



Town of Archer Lodge

AGENDA

Special Meeting Meeting

Monday, March 20, 2023 @ 6:00 PM

Jeffrey D. Barnes Council Chambers

Page

1. DINNER:

2. WELCOME/CALL TO ORDER:

- 2.a. Invocation
- 2.b. Pledge of Allegiance

3. APPROVAL OF AGENDA:

4. DISCUSSION AND POSSIBLE ACTION ITEMS:

- 2 - 6 4.a. Discussion and Consideration of Adopting the Lease & Use Agreement between the Town of Archer Lodge and the Archer Lodge Community Center, Inc.
[ALCC Lease Agreement March 7 v. 2](#)
- 7 - 8 4.b. Discussion and Consideration of Approving a Memorandum of Understanding for Field Rentals Between the Town of Archer Lodge and Johnston County Little League
[Johnston County Little League MOU](#)
- 9 - 10 4.c. Discussion and Consideration of Approving a Memorandum of Understanding for Field Rentals Between the Town of Archer Lodge and Neuse River Futbol Alliance
[Neuse River Futbol Alliance MOU](#)

5. ADJOURNMENT:

STATE OF NORTH CAROLINA

LEASE & USE AGREEMENT

JOHNSTON COUNTY

This Lease & Use Agreement is entered into this ____ day of _____, 20____ by and between the Town of Archer Lodge (hereinafter "Lessee") and the Archer Lodge Community Center, Inc. (hereinafter "Lessor"). This Agreement hereby revokes, replaces, and supersedes any Agreement currently or previously in place between the Parties.

WHEREAS Lessee is a municipal corporation, formed under the laws of the State of North Carolina and a political subdivision of the State of North Carolina;

WHEREAS Lessor is a non-profit corporation formed and operating under the laws of the State of North Carolina that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code;

WHEREAS Lessor was formed and operates for the purpose of organizing youth sports leagues and other community events in the Town of Archer Lodge and surrounding areas in Johnston County, North Carolina;

WHEREAS Lessor is the owner in fee simple of that certain parcel of land located at 14009 Buffalo Rd., Archer Lodge, North Carolina and being more particularly described in Exhibit A attached hereto (hereinafter the "Property"). The Property shall include use of the baseball field, soccer field, and restroom facilities in the picnic shelter;

WHEREAS the Property has been used for, among other things, organized recreational youth sports leagues for many years operated by Lessor;

WHEREAS Lessee now desires to assume operation and organization of the youth sports leagues currently operated by Lessor; and

WHEREAS Lessor wishes to grant Lessee long-term access to the Property in exchange for Lessee continuing to organize and conduct youth sports recreational leagues in the Town of Archer Lodge.

NOW THEREFORE, in consideration of the premises and the mutual promises contained herein, the adequacy and sufficiency of which is hereby acknowledged by all parties hereto, the parties agree as follows.

1. Grant. Lessor hereby leases the Property and all appurtenances thereto to Lessee for a term of twenty (20) years (the "Term"). The Term shall begin on January 1, 2023, and shall expire December 31, 2043.

2. Rent. In exchange for the lease contemplated hereunder, Lessee shall pay to Lessor rent in the amount of \$1.00 per year. Said rent shall be due on January 1st of each

year and shall be considered late if not paid by January 15th.

3. Renewals. Provided that Lessee is not in default under this Lease Agreement at the time and has not previously during the Term or any extensions thereof, Lessee shall be entitled to renew this Lease by giving notice to Lessor or its successors or assigns no sooner than one hundred eighty (180) days and no later than ninety (90) days before the expiration of the Term or any extensions thereof.

4. Lessee Obligations. In addition to the obligation to pay rent noted above, during the Term and any extensions thereof, Lessee shall:

a) Continue to organize and conduct recreational youth sports leagues on the Property including, but not limited to, leagues for baseball, softball, and soccer;

b) Maintain a high standard of cleanliness and orderliness during and after each use of the Property;

c) Maintain the Property in an attractive manner and consistent with the use of the Property for their current recreational use;

d) Schedule use of the Property; and

e) Pay for maintenance, utilities, and upgrades to the Property. The maintenance, utilities, and upgrades shall be limited to the baseball field ([including ball field lights](#)), soccer field, associated sports facilities (dugouts, bleachers, etc.), and use of the restroom facilities [in the picnic shelter](#). Use shall exclude the community center building, amphitheater, playground, concession stand, and picnic shelter. ~~Lessee shall coordinate with Lessor for a portion of maintenance, utilities, and upgrades to said restroom facilities.~~

f) Lessee shall be permitted to use the John Deere infield groomer and mower being leased by Lessor (hereinafter "Equipment") for use on the fields of Lessor and those owned by Lessee. Lessee shall be responsible for all maintenance on said groomer. Lessee shall pay to lessor a use fee equal to the lease payments made by Lessor on the Equipment. Lessee shall be permitted to house the Equipment

5. Authority of Lessee. Lessee shall have sole and full authority to provide all youth sports leagues, including registration, use of registration fees, and contracting with third parties, such as Johnston County Little League and Neuse River Futbol, for use of the Property and the rental fees associated with such use. Lessor shall not have rights to govern these activities or collected monies. If Lessor has a need to use the Property, Lessor and Lessee shall coordinate Lessor's use.

