 4
John Wheeler	Alderman, Ward 5
Raymond Flores	Alderman, Ward 6

Also present were Mayor Musselwhite, Andrea Mullen, City Clerk, Pam Pyle, Deputy City Clerk and Nick Manley, City Attorney. Approximately fifteen (15) other people were present.

Mayor Musselwhite called the meeting to order. Alderman Gallagher led in prayer, followed by the Pledge of Allegiance led by Alderman Payne.

VOLLEYBALL CONTRACT

Mayor Musselwhite presented this item to the Board.

Mayor Musselwhite and the Board of Alderman had much discussion about the benefits of using the Arena for volleyball. It was agreed by all that the use will add additional revenue for the City, additional opportunities for the youth, and assist with revitalization of the old business district. It was also agreed, that they would put forth every effort to accommodate the flea market, if possible. Donnie Rogers and Wallie Harris spoke on behalf of the flea market and asked for consideration of allowing them to stay at the arena or assist with finding another location in the city. After much discussion, the Board of Alderman considered the following resolution:

RESOLUTION OF CITY OF SOUTHAVEN FOR APPROVAL OF LEASE OF SOUTHAVEN ARENA VOLLEYBALL COURTS TO DESOTO LEGACY, LLC

WHEREAS, the City of Southaven ("City") owns the Southaven Arena located at 7360 Highway 51 N. in Southaven, Mississippi ("Arena"); and

WHEREAS, pursuant to Mississippi Code 21-17-5, the City Governing Authorities shall have the care, management and control of the City affairs and its property and finances and the power to adopt any resolution with respect to City property; and

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WHEREAS, pursuant to Mississippi Code 17-1-3, the City has the authority to establish parks and recreational facilities and expend money for those purposes; and

WHEREAS, pursuant to Mississippi Code 31-7-13, the City previously sought bids and purchased volleyball courts; and

WHEREAS, pursuant to Mississippi Code 57-7-1, the City Governing Authorities desire to utilize the Arena volleyball courts at certain times to expand and promote industrial and commercial purposes in the City's West End District and lease the volleyball courts upon such terms as the City shall prescribe; and

WHEREAS, Desoto Legacy, LLC desires to lease the volleyball courts in the amount of \$5,500.00 per month at the Arena as more fully set forth in the contract attached hereto as Exhibit A to this Resolution and fully incorporated herein; and

WHEREAS, in addition to monthly payment of \$5,500.00, as additional consideration, Desoto Legacy, LLC will assist with coordinating the City League, which allows the City to not pay a salary, benefits, and retirement for an additional employee to coordinate the City League; and

WHEREAS, Desoto Legacy, LLC will book, promote, and coordinate volleyball tournaments and events in the City Arena, which will attract thousands of visitors to the City; thereby, allowing for increased commercial development in the City's West End District and increase commerce within the City as visitors will stay at the City's hotels, shop at the City's stores, and dine at the City's restaurants;

WHEREAS, the City has realized over \$1 million in direct revenue to the City from City baseball tournaments, along with the increase in City's commercial development, increase in City's hotels, City's restaurants, City sales tax, City tourism tax, and City tourism due to the City hosted baseball and softball tournaments; and

WHEREAS, the City Governing Authorities desire to increase the commercial development to the City's West End District; and

WHEREAS, based on the potential increase in commerce within the City for hosting volleyball tournaments as noted above, along with the City's experience of increase in revenue, commerce, and development from baseball and softball tournaments, the City desires to enter into a lease with Desoto Legacy for good and valuable consideration pursuant to Mississippi Code 57-7-1 as set further set forth in Exhibit A; and

NOW THEREFORE, in consideration of the findings previously noted, be it resolved as follows:

1. The City Governing Authorities find that there will be increase in commerce, revenue, and economic impact in the City's West End District from volleyball tournaments and events as the City has directly experienced increase in commerce, revenue, and economic impact from City baseball tournaments.

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2. The City desires to increase commerce in the City's West End District and finds that Desoto Legacy, LLC will book, promote, and coordinate volleyball tournaments and volleyball events in the City Arena, which will attract thousands of visitors to the City; thereby, allowing for potential commercial development in the City's West End District, increase in City revenue, and increase commerce within the City as visitors will stay at the City's hotels, shop at the City's stores, and dine at the City's restaurants.

3. Pursuant to Mississippi Code 57-7-1, the Mayor is authorized to sign the lease attached hereto as Exhibit A with Desoto Legacy, LLC for \$5,500 per month along with the additional in-kind consideration of Desoto Legacy, LLC, in the form of saving the City the funds of paying additional personnel by Desoto Legacy, LLC assisting with the coordinating of the City League as the City Governing Authorities find that such payment and additional consideration is good and valuable consideration.

