

Attachment B

Memorandum of Understanding
Between NBR Name
and
The Unified Government of Wyandotte County Parks & Recreation Department

THIS AGREEMENT made and entered into this **1st day of [MM/YYYY]** by and between **NBR Name**, a registered not-for-profit corporation, hereinafter referred to as "NBR," and the Unified Government Parks and Recreation Department hereinafter called "UG".

WHEREAS, UG operates community centers, parks, fields, courts, and reception halls designed for community use for recreational activities and events (collectively "EVENT SPACE"; and

WHEREAS, NBR desires to use EVENT SPACE to conduct various events and activities; and

WHEREAS, NBR and UG have theretofore entered into this Agreement to set forth their agreements as to the use of EVENT SPACE.

NOW, THEREFORE, in order to clarify and set forth the duties and responsibilities of each party, the parties incorporate the recitals set forth above and further agree as follows:

1. **TERM OF AGREEMENT.** Unless otherwise terminated, the terms of this Agreement shall be for a one (1) year period, to begin on the **1st day of [MM/YYYY], and end on the 31st day [MM/YYYY].**
2. **USE OF EVENT SPACE.** NBR may request the use of EVENT SPACE for specified times and its specified events, and to the extent that such schedule is approved by UG (hereafter the "EVENTS") and NBR meets the other terms hereof, UG agrees to grant to NBR the right to the use of the EVENT SPACE and related facilities together with any improvements or additions thereto for the Events.

NBR shall not post any signage on UG property. All information and material must be authorized and posted by UG. The EVENT SPACE and the facilities thereon shall be available to members of the general public other than at such

times that NBR is conducting previously approved EVENTS on or at the EVENT SPACE.

3. GENERAL USE AND CONDITIONS OF THE EVENT SPACE. The EVENT SPACE shall be used by NBR under the following general conditions:

- (a) NBR shall be solely responsible for operating, managing, and supervising all NBR activities conducted on or at the EVENT SPACE.
- (b) All NBR activities at the EVENT SPACE shall be conducted pursuant to rules, policies, guidelines and/or procedures adopted by the Unified Government outlined in the UG's Parks and Recreation Code of Regulations and Unified Government Code of Ordinances.
- (c) Before NBR may use the EVENT SPACE for the approved EVENTS and as an express condition of continued use, NBR must have and present to UG satisfactory proof of current inforce insurance as set forth hereafter.
- (d) EVENTS may be held at the EVENT SPACE on such dates and at such times as approved by UG, acting through its Director of Parks and Recreation.
- (e) Notwithstanding anything contained herein to the contrary, UG expressly reserves the right to deny use of EVENT SPACE, either temporarily or on a permanent basis, in the event that it determines that there are dangerous activities proposed and/or repeated violations the UG's Parks and Recreation Code of Regulations or Unified Government Code of Ordinances.

The right is hereby expressly reserved to UG, its officers, agents, and employees to enter upon the EVENT SPACE at any time and for purposes necessary or convenient for its purposes, and/or make any other use thereof as may be necessary in connection with its purposes, and NBR shall have no claim for damages of any character on account thereof against UG or agent, officer, or employee thereof.

4. NBR DUTIES AND RESPONSIBILITIES. NBR, acting through its

governing body, shall assume the following duties and responsibilities:

- (a) NBR shall have the sole responsibility of properly operating, managing, and supervising all authorized EVENTS conducted on or at the EVENT SPACE and supervising all persons who use the EVENT SPACE for NBR Events.
- (b) NBR shall keep the EVENT SPACE and surrounding premises in good order and in a clean, sanitary, and safe condition and shall at all times maintain all structures and equipment in a condition satisfactory to UG.
- (c) NBR shall properly maintain its status as a registered not-for-profit corporation.
- (d) NBR is not, and shall not present or portray itself nor be considered, an employee, agent or representative of UG for the purpose of undertaking its duties and responsibilities hereunder.
- (e) NBR shall not permit or allow any sales or solicitations by independent vendors at the EVENT SPACE without proper licensing by the Unified Government.
- (f) NBR shall comply with all requirements of the American Disabilities Act and Unified Government nondiscrimination ordinances in holding EVENTS at the EVENT SPACE.
- (g) NBR shall comply with all rules and regulations adopted from time to time by the Unified Government and with all applicable Federal, State, and Municipal laws, rules, ordinances, and regulations governing operation of its activities, and agrees to and shall hold UG, its directors, agents, and employees harmless from any loss or damage occasioned by violation thereof. NBR further agrees to obtain all required licenses and permits and maintain same for the Term of this

Agreement. A copy of UG's current Code of Regulations is attached hereto and incorporated herein by reference.