6. Liability Insurance. At all times during the Term of this Lease and any extensions hereof, Lessee shall maintain, at a minimum, a liability insurance policy or

policies with limits of at least \$1,000,000.00. Upon the request of Lessor or its successors or assigns, Lessee shall, at Lessee's expense, include Lessor or its successors or assigns as an additional insured on such liability policy or policies.

7. To the fullest extent permitted by laws, Lessee agrees to fully indemnify, defend and save Lessor harmless from and against any and all claims and demands for or in connection with, any accident, injury or damage whatsoever caused to any person or property arising, directly or indirectly, out of the use of the Property or any part thereof, or arising directly or indirectly, from any act or omission of Lessee its agents, employees, invitees, customers or contractors, and from and against any and all costs, expenses, reasonable attorneys' fees, and liabilities incurred in connection with any such claims and/or proceedings brought thereon. To the fullest extent permitted by laws, Lessor agrees to fully indemnify, defend and save Lessee harmless from and against any and all claims and demands for or in connection with, any accident, injury or damage whatsoever caused to any person or property arising, directly or indirectly, out of the use of the property of Lessor not subject to this agreement, or any part thereof, or arising directly or indirectly, from any act or omission of Lessor, its agents, employees, invitees, customers or contractors, and from and against any and all costs, expenses, reasonable attorneys' fees, and liabilities incurred in connection with any such claims and/or proceedings brought thereon.

8. The parties shall cooperate in executing and recording a memorandum of this Lease Agreement in the Johnston County Registry. Lessee shall pay the cost of such recording.

9. Assignment. Lessee shall not assign this Lease Agreement or sublet the whole or any portion of the Property without the consent of Lessor or its successors or assigns. Upon any such assignment, the assignor shall assume all obligations of Lessee and be subject to all remedies by Lessor under this Lease Agreement.

10. Default. If Lessee fails to pay the rent due hereunder or otherwise fails to comply with any of its obligations hereunder, Lessee shall be in default. In such event, Lessor shall have the right to cancel this Lease Agreement if the acts or omissions of Lessee giving rise to such default are not cured by Lessee within thirty (30) days of the date which Lessee receives written notice from Lessor of such default. Provided, however, that if such default other than rent is impossible to cure in thirty (30) days through no fault of Lessee, then Lessee shall have a reasonable time after written notice of default from Lessor to cure the default.

11. Notice. Whenever written notice is required to be provided hereunder, or whenever either party hereto wishes to send written correspondence to the other, such notice shall be delivered as follows:

- a) If to Lessor,
deliver to:

Archer Lodge Community Center Inc.
14009 Buffalo Rd.

Archer Lodge, NC 27527

b) If to Lessee, deliver to:

Town of Archer Lodge
14094 Buffalo Rd.
Archer Lodge, NC 27527

12. This Lease Agreement shall be interpreted and governed by the laws of the State of North Carolina. ~~Subject to the arbitration provisions contained herein~~, all parties hereto, by executing this document, hereby voluntarily submit themselves, their successors and assigns to the jurisdiction of the applicable courts in North Carolina, and the parties acknowledge that the courts in Johnston County, North Carolina are an appropriate venue for any disputes between the parties hereto that may arise out of this Lease Agreement. ~~Except for any portion of such disputes that are subject to arbitration under this Agreement.~~

13. This Lease Agreement represents the entire agreement of the parties. To the extent that any oral representations, or terms discussed orally, between any of the parties are inconsistent with the terms herein, each party hereto acknowledge that such inconsistent representations or terms were not accepted by the other(s) and that such inconsistent representations or terms are not part of any agreement between the parties related to the subject matter of this Lease Agreement.

14. This Lease Agreement cannot be modified except in a writing executed by all of the parties hereto executed under the same formalities as this Lease Agreement.

15. Any determination by any court that any term of this Lease Agreement is invalid, in whole or in part, shall not affect the validity of the remainder of this Lease Agreement.

16. If any party hereto, or their respective successors or assigns, files a lawsuit to enforce or set aside this Lease Agreement or any portion hereof, or any other lawsuit that is in any way related to this Lease Agreement, the prevailing party in such lawsuit shall be entitled to its costs, including reasonable attorney's fees, of prosecuting or defending such lawsuit. This entitlement to costs of litigation, including reasonable attorney's fees, is contractual in nature and is intended by the parties to be in addition to, and not substituted for, any other legal entitlement to such costs of litigation, including reasonable attorney's fees, that the parties hereto, or either of them, may have.

17. Each party hereto acknowledges that they enter into this Lease Agreement of their own free will, and that they are under no duress or undue influence to execute the same.

18. All terms hereof shall be binding upon each party's successors and assigns.

Each party hereto acknowledges that the signature line(s) below for such party is

signed by a person with the full authority, whether actual or apparent, to execute this Contract on behalf of such indicated party.