Following the reading of the foregoing Resolution, Alderman Brooks made the motion and Alderman Flores seconded the motion for its adoption. The Mayor put the question to a roll call vote, and the result was as follows:

Alderman William Brooks	voted: YES
Alderman Kristian Kelly	voted: NO
Alderman Ronnie Hale	voted: YES
Alderman George Payne	voted: YES
Alderman Joel Gallagher	voted: YES
Alderman John David Wheeler	voted: YES
Alderman Raymond Flores	voted: YES

RESOLVED AND DONE, this 23rd day of
October, 2017.

EXHIBIT A LEASE WITH DESOTO LEGACY

A copy of the lease is attached to these minutes.

ACCEPTANCE OF TENNIS PRO SHOP BID

Mayor Musselwhite presented this item to the Board.

Mayor Musselwhite stated that the City received several bids for the Tennis Pro Shop and Ambassador Construction had the lowest and best bid in the amount of \$670,755. After hearing from mayor Musselwhite, the Board of Alderman considered the following resolution:

RESOLUTION OF CITY OF SOUTHAVEN BOARD OF ALDERMAN

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AWARDING BID FOR SNOWDEN GROVE TENNIS PRO SHOP TO AMBASSADOR CONSTRUCTION COMPANY

WHEREAS, pursuant to Mississippi Code Section 31-7-13, the City of Southaven ("City") previously advertised for bids for construction of the Snowden Grove Tennis Pro Shop ("Shop"); and

WHEREAS, the City's Park Director and consulting architect, Brian P Bullard, AIA/UrbanARCH Associates, PC, have reviewed the pricing and bids along with the qualifications, responsibility and other information which is responsive to the Request for Bids to determine which bid is the lowest and best; and

WHEREAS, the City, pursuant to Mississippi Code Section 31-7-13 finds that Ambassador Construction Company ("Ambassador") is the low and best bid with a bid in the amount of \$670,755.00 including both alternates for the Shop; and

WHEREAS, Ambassador did not obtain the plans and specifications from Memphis Reprographics or appear on the contractor list; however, Ambassador did attend the mandatory pre-bid conference; and

WHEREAS, the bid instructions did not require that the plans and specifications be obtained from a specific location for consideration of bids and the bid instructions noted that plans and specifications will be placed in plan rooms; and

WHEREAS, the City bid specifications allow for the City to waive any informalities in the responses to the bid; and

WHEREAS, Ambassador not obtaining the plans and specifications from Memphis Reprographics did not violate mandatory statutory provisions; did not destroy the competitive character of the bid; had no effect as to the amount of the bid; and did not give Ambassador an advantage or benefit over the other bidders

WHEREAS, the City desires to accept and award the bid to Ambassador as the lowest and best bid proposal for the Shop.

NOW THEREFORE, be it resolved as follows:

1. Pursuant to Mississippi Code 31-7-13, the City hereby finds that Ambassador's bid in the amount of \$670,755.00, which includes both alternates for the Shop is the lowest and best bid and the contract is awarded to Ambassador.
2. To the extent that Ambassador not obtaining the plans and specifications from Memphis Reprographics is an informality, the City hereby waives such informality as the plans and specifications did not require the plans and specifications be obtained from a specific location for consideration of bids; the bid instructions noted that plans and specifications will be placed in plan rooms; and Ambassador not obtaining the plans and specifications from Memphis Reprographics did not violate mandatory statutory provisions, did not destroy the competitive character of the bid, had no effect as to the amount of the bid, and did not give Ambassador an advantage or benefit over the other bidders.

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3. Furthermore, as the Mississippi Supreme Court and multiple Attorney General Opinions have noted when this discretion is exercised by a Board in regard to awarding bids, the courts will not interfere. *Parker Bros. v. Crawford*, 219 Miss. 199, 209, 68 So.2d 281 (1953).

4. The Mayor or his designee is authorized to execute any and all documents and other documentation required in order to effectuate the intent of this Resolution.

Following the reading of the foregoing Resolution, Alderman Gallagher made the motion and Alderman Wheeler seconded the motion for its adoption. The Mayor put the question to a roll call vote, and the result was as follows:

Alderman William Brooks	voted: YES
Alderman Kristian Kelly	voted: YES
Alderman Ronnie Hale	voted: YES
Alderman George Payne	voted: YES
Alderman Joel Gallagher	voted: YES
Alderman John David Wheeler	voted: YES
Alderman Raymond Flores	voted: YES

RESOLVED AND DONE, this 23rd day of October, 2017.

EXECUTIVE SESSION

A copy of the Executive Session Minutes are maintained in the City Clerk's Office.

There being no further business to come before the Board of Aldermen, a motion was made by Alderman Payne to adjourn. Motion was seconded by Alderman Gallagher. Motion was put to a vote and passed unanimously, October 23, 2017 at 11:15 a.m.

