

JCPRD 50 PLUS FACILITY USAGE AGREEMENT

THIS Agreement is made and entered into this _____ day of _____, 1920____, by and between the City of Overland Park, Kansas, hereinafter referred to as the "City," and the Johnson County Park and Recreation District, hereinafter referred to as the "District," each party having been organized and now existing under the laws of the State of Kansas.

WHEREAS, K.S.A. 19-2862 authorizes the District to enter into agreements; and the City is authorized to enter into agreements by virtue of Article 12, Section 5, of the Kansas Constitution and K.S.A. 12-101; and

WHEREAS, the District has established and conducts a program to provide for the recreational, cultural, educational, and social needs of the 50 Plus population; and

WHEREAS, the City owns and operates the Overland Park Community Center, hereinafter referred to as the "Center;" and

WHEREAS, a coordinated approach to the provision of recreational and social services to the 50 Plus population is most effective and efficient; and

WHEREAS, co-sponsorship of 50 Plus programs held at the Center would ensure a coordinated approach to the provision of the needed services; and

WHEREAS, the Governing Body of the City did approve and authorize its Mayor to execute this Agreement by official vote of said body on the _____ day of _____, 1920____; and

WHEREAS, the Governing Body of the District did authorize its chairperson to execute this Agreement by official vote of said body on the _____ day of _____, ~~1920~~_____.

NOW, THEREFORE, in consideration of the above recitals, the mutual covenants and agreements herein contained, and for other good and valuable consideration, the parties agree as follows:

1. Duration of Agreement and Termination - This Agreement shall be in effect from January 1, 200~~03~~ through the period ending December 31, 200~~24~~; provided that this Agreement may be terminated by either party, giving at least 90 days' prior written notice to the other party of its intention to terminate this Agreement; further provided that if the City or District shall fail or refuse to perform or comply with any of the obligations or provisions herein agreed, the affected party shall have the right to notify the other party in writing of such default; and if the party so notified shall remain in default for 30 days thereafter, the affected party may elect to cancel this Agreement immediately thereafter.
2. No Legal Entity Created - There will be no separate legal entity created under this Agreement.
3. Purpose of the Agreement - The purpose of this Agreement is to facilitate cooperation in the establishment and operation of the Overland Park 50 Plus Program and to define responsibilities for the operation, finances, publicity, building maintenance, and other matters pertaining to the 50 Plus Program.
4. Financing - Except as may be otherwise provided herein, the District shall provide all funding and personnel necessary to manage the 50 Plus Program, conduct and supervise

programs, coordinate activities, and operate the 50 Plus Program office. The District shall make a payment of \$80 per week to assist with the cost of room set-ups. Payment shall be made upon billing by the City.

The District shall have use and access for 50 Plus program needs to the City's copy and fax equipment at the Center. In consideration of such access, the District shall make payment to the City monthly, said payment to be a sum equal to the District's percentage of the total monthly cost for rental, repairs, paper, and related supplies. Payment shall be made upon billing by the City.

5. Maintenance, Heat, and Light - The City agrees to provide heat, light, electricity, and maintenance to include janitorial service for the facility. Maintenance shall include repair or replacement of structural, mechanical, and related components of the facility.
6. Acquisition Holding, and Disposal of Property - The Center shall remain the property of the City. The District may not install any fixtures or make any physical changes to the premises and facilities of the Center without the express written consent of the City. Any equipment used in the 50 Plus Program will be owned by either the City or the District. No equipment is to be jointly owned. In the event that this Agreement is terminated, all property shall be returned to the owner agency. All equipment and/or furnishings of over a Two Hundred Dollar (\$200) value shall show owner designation. The maintenance, repair, replacement, and general upkeep of equipment shall be the responsibility of the owner except as otherwise provided in this Agreement.
7. Request for Use of Meeting Rooms - Requests by the District's 50 Plus Program for

