

## **AGREEMENT**

THIS AGREEMENT, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2004, by and between the City of Overland Park, Kansas, a municipal corporation, hereinafter referred to as CITY, and the Johnson County Park & Recreation District, hereinafter referred to as DISTRICT.

WHEREAS, the DISTRICT provides quality parks and supervised year-round recreational programs and leisure services for Johnson County citizens of all ages; and

WHEREAS, the DISTRICT had previously awarded day camp scholarships for low- to moderate-income residents through the Johnson County Community Block Grant (CDBG) program; and

WHEREAS, the CITY is a CDBG entitlement city and Overland Park residents are no longer eligible for day camp scholarships through the county CDBG program; and

WHEREAS, the CITY has approved and proposes to make a grant of up to \$20,927 from the CDBG program, providing scholarship assistance for the DISTRICT's summer day care program for lower income Overland Park working families as described in the grant proposal dated April 7, 2003;

NOW, THEREFORE, in consideration of the promises and covenants of this contract, the parties hereto agree as follows:

### **I. TERM**

The term of this Agreement shall be for the period commencing on April 1, 2004, and ending September 30, 2004, subject to the terms and conditions hereinafter contained.

### **II. ELIGIBILITY**

The DISTRICT shall provide eligibility determination for applicants for the scholarship program funded by this grant. The following factors will be used to determine eligibility:

- a. The parent or legal guardian of the scholarship recipients(s) is a resident of the CITY and the scholarship recipient(s) resides with the applicant; and
- b. The total income for all members of the applicant's household does not exceed 80% of the median income of the Kansas City metropolitan area, as determined by the Secretary of Housing and Urban Development; and
- c. The applicant is ineligible to receive financial assistance for child care through Social Rehabilitation Services or other social service programs.

### **III. FUNDING**

The CITY agrees to disburse to the DISTRICT a grant of up to \$20,927 from CDBG funds, payment subject to conditions hereinafter stated and those applicable regulations as established by the Department of Housing and Urban Development.

The CITY agrees to disburse the CDBG funds on the following schedule:

Funds shall be disbursed by the CITY upon request by the DISTRICT, based on funds expended and costs incurred. The final request for funds is to be made within thirty days of the termination of this Agreement.

Any program income derived from the Community Development Block Grant shall be reported to the CITY and shall be used by the DISTRICT for purposes as outlined in this Agreement and subject to the requirements and conditions herein specified.

The cost and liability to the CITY for work under this Agreement shall not exceed the amount of fiscal year 2004 CDBG funds authorized and available to the CITY for this project and shall be subject to the release of funds by the Department of Housing and Urban Development.

### **IV. RECORDS AND REPORTS**

The DISTRICT agrees to maintain records and submit a report to the city within thirty days of the termination of this Agreement. Such records and reports, at a minimum, shall include services provided and client totals by low/moderate income, race as defined by HUD, ethnic group, head of household, city of residence and other information as may be required by the CITY and shall be in a form as approved by the CITY. These records shall also include all documentation pertaining to the applicant's eligibility for the scholarship program funded by this grant. The DISTRICT shall provide the CITY with access to all records upon request. The DISTRICT agrees to maintain all records for five years following the termination of this Agreement.

### **V. SPECIAL REQUIREMENTS**

The DISTRICT agrees to comply with applicable CITY zoning ordinances, building code requirements and other applicable city and state codes, ordinances, or licensing requirements. The DISTRICT understands that execution of this Agreement is in no way a waiver or approval of any provision of this section.

The DISTRICT understands and agrees that the administration and expenditure of funds from this grant shall be in compliance with CDBG regulations; provided further, the DISTRICT agrees to be solely responsible for ensuring said compliance. The DISTRICT further certifies that it will comply with the applicable provisions of the Code of Federal Regulations 24 CFR, Part 570, to include, but not limited to, 24 CFR, Section 570.502, and Office of Management and Budget Circulars, to include, but not limited to, Circular A-133: Audits of States, Local Governments, and Non-Profit Organizations, revised June 24, 1997; provided further, that HSSM agrees to comply with applicable federal law and regulations described in 24 CFR, Part 570, Subpart K.