Darren Musselwhite,
Mayor

Andrea Mullen,
City Clerk
(Seal)

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RESOLUTION OF CITY OF SOUTHAVEN FOR APPROVAL OF LEASE OF SOUTHAVEN ARENA VOLLEYBALL COURTS TO DESOTO LEGACY, LLC

WHEREAS, the City of Southaven ("City") owns the Southaven Arena located at 7360 Highway 51 N. in Southaven, Mississippi ("Arena"); and

WHEREAS, pursuant to Mississippi Code 21-17-5, the City Governing Authorities shall have the care, management and control of the City affairs and its property and finances and the power to adopt any resolution with respect to City property; and

WHEREAS, pursuant to Mississippi Code 17-1-3, the City has the authority to establish parks and recreational facilities and expend money for those purposes; and

WHEREAS, pursuant to Mississippi Code 31-7-13, the City previously sought bids and purchased volleyball courts; and

WHEREAS, pursuant to Mississippi Code 57-7-1, the City Governing Authorities desire to utilize the Arena volleyball courts at certain times to expand and promote industrial and commercial purposes in the City's West End District and lease the volleyball courts upon such terms as the City shall prescribe; and

WHEREAS, Desoto Legacy, LLC desires to lease the volleyball courts in the amount of \$5,500.00 per month at the Arena as more fully set forth in the contract attached hereto as Exhibit A to this Resolution and fully incorporated herein; and

WHEREAS, in addition to monthly payment of \$5,500.00, as additional consideration, Desoto Legacy, LLC will assist with coordinating the City League, which allows the City to not pay a salary, benefits, and retirement for an additional employee to coordinate the City League; and

WHEREAS, Desoto Legacy, LLC will book, promote, and coordinate volleyball tournaments and events in the City Arena, which will attract thousands of visitors to the City; thereby, allowing for increased commercial development in the City's West End District and increase commerce within the City as visitors will stay at the City's hotels, shop at the City's stores, and dine at the City's restaurants;

WHEREAS, the City has realized over \$1 million in direct revenue to the City from City baseball tournaments, along with the increase in City's commercial development, increase in City's hotels, City's restaurants, City sales tax, City tourism tax, and City tourism due to the City hosted baseball and softball tournaments; and

WHEREAS, the City Governing Authorities desire to increase the commercial development to the City's West End District; and

WHEREAS, based on the potential increase in commerce within the City for hosting volleyball tournaments as noted above, along with the City's experience of increase in revenue,

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commerce, and development from baseball and softball tournaments, the City desires to enter into a lease with Desoto Legacy for good and valuable consideration pursuant to Mississippi Code 57-7-1 as set further set forth in Exhibit A; and

NOW THEREFORE, in consideration of the findings previously noted, be it resolved as follows:

1. The City Governing Authorities find that there will be increase in commerce, revenue, and economic impact in the City's West End District from volleyball tournaments and events as the City has directly experienced increase in commerce, revenue, and economic impact from City baseball tournaments.

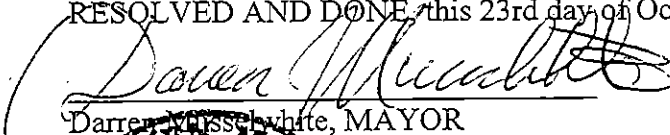
2. The City desires to increase commerce in the City's West End District and finds that Desoto Legacy, LLC will book, promote, and coordinate volleyball tournaments and volleyball events in the City Arena, which will attract thousands of visitors to the City; thereby, allowing for potential commercial development in the City's West End District, increase in City revenue, and increase commerce within the City as visitors will stay at the City's hotels, shop at the City's stores, and dine at the City's restaurants.

3. Pursuant to Mississippi Code 57-7-1, the Mayor is authorized to sign the lease attached hereto as Exhibit A with Desoto Legacy, LLC for \$5,500 per month along with the additional in-kind consideration of Desoto Legacy, LLC, in the form of saving the City the funds of paying additional personnel by Desoto Legacy, LLC assisting with the coordinating of the City League as the City Governing Authorities find that such payment and additional consideration is good and valuable consideration.

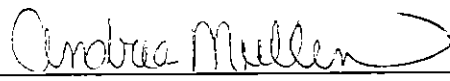
Following the reading of the foregoing Resolution, Alderman Brooks made the motion and Alderman Flores seconded the motion for its adoption. The Mayor put the question to a roll call vote, and the result was as follows:

Alderman William Brooks	voted: YES
Alderman Kristian Kelly	voted: NO
Alderman Ronnie Hale	voted: YES
Alderman George Payne	voted: YES
Alderman Joel Gallagher	voted: YES
Alderman John David Wheeler	voted: YES
Alderman Raymond Flores	voted: YES

RESOLVED AND DONE, this 23rd day of October, 2017.