meeting rooms or other facilities at the Center shall receive priority in accordance with City policy. Requests by the District for revenue producing special events at the Center must be co-planned and co-sponsored by the City. Requests by the District's and their associated/cosponsored groups for use of the Center must be listed and approved on a yearly basis by the City. These listed and pre-approved groups must comply with City's guidelines and regulations. Requests must be submitted in advance on a yearly basis except for an emergency situation. All use of classrooms, meeting rooms and facilities of the Center shall be subject to approval by the City. The 50 Plus Program may make special request for use of the Center after hours. Said request must be made 30 days in advance, and is subject to City approval and fees established by the City. All events after normal open hours must have a full-time or permanent part-time District staff member present.

8. Administration of Agreement - The center at the Overland Park Community Center shall be known as a cosponsored 50 Plus Program between the District and City. A representative from the District and City shall meet at least quarterly to review the operation and discuss the future direction of the 50 Plus Program. Daily program administration shall be provided by the District.

9. Responsibilities

The District:

- ~~(a)~~ — ~~(a)~~ — Shall provide a minimum of one full-time staff person to manage the 50 Plus Program.

(b) Shall perform data entry of 50 Plus Program reservations and changes into the Class software reservation system.

(bc) Shall provide all support supplies needed to maintain the 50 Plus Program office to include telephones, computers, office supplies, printing, etc., the cost to be the responsibility of the District.

(cd) Shall coordinate the services of other 50 Plus providers to include program and facility use in conjunction with the 50 Plus Program with the exception of the senior's luncheon program.

(ce) Shall provide an annual report to include the number of programs, the number of people served, an inventory of equipment, the class fee structure, an evaluation report, and other information as may be requested by the City.

(cf) Shall provide a printed list, for review by the City, of proposed facility improvements or program enhancements to benefit seniors utilizing the Overland Park Community Center.

(cg) Shall provide, prior to their effective date, for review by the City, all written guidelines, rules, or regulations governing activities conducted in the Center by the District.

(ch) Shall upkeep and monitor designated bulletin boards at the Center in accordance to City's policies.

(ci) Shall submit in writing requests for A/V equipment use.

The City

- (a) Shall provide office space for the 50 Plus Program.
- (b) Shall provide classroom and meeting space including setup for programs, activities, and special events. Rooms 104, ~~and 106 and 107~~ will be available during normal open hours. Room 107 will be available during normal open hours only if special permission is given by City's staff. All other rooms will be available 8am to 6pm, Monday through Friday. Any room usage outside this schedule will be charged to the District at the regular room rental rate. The room charge will be waived if the room is available and the request for usage is made less than 24 hours before the room is to be used.
- (c) Shall furnish tables and chairs for use in meeting rooms.
- (d) Shall provide access to the kitchen area as required for special events, said access to be during non-lunch hours. The District shall be responsible for any and all permits and/or licenses as may be required for such use.
- (e) Shall provide a key to the building for the District 50 Plus staff person housed at the Center.
- ~~(f) Shall furnish an area for the District's kiln.~~
- (g) Shall provide sufficient bulletin board space for the District as agreed upon by both parties.
- (h) Shall provide A/V equipment for District programs within the Center at no charge.

10. Indemnification - In case any action in court is brought against the City or City's representative, or any officer or agent, for the failure, omission, or neglect of the District to perform any of the covenants, acts, matters, or things by this Agreement undertaken, or for injury or damage caused by the alleged negligence of the District, the District shall indemnify and save harmless the City and City's representative and its officers and agents, from all losses, damages, costs, expenses, judgments, or decrees arising out of such action.
11. Disclaimer of Liability - The City shall not be liable or obligated to the District for damage incurred to the District upon premises by fire, theft, casualty, acts of God, civil disaster, and such other occurrences and events beyond the control of the City.
12. Insurance - the District shall secure and maintain, or have maintained, throughout the duration of this Agreement, insurance of such types and in such amounts as may be necessary to protect the District against all hazards or risks of loss as hereinafter specified, whether such hazards or risks be generated by the District or any of its agents. The District shall offer to the City other evidence of such insurance coverage, and any and all renewals thereof, in the form of a Certificate of Insurance.
 - (a) Owner's Protective Liability - The District shall take out, pay for, and deliver to the City, and maintain during the life of this Agreement, Owners' Protective Liability insurance naming the City of Overland Park as the insured in amounts as specified hereinafter for General Liability.
 - (b) General Liability - This insurance shall protect the District against all claims