Title 31 U.C.S., Section 1352, requires all subgrantees, contractors, subcontractors, and consultants who receive federal funds via the CITY to certify that they will not use federal funds to pay any person for influencing or attempting to influence a federal agency or Congress in connection with the award of any federal contract, grant, loan, or cooperative agreements.

In addition, contract applicants, recipients, and subrecipients must file a form disclosing any expenditures they make for lobbying out of non-federal funds during the contract period.

Necessary forms are available from the Administrator Management Services, Department of Planning and Development Services of the City and must be returned to the CITY with other contract documents. It is the responsibility of the general contractor to obtain executed forms from any subcontractors who fall within the provisions of the Code and to provide the CITY with the same.

## **VI. NON-DISCRIMINATION**

The DISTRICT shall observe the provisions of the Civil Rights Act of 1964 and the Kansas Act Against Discrimination and any subsequent revisions and additions to these statutes and shall not discriminate against any person in the performance of work under this Agreement because of race, color, religion, sex, disability, national origin, familial status, ancestry, or age.

## **VII. GENERAL ADMINISTRATION**

It is the intent of the parties hereto in the preparation and execution of this 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 state law or regulation, it is the intent of the parties hereto that such provisions shall have no force and effect, and the remainder of the Agreement shall be valid as though such conflicting provisions had not been written or made a part hereof.

It is understood and agreed that the written terms and provisions of the Agreement shall supersede all prior verbal statements of any and every official and/or other representative of the CITY and the DISTRICT, and such statements shall not be effective or be construed as entering into, or forming a part of, or altering in any way, the written Agreement.

The parties agree that neither shall assign or transfer their interest in this Agreement without the written consent of the other.

The failure of the CITY or the DISTRICT to insist on strict performance of any of the terms and conditions herein shall not be deemed a waiver of the right to demand strict performance of that or any other provision at any time thereafter.

The DISTRICT agrees to defend, indemnify, and hold harmless the CITY and its agents and/or employees from any and all claims, settlements, and judgements for personal injury, bodily injury, property damage, and/or death arising out of the DISTRICT's or any of its agents', servants', and/or employees' negligent acts and/or failures to act in the performance of this Agreement.

## **VIII. SEVERABILITY**

### RIGHT OF CITY TO TERMINATE CONTRACT:

A. Termination for Convenience

The CITY may, when the interests of the City so require, with 60 days notice, terminate this contract in whole or in part, for the convenience of the CITY. The CITY shall give written notice of the termination to the DISTRICT, specifying that the contract, or a designated part thereof, shall be terminated; and when termination becomes effective, the DISTRICT shall incur no further obligations to the CITY in connection with the terminated work or services; and on the date set in the notice of termination, the DISTRICT will stop work or services on behalf of the CITY to the extent specified.

In the event the contract is terminated for convenience of the CITY, the CITY will disburse funds for costs incurred and funds expended by the DISTRICT prior to the date of termination.

B. Termination for Default

If the DISTRICT is violating any of the conditions of this Agreement or is executing the same in bad faith, the CITY may serve written notice on the DISTRICT of its intention to terminate the contract and unless, within seven (7) days after the serving of the notice, a satisfactory arrangement has been made for the continuance thereof, this contract shall terminate. The CITY retains the right to withhold the grant or any portion thereof for damages incurred as a result of the DISTRICT's breach of this Agreement.

Executed in triplicate the date first above written.

CITY OF OVERLAND PARK, KANSAS

By \_\_\_\_\_  
Ed Eilert, Mayor

ATTEST:

\_\_\_\_\_  
Marian Cook  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
J. Bart Budetti  
Assistant City Attorney

JOHNSON COUNTY PARK & RECREATION  
DISTRICT

By \_\_\_\_\_  
Dr. Mike Jurkovich, Board Chair

ATTEST:

\_\_\_\_\_  
Jack M. Epps, Board Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Bill Tuley,  
District Legal Counsel