Darren Wisselwhite, MAYOR

ATTEST:


Andrea Mullen, CITY CLERK



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EXHIBIT A
LEASE WITH DESOTO LEGACY

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LEASE AND JOINT PARTICIPATION AGREEMENT

WHEREAS, pursuant to Mississippi Code 21-17-5, the City of Southaven, a municipal corporation, ("City" or "Lessor") Governing Authorities shall have the care, management and control of the City affairs and its property and finances and the power to adopt any resolution with respect to City property; and

WHEREAS, the City owns the Southaven Arena located at 7360 Highway 51 N. in Southaven, Mississippi ("Southaven Arena" or "premises"); and

WHEREAS, Desoto Legacy Volleyball, LLC of 10750 Ridgeway Industrial Drive, Olive Branch, Mississippi ("Lessee") is in the business of promoting the sport of volleyball for the citizens of the City, which volleyball will benefit the City's citizens by providing recreational activities promoting fitness and well-being, along with bringing new opportunities and visitors to the City; and

WHEREAS, pursuant to Mississippi Code 17-1-3, the City has the authority to establish parks and recreational facilities and expend money for those purposes; and

WHEREAS, pursuant to Mississippi Code 57-7-1, the City desires to lease the a portion of the Southaven Arena as further set forth herein to Lessee upon such terms and conditions as the City shall prescribe to further promote commercial development in the City as Lessee shall book, promote and coordinate various volleyball tournaments and volleyball events which will attract thousands of people to the City and increase commerce within the City; and

NOW THEREFORE, for and in consideration of the mutual promises, covenants and stipulations of each party to the other and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties mutually agree as follows:

1. PARTIES. The City hereby leases to Lessee the Southaven Arena/premises described below:

2. PREMISES. A portion of the Southaven Arena located at 7360 Highway 51 N, Southaven, Mississippi 38671, as further set forth in Addendum "A."

3. TERM. Subject to those "Events" set forth on Addendum "B," this lease is for a term commencing on the January 1, 2018 and ending on the May 31, 2020. Lessee covenants and agrees to quit and surrender its portion of the Southaven Arena to the City at the end of the Term pursuant to the terms of this Agreement. After May 31, 2018, the City shall have the right to terminate this Agreement for convenience upon 120 days-notice to Lessee.

4. RENT. This lease is made for and in consideration of a monthly rental of FIVE THOUSAND FIVE HUNDRED DOLLARS AND 0/100 (\$5,500.00) per month payable in advance on or before the 5th day of each month at 8710 Northwest Drive, Southaven, Mississippi. This sum can be paid in advance annually also. If the rent is not paid by the 5th of each month, Lessee shall pay an additional \$50.00 per day late charge. If Lessee pays by check and said check is not honored on presentation for any reason whatsoever, Lessee agrees to pay an additional sum of \$100.00 as a penalty in addition to all costs incurred by the Lessor associated with the dishonored check. This penalty provision is not to be considered a waiver or relinquishment of any of the other rights or remedies of Lessor. This provision shall be subject to those provisions set forth in Addendum "B."

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In the event the rent is not paid by the 5th of each month, Lessee shall be deemed to be in default; and Lessor shall have the option to cancel this lease effective on midnight of the 5th of the month.

In addition to the rent described above, Lessee shall provide Lessor with a copy of the policy carried on behalf of Lessee by USAV insuring the Leased Premises.

Lessee shall also provide at its own cost and expense, the following insurance issued by an insurance company licensed in the State of Mississippi and acceptable to the City:

- Commercial General Liability including as follows:

General Aggregate	\$1,000,000.00
Personal and Property Injury	\$1,000,000.00
Each Occurrence	\$1,000,000.00
- Worker's Compensation coverage in accordance with the statutory requirements and limits of the State of Mississippi.
- Property Insurance of Lessee's own equipment.
- All such insurance shall be evidenced by certificates and/or policies as determined by the City. Southaven shall be named as "additional insured" with respect to all insurance required hereunder except for the property insurance.

6. **DEFAULT, ETC.** In the event of default by either party in any terms of this Agreement, the defaulting party agrees to pay a reasonable attorney's fee and all costs and expenses incurred in the collection of the same; and in addition to the right of the other party to collect the rent when due, the Lessor may re-enter the leased premises and repossess the same and expel therefrom the Lessee and those claiming under him. In event of default by Lessee in the payments of rent as herein reserved, Lessor shall have all rights provided for by the Mississippi Code, Annotated, including the right to retake possession of the demised premises without legal process and shall have a lien upon all property of the Lessee to the extent allowed by law.

7. **OCCUPANTS.** The leased premises shall be occupied by the following business or persons and used for the following purpose: Desoto Legacy Volleyball, its vendors, spectators, affiliated clubs and/or organization and Lessor as set forth in Addendums "A" and "B". Lessee's vendors are subject to approval of the City's Park Director.

8. **LAWFUL AND MORAL USES.** That the leased premises shall during the term of this lease, be used for lawful purposes, and Lessee shall hold Lessor harmless for the violation of any laws including any subdivision and/or zoning regulations in effect in the City of Southaven.

Both parties acknowledge that the primary use of the Southaven Arena, as used by the Lessee, shall be the training, practice, games and tournaments of the game of volleyball. This shall include the facilitation of a "City Volleyball League." Terms and conditions thereof are set forth more specifically on Addendum "C."