arising from injuries to members of the public or damage to property of others arising out of any act or omission of the District or its agents or employees. In addition, this policy shall specifically insure the contractual liability assumed by the contractor under the paragraph entitled "Indemnification." The policy shall include Products/Completed Operations, Contractual Liability, Broad Form Property Damage, Personal Injury, Independent Contractor's Coverage, and "Hired" and "Non-owned" Automobile Liability coverage's. Following are the minimum amounts of coverage required:

Bodily Injury and Property Damage	\$500,000 Each Occurrence
Combined Single Limit	\$500,000 Aggregate

- (c) Workers' Compensation and Employers' Liability - This insurance shall protect the District against all claims under applicable state Workers' Compensation laws. The District shall also be protected against claims for injury, disease, or death of employees, which, for any reason, may not fall within the provisions of a Workers' Compensation law. The policy shall include other states' insurance.

The liability limits shall not be less than the following:

Workers' Compensations	Statutory
Employers' Liability:	
Bodily Injury by Accident	\$100,000 Each Accident
Bodily Injury by Disease	\$100,000 Each Employee
Bodily Injury by Disease	\$500,000 Policy Limit

13. By the terms of this Agreement, the 50 Plus Program shall be known as a cosponsored project; and all written and verbal publicity should reflect the cosponsorship. Every effort shall be made by both agencies to inform the participants and public of the cosponsorship arrangement. The 50 Plus Program shall be known as the 50 Plus Program-Overland Park.
14. Verbal Statements Not Binding - It is understood and agreed that the written terms and provisions of this Agreement shall supersede all prior verbal statements of any and every official and/or other representatives of the City and District, and such statements shall not be effective or be construed as entering into, forming a part of, or altering in any way whatsoever, the written Agreement.
15. Inspection of Premises by City - The City shall have the right to inspect the premises and facilities occupied by the District at all reasonable times.
16. Provisions Separable - It is the intent of the parties hereto in the preparation and execution of the Agreement to avoid a conflict with the applicable laws or regulations of the State of Kansas; and if any provision herein is found to be in conflict with the State Cash Basis or Budget Law, or any other state law or regulation, it is the intent of the parties hereto that such provision shall have no force and effect, and the remainder of the Agreement shall be valid as though such conflicting provision had not been written or made a part hereof.
17. Nonassignability of Agreement - This Agreement shall not be assigned, transferred, or sold, nor the premises and facilities herein leased or sublet to any other person, agency,

or corporation, in whole or part, except with the express written consent of the City.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, three copies of the above and foregoing Agreement have been executed by each of the parties on the day and year first above written.

CITY OF OVERLAND PARK, KANSAS

ATTEST:

Ed Eilert, Mayor

Marian Cook, City Clerk

APPROVED AS TO FORM:

J. Bart Budetti
Sr. Assistant City Attorney

JOHNSON COUNTY PARK AND
RECREATION DISTRICT

ATTEST:

Dr. Mike Jurkovich, Chairperson

Dr. Marvin Wollen, Secretary

APPROVED AS TO FORM:

District Legal Counsel

CORPORATE ACKNOWLEDGEMENT

STATE OF KANSAS)
) SS.
COUNTY OF JOHNSON)

The foregoing instrument was acknowledged before me this _____ day of _____, 1920 by Dr. Mike Jurkovich, Chairperson of the Johnson County Park and Recreation District.

Notary Public

My appointment expires: _____