ARCHER LODGE COMMUNITY CENTER, INC.

TOWN OF ARCHER LODGE

By: _____
Dene Castleberry, President

By: _____
Matthew B. Mulhollem, Mayor

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is made and entered into this ___ day of _____, 2023, by and between the Town of Archer Lodge, North Carolina, a municipal corporation (“Town”) and Johnston County Little League, a North Carolina Non-Profit Corporation (“JCLL”). The Town and JCLL may be referred to as a “Party” or collectively as the “Parties.”

WITNESSETH:

WHEREAS, the Town has entered into a long term lease agreement (Lease) with Archer Lodge Community Center, Inc., a North Carolina Non-Profit Corporation (ALCC) for the exclusive use and control of the baseball field, multi-purpose field, and bathroom facilities at the picnic shelter located at 14009 Buffalo Rd., Archer Lodge, North Carolina (the Property); and

WHEREAS, JCLL had entered into a use and rental agreement with ALCC prior to the execution of the Lease between the Town and ALCC; and

WHEREAS, the Parties desire to enter into this MOU to express their understandings with respect to the foregoing;

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties have the following understandings:

1. **Current Use Agreement.** The Town agrees to honor the current use agreement between JCLL and ALCC for the remainder of the season, including, but not limited to, the rental rate for use of the Property, the agreed upon schedule for use of the Property, and maintenance and preparation agreement for the Property. All use and rental payments (if any) shall be paid to the Town after the effective date below.
2. **Future Use.** The Parties agree and understand that for all future use and rental agreements for use of the Property shall be with the Town and ALCC shall have no authority to encumber the use of the Property. All future use and rental agreements shall be subject to the adopted rental and fee schedule of the Town’s Parks and Recreation Department.
3. **Effective Date.** This MOU shall be effective, give notice to the Parties, and be binding on their heirs, successors and assigns as of the date listed in the signature page below.

IN WITNESS WHEREOF, this MOU has been approved by the Town Council for the Town of Archer Lodge as of the ____ day of _____, 2023 and is executed by its Mayor and Town Clerk with authority duly given and as an act of the Town of Archer Lodge.

TOWN OF ARCHER LODGE

By: _____
Matthew Mulhollem, Mayor

ATTEST:

Jenny Martin, Town Clerk

IN WITNESS WHEREOF, this MOU has been approved by Johnston County Little League as of the ____ day of _____, 2023 and is executed by its President with authority duly given and as an act of Johnston County Little League.

JOHNSTON COUNTY LITTLE LEAGUE

By: _____
Andy Kneppler, President

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is made and entered into this ___ day of _____, 2023, by and between the Town of Archer Lodge, North Carolina, a municipal corporation (“Town”) and Neuse River Futbol Alliance, Inc., a North Carolina Non-Profit Corporation (“NRFA”). The Town and NRFA may be referred to as a “Party” or collectively as the “Parties.”

WITNESSETH:

WHEREAS, the Town has entered into a long term lease agreement (Lease) with Archer Lodge Community Center, Inc., a North Carolina Non-Profit Corporation (ALCC) for the exclusive use and control of the baseball field, multi-purpose field, and bathroom facilities at the picnic shelter located at 14009 Buffalo Rd., Archer Lodge, North Carolina (the Property); and

WHEREAS, NRFA had entered into a use and rental agreement with ALCC prior to the execution of the Lease between the Town and ALCC; and

WHEREAS, the Parties desire to enter into this MOU to express their understandings with respect to the foregoing;

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties have the following understandings:

1. **Current Use Agreement.** The Town agrees to honor the current use agreement between NRFA and ALCC for the remainder of the season, including, but not limited to, the rental rate for use of the Property, the agreed upon schedule for use of the Property, and maintenance and preparation agreement for the Property. All use and rental payments (if any) shall be paid to the Town after the effective date below.
2. **Future Use.** The Parties agree and understand that for all future use and rental agreements for use of the Property shall be with the Town and ALCC shall have no authority to encumber the use of the Property. All future use and rental agreements shall be subject to the adopted rental and fee schedule of the Town’s Parks and Recreation Department.
3. **Effective Date.** This MOU shall be effective, give notice to the Parties, and be binding on their heirs, successors and assigns as of the later of the dates listed in the signature page below.

IN WITNESS WHEREOF, this MOU has been approved by the Town Council for the Town of Archer Lodge as of the ____ day of _____, 2023 and is executed by its Mayor and Town Clerk with authority duly given and as an act of the Town of Archer Lodge.

TOWN OF ARCHER LODGE

By: _____
Matthew Mulhollem, Mayor

ATTEST:

Jenny Martin, Town Clerk

IN WITNESS WHEREOF, this MOU has been approved by Neuse River Futbol Alliance, Inc. as of the ____ day of _____, 2023 and is executed by its President with authority duly given and as an act of Neuse River Futbol Alliance, Inc.

NEUSE RIVER FUTBOL ALLIANCE, INC.

By: _____
Tim Rayworth, President