9. **NUISANCES.** Lessee agrees not to commit or permit any waste on the premises; nor allow any nuisance to exist therein and to abate any nuisance that may arise promptly and without expense to Lessor. Lessee will not cause or allow any hazardous material or waste to be on the premises at any time.

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10. **INCREASED PREMIUMS.** Lessee agrees not to use or permit anything to remain about the premises which will invalidate or increase the premium rate of any policy of insurance which the Lessor may at any time have on the premises with the specific exception of those actions and matters specifically set forth herein.

11. **CARE OF PROPERTY (REPAIRS/MAINTENANCE/CUSTODIAL WORK).** Lessee agrees to take good care of the leased premises and to notify Lessor of any maintenance or repair necessities as soon as the same become known. Lessor shall be solely responsible for all maintenance and repairs required to be made to any part of the premises whenever same are needed. Lessor shall provide custodial services as deemed necessary by Lessor. Lessee shall provide all custodial and janitorial services related to any and all tournaments or events hosted by Lessee and as further set forth in Addendum A.

12. **RIGHTS CUMULATIVE.** The rights of both parties under this lease shall be cumulative.

13. **FIRE CLAUSE.** In the event the leased premises are totally destroyed by fire, rain wind, or other cause beyond the control of the Lessee, or are condemned and ordered torn down by the properly constituted authorities of the State, County, or City, then in any of these events the lease shall cease and terminate as of the date of such destruction or condemnation. The rental shall then be accounted for between the Lessor and Lessee up to the time of such damage or destruction of said premises, the Lessee paying up to the said date.

14. **SERVICES.** Lessee shall in no event be liable for stoppage of water, gas or electricity or for the machinery or appliances pertaining to the premises breaking or getting out of order, or being out of repair.

Should any of the electrical or other equipment belonging to the premises become unserviceable the Lessor shall have a reasonable time after notification in writing to have the same repaired within a reasonable time without any liability to the Lessee for damage or inconvenience.

15. **INSPECTION AND SIGNS.** Lessor shall in person or by agent shall have the right at all times to enter the leased premises and inspect the same and, following any notification by Lessor that Lessor shall not be renewing the Lease or extending the Lease term to show the same to prospective tenants or purchasers. Lessor shall also have the right to display "For Rent" or "For Sale" signs on said building or premises and to advertise the same for lease and may any time remove placards, signs, fixtures, alterations, or additions not in conformity with this lease, or with the rules and regulations now or hereinafter adopted and may make such repairs and alterations as may be deemed by Lessor to the preservation of the leased premises. Lessee shall not post or exhibit nor allow to be posted or exhibited signs, advertisements, show bills, lithographs, posters, or cards of any description inside, on or from any part of the Southaven Arena, except as authorized in writing by the City and if authorized by City, only for those times and within those prescribed limits as determined by the City's Park Director, Facilities Manager, or other authorized representatives of City. Nothing in this Section shall preclude the City from exercising its rights under Senate Bill 2924, Local and Private Legislation (Regular Session 2013) which authorizes the City to sell the naming rights to the City's park buildings and structures.

16. **RULES AND REGULATIONS.** The following specific rules and regulations are made in regard to said leased premises:

A. The sidewalk shall not be obstructed by the Lessee or Lessor, or used by either for any purpose other than those of ingress and egress.

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B. No article shall be suspended without written consent of Lessor except as anticipated by the terms and purposes of this Lease and the uses anticipated herein.

C. No animals or pets shall be kept on the premises without written consent of Lessor.

D. Lessee hereby expressly waives any and all claims for compensation for any and all losses or damages sustained by any reason of any defect, deficiency, failure, or impairment of the water supply system, sewage system, drainage system, or electrical system leading to or within the Southaven Arena. In the event the Park's Director, Facilities Manager or authorized representatives, determine it is impractical or implausible to perform City's obligations under this Agreement as a result of fire or any other casualty or for any other reason including strikes, failures of utilities, or any act of God, Lessee hereby expressly releases, discharges, and will save harmless City, and its agents, servants and employees from any and all demands, claims, actions, and causes of action arising out of any of the causes aforesaid.

E. Lessee shall not sublease the Southaven Arena or any portion thereof.

F. The City shall not have the right to cancel any tournament or event except as set for severe weather conditions (sufficient to prompt warnings by the National Weather Service) or for public safety reasons. In the event, the City cancels a tournament or event, the City shall have no liability associated with such cancellation.

G. City does not relinquish hereunder the right to control the management, security, and operation of the Southaven Arena or to enforce all necessary and proper rules for the management and operation of the Southaven Arena. The City Park's Director, Facilities Manager, or other duly authorized representative(s), including City police and City emergency personnel may enter all portions of the Southaven Arena at any time and on any occasion.

H. City reserves the right through its Director, Facilities Manager, City Police or others authorized by them to eject any person or persons from the Southaven Arena.

I. In the event that Southaven Arena or any portion of the facility thereof is not vacated by Lessee upon the termination of this Agreement, or in the event the Lessee or any agent, representative, employee, contractor, partner, joint-venturer, co-producer, guest or invitee of Lessee shall leave any goods, wares, merchandise, or property of any kind or description at the Southaven Arena, City shall be and is hereby authorized to remove from the aforementioned, at the expense of the Lessee or any agent, representative, employee, contractor, partner, joint-venturer, co-producer, guest, or invitee thereof. City shall not be liable for any damages to or loss of such goods, wares, merchandise or other property that may be sustained either by reason of such removal or the storage or disposal thereof. Lessee shall indemnify the City and hold it harmless from any and all claims, liabilities, costs and damages, including attorney's fees, of whatever kind or nature arising out of or in connection with the removal, disposal, or storage thereof. Any property left at the Southaven Arena by Lessee or any agent, representative, employee, contractor, partner, joint-venturer, co-producer, guest or invitee thereof shall, after a period of ten (10) days from the last date of the tournament or event, be deemed abandoned and become property of City to be disposed of or utilized at City's discretion.

J. City does not assume any responsibility for any personal property of Lessee, its agents, representatives, employees, contractors, partners, joint-venturers, co-producers, guests or invitees of Lessee to the Southaven Arena and City is hereby expressly released and discharged by Lessee from any and all liabilities for any loss, injury, death, or damages to persons or property that

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may be sustained by reason of the Lessee's occupancy and/or use of Southaven Arena or any part thereof under this Agreement. Further, Lessee shall indemnify and hold harmless the City, its agents, employees, governing authorities, and representatives for any and all claims, costs or expenses, loss, injury, damages, demands, suits, or actions whatsoever relating to the use, activities, and occupancy of Lessee or its agents, representatives, employees, contractors, sub-contractors partners, joint-venturers, co-producers, guests or invitees. Lessee will not do or permit to be done anything in or upon any portion of the Southaven Arena or bring or keep anything therein or thereon which will in any way conflict with the conditions of any Lessee or City insurance policy.

K. Lessee shall be responsible for any and all damage to the Southaven Arena, which is the result of or caused by Lessee, or its agents, representatives, employees, contractors, sub-contractors partners, joint-venturers, co-producers, guests or invitees.

17. **WARRANTY.** Lessor warrants that the leased premises are in good condition. Lessee accepted them in such condition and agrees to keep them in such condition during the term of the lease at its expense and to return them to Lessor in the same condition at the termination of the lease, normal wear and tear excepted.

18. **QUIET POSSESSION.** Lessor covenants that Lessee upon paying the rent and performing all of the covenants and agreements herein contained on the part of Lessee may quietly enjoy the premises, except as herein otherwise provided, and subject however to the terms of the Lease to Lessor, and to the terms of any mortgages which may now or hereafter, affect the premises.

19. **UTILITIES.** Lessor will be responsible for the supply of gas, electricity, water, fuel, trash removal, and the like and will pay for all such services.

Should the property be destroyed or materially damaged so as to render it wholly unfit for occupancy by fire or other unforeseen event not due to any fault or neglect of Lessee, the Lessee shall be entitled to a credit for the unexpired term of the lease. However, Lessee shall not be entitled to a reduction of the monthly rent or cancellation of this lease because of temporary failure of utilities, heat, air conditioning, etc., as these are not the responsibility of Lessor.

20. **ADDITIONS & ALTERATIONS.** Lessee shall not make any additions or alterations to the premises without written permission of the Lessor. Any additions made to the property by the Lessee shall become the property of Lessor at the termination of this lease unless in writing Lessor agrees otherwise or as otherwise set forth in Section 15 above or those additions and alterations set forth in Addendum "D."

21. **LIABILITY.** The Lessor shall not be liable to Lessee or Lessee's employees, patrons, invitees, and visitors, or to any other person for any damage to person or property caused by an act, omission, or neglect of Lessee and Lessee agrees to hold Lessor harmless from all claims for any such damage, whether the injury occurs on or off the leased premises. Lessor will not be responsible for any damage caused by leaks in the roof, by bursting of pipes by freezing or otherwise, or any vices or defects of the leased property or the consequences thereof.

22. **VIOLATION OF COVENANTS.** That the violation by either Party, their employees, guests of any of Lessee's covenants herein or of any rule or regulation or any misrepresentation shall give to the other Party the immediate rights of termination or forfeiture of the lease.

23. **OTHER AGREEMENTS.** The failure of either Party to insist upon the strict performance of the terms of the lease, or any of them, shall not constitute a waiver or relinquishment of said Party's rights thereafter to enforce any such terms or covenants, but the same shall continue in full force and effect.

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24. MISCELLANEOUS.

It is understood that the terms "Lessor" and "Lessee" as used in this agreement shall include the plural and shall apply to persons, both male and female as well as entities. All obligations herein are several and in solido.

This Agreement shall be governed and construed in accordance with the law of the State of Mississippi.

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original.

In the event of conflicting policy and/or interpretation of the terms and provisions set forth in this Agreement between Lessee and City, Lessee and City shall work in good faith to resolve such dispute. In the event that the dispute is not resolved by mutual discussions between the parties, the disputing party shall provide written notice to the other party outlining in detail the basis for the dispute. Jurisdiction and venue for all disputes hereunder shall be proper in the federal and state courts having competent jurisdiction in Desoto County, Mississippi and/or the Northern District of Mississippi.

In the event any provision of this Agreement is rendered invalid or unenforceable, such provision shall be severed from this Agreement and the remaining provisions of this Agreement shall continue in full force and effect.

Neither party hereto shall be deemed an agent, partner, joint-venturer nor related entity of the other by reason of this Agreement and as such neither party may enter into contracts and agreements which bind the other party.

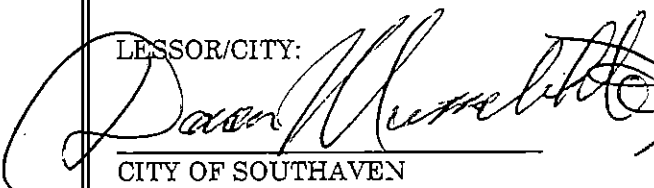
In the event that the City is not able to install the volleyball courts and/or the equipment necessary, which are required to host the events and tournaments as contemplated by this Agreement, the City shall provide notice to Lessee and this Agreement shall automatically terminate and neither party shall have any further obligation to the other.

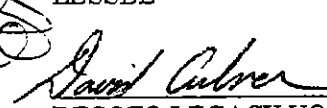
All notices herein provided for shall be in writing and shall be sent by mail if by the Lessor to the Lessee at the demised premises and if by the Lessee at the address in paragraph 1 or as further directed by the Lessor.

EXECUTED this 23 day of October, 2017.

LESSOR/CITY:

LESSEE


CITY OF SOUTHAVEN
A MUNICIPAL CORPORATION


DESOTO LEGACY VOLLEYBALL, LLC

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ADDENDUM A – SPACE ALLOCATION AND SUBLEASE PROVISIONS

Lessee shall have use of four (4) of seven (7) USAV/AAU sanctioned Court systems to be contained within the Southaven Arena for the duration of the term, two downstairs offices and storage space as approved by the City Parks Director or his designee. The City shall have no obligation to remove any equipment or property to provide additional storage space to Lessee.

Lessee and Lessor shall share certain areas of the Southaven Arena to include all 'public'/spectator areas, hallways, restrooms, entryways, and exterior seating areas.

During all USAV/AAU Tournaments, Lessee shall have exclusive usage of all seven (7) USAV/AAU sanctioned Courts for the duration of each Tournament.

The City, at a minimum, shall always have use of at least three (3) courts at all times except during UASV/AAU Tournaments as hosted by the Lessor. Lessee shall be entitled to collect "Team Fees" from all teams competing in any Tournament held at the Southaven Arena.

Lessor shall have the right to man and collect any admission fees charged at the door to spectators as well as operate and collect for concessions during such Tournaments. Lessor shall receive all proceeds from admission fees and concessions. Lessor will be responsible for crowd control and security requirements during tournaments. Lessee shall be responsible for all clean-up, maintenance and damages associated with the tournaments.

Lessee shall receive full management of access to the Southaven Arena and shall receive from Lessor the keys thereto.

Lessor agrees not to rent or lease any portion of the Premises to any other group, league or persons whose purpose is for the training or practice of volleyball or the use of the facility for any volleyball clinics, games or tournaments, while Lessee is hosting a tournament;

During City League Events, the City shall exclusive use of all seven (7) courts.

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ADDENDUM B – EVENT SCHEDULE AND RENT PRORATION

Lessee shall forego full and complete use and possession of the Southaven Arena during the following dates of prior Premises commitments:

- January 15-23, 2018 for the Crystal Ball

Lessee and Lessor agree to work in good faith for all other City events for the Southaven Arena.

Lessee shall receive a rent proration credit for the periods of relinquishment. Rent proration shall be calculated using a thirty (30) day month.

Lessor does not relinquish the control of the Southaven Arena and scheduling for events in the Southaven Arena.

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ADDENDUM C - CITY LEAGUE PROVISIONS

To assist Lessor in the facilitation of a City volleyball League (the "City League"), during the term of the Lease, Lessee shall be responsible for the following:

Lessee shall provide Coaches and Staff to exclusively manage such portions of the City League Program as follows:

- Registration (Co-op with City of Southaven registration online system)
- Team Formation
- Practices
- Training/Curriculum
- Tournaments
- Awards

Scope of City League:

Teams will be limited to 8-10 total teams of 8-10 athletes per team per term.

Example of Potential Divisions:

- 3rd-4th Grade Coed
- 5th-6th Grade Coed
- 7th-8th Grade Girls
- 7th-8th Grade Boys
- 9th-12th Grade Girls
- 9th-12th Grade Boys

Terms: Leagues will run for 8 weeks with a seeded double elimination bracket tournament at the end.

Lessee, in coordination and approval from the City Park's Director, may determine size, scope, & frequency of the City league.

City reserves the right to amend and implement the City League Provisions, Rules, Guidelines, and Procedures. In addition, City shall have final authority over all City League matters.

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ADDENDUM D - ALTERATIONS

The Parties hereto agree to the following modifications and alterations to the Southaven Arena and responsibility therefor:

Lessor will perform and provide all necessary Core Drillings and sleeves in hydraulic cement.

Lessor will provide USAV sanctioned Court including surface materials, substructure, and lines.

Lessor will provide all USAV Net Systems; these should be "PIP" systems which maintain adjustability.

Lessor will provide complete and fully installed benches for spectators.

Lessor's responsibilities under this Addendum shall be completed no later than December 31, 2017.

Lessor has agreed to provide an alarm system which provides individual alarm codes for Lessor and Lessee. In the event there are more than three (3) false alarms associated with Lessee's alarm code, Lessee shall be fined \$100.00 for each additional false alarm.

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RESOLUTION OF CITY OF SOUTHAVEN BOARD OF ALDERMAN AWARDING BID FOR SNOWDEN GROVE TENNIS PRO SHOP TO AMBASSADOR CONSTRUCTION COMPANY

WHEREAS, pursuant to Mississippi Code Section 31-7-13, the City of Southaven ("City") previously advertised for bids for construction of the Snowden Grove Tennis Pro Shop ("Shop"); and

WHEREAS, the City's Park Director and consulting architect, Brian P Bullard, AIA/UrbanARCH Associates, PC, have reviewed the pricing and bids along with the qualifications, responsibility and other information which is responsive to the Request for Bids to determine which bid is the lowest and best; and

WHEREAS, the City, pursuant to Mississippi Code Section 31-7-13 finds that Ambassador Construction Company ("Ambassador") is the low and best bid with a bid in the amount of \$670,755.00 including both alternates for the Shop; and

WHEREAS, Ambassador did not obtain the plans and specifications from Memphis Reprographics or appear on the contractor list; however, Ambassador did attend the mandatory pre-bid conference; and

WHEREAS, the bid instructions did not require that the plans and specifications be obtained from a specific location for consideration of bids and the bid instructions noted that plans and specifications will be placed in plan rooms; and

WHEREAS, the City bid specifications allow for the City to waive any informalities in the responses to the bid; and

WHEREAS, Ambassador not obtaining the plans and specifications from Memphis Reprographics did not violate mandatory statutory provisions; did not destroy the competitive character of the bid; had no effect as to the amount of the bid; and did not give Ambassador an advantage or benefit over the other bidders

WHEREAS, the City desires to accept and award the bid to Ambassador as the lowest and best bid proposal for the Shop.

NOW THEREFORE, be it resolved as follows:

1. Pursuant to Mississippi Code 31-7-13, the City hereby finds that Ambassador's bid in the amount of \$670,755.00, which includes both alternates for the Shop is the lowest and best bid and the contract is awarded to Ambassador.

2. To the extent that Ambassador not obtaining the plans and specifications from Memphis Reprographics is an informality, the City hereby waives such informality as the plans and specifications did not require the plans and specifications be obtained from a specific location for consideration of bids; the bid instructions noted that plans and specifications will be placed in plan

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rooms; and Ambassador not obtaining the plans and specifications from Memphis Reprographics did not violate mandatory statutory provisions, did not destroy the competitive character of the bid, had no effect as to the amount of the bid, and did not give Ambassador an advantage or benefit over the other bidders.

3. Furthermore, as the Mississippi Supreme Court and multiple Attorney General Opinions have noted when this discretion is exercised by a Board in regard to awarding bids, the courts will not interfere. *Parker Bros. v. Crawford*, 219 Miss. 199, 209, 68 So.2d 281 (1953).

4. The Mayor or his designee is authorized to execute any and all documents and other documentation required in order to effectuate the intent of this Resolution.

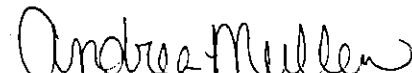
Following the reading of the foregoing Resolution, Alderman Gallagher made the motion and Alderman Wheeler seconded the motion for its adoption. The Mayor put the question to a roll call vote, and the result was as follows:

Alderman William Brooks	voted: YES
Alderman Kristian Kelly	voted: YES
Alderman Ronnie Hale	voted: YES
Alderman George Payne	voted: YES
Alderman Joel Gallagher	voted: YES
Alderman John David Wheeler	voted: YES
Alderman Raymond Flores	voted: YES

RESOLVED AND DONE, this 23rd day of October, 2017.


DARREN MUSSELWHITE, MAYOR

ATTEST:


CITY CLERK



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