- (h) NBR shall not use the EVENT SPACE or permit it to be used for any illegal or immoral business or purpose and there shall not be carried on or permitted upon the EVENT SPACE any activity which would constitute a nuisance.
- (i) NBR shall not in any manner substantially change the contour or condition of the EVENT SPACE, except as may be authorized by UG.
- (j) NBR shall pay the appropriate EVENT SPACE deposit upon EVENT SPACE reservation as set by the UG Parks and Recreation Department.
- (k) NBR shall acquire all appropriate licenses, permits, personnel, or equipment required of the approved EVENTS as required by the Unified Government or the UG Parks and Recreation Department.

5. UG DUTIES.

- (a) UG agrees to provide routine maintenance for the general facilities of the EVENT SPACE.
- (b) UG shall waive the facility rental charge of EVENT SPACE for up to five approved NBR EVENTS per year. UG will consider reduced or waiver of fees for additional EVENTS upon the request of NBR.
- (c) UG shall waive the Event Size Fee for small and medium size events as outlined in the Parks and Recreation Special Events Policy for up to five approved NBR EVENTS per year.

6. INSURANCE.

- (a) NBR shall obtain, and continuously maintain in full force from and after the commencement of this Agreement through the Term of this Agreement, a Commercial General Liability Insurance Policy with coverage on an occurrence basis, written by an insurance company duly authorized to do business in the State of Kansas. UG shall be named as an "Additional Insured" for all liability coverage including any claim or suit

of any kind or nature arising from NBR's use of the EVENT SPACE, or from any activities or actions of NBR in conducting its EVENTS or other activities or otherwise arising under any obligation of NBR pursuant to this Agreement. Said policy, if mutual, shall be non-assessable. NBR shall provide UG with a Certificate of Insurance providing the following:

- (1) Commercial General Liability coverage that includes Broad Form Contractual Liability, Broad Form Property Damage, Personal Injury, and Independent Contractor's Coverage. Said policy shall provide for a bodily injury, property damage, and products liability limit of not less than \$500,000.00 per accident or occurrence with an aggregate limit of not less than \$1,000,000.00.

The form of the policy shall be acceptable to UG, and NBR shall provide UG with a copy of the proposed policy as soon as possible. NBR shall provide UG with a certificate evidencing the issuance of such policy and shall require the insurance company to provide thirty (30) days advance written notice to UG of any lapse, termination, or cancellation of the policy or any substantial impairment of the coverage. Notwithstanding any other provision contained herein to the contrary, failure of NBR to provide and to continuously maintain such insurance coverage shall be grounds for the immediate termination of this Agreement by UG by sending written notice of such termination to NBR. NBR shall promptly notify UG of any claim in connection with such insurance, including full details thereof and an estimate of the amount of loss or liability. UG will only accept coverage from an insurance carrier who offers proof that it:

- (i) is licensed to do business in the State of Kansas;
- (ii) carries a Best's rating of **A-IX** or better; or
- (iii) is a company mutually agreed upon by UG and NBR.

A copy of said Certificate of Insurance shall be filed with UG. The premium shall be paid by NBR.

7. INDEMNITY. UG shall not be responsible for damages to property or injuries to persons that may arise from or be incident to the exercise of the privileges herein granted, or for the damages of the property of NBR or its members or guests, or for damages to the property or injuries to the person of NBR's officers, agents, or employees, or others who may be at or on the EVENT SPACE at their invitation or the invitation of any one of them, arising from or incident to any EVENTS on or at the EVENT SPACE, and NBR shall hold UG harmless from all such claims. NBR agrees to indemnify, defend, and hold harmless UG from and against claims, demands, judgments, loss, expense or liability, including payment of reasonable attorney's fees and litigation expenses incurred by UG on account of or arising from any accident, injury, or damage to any person or property on or about the EVENT SPACE where such accident, injury, or damage results from any act, omission, or negligence on the part of NBR, its officers, employees, agents, invitees or guests.
8. ADVERTISING. No commercial advertising is allowed at EVENT SPACE without the advance express written consent of UG.
9. TERMINATION FOR CONVENIENCE. This agreement may be terminated at any time by either party upon ninety (90) days advance written notice.
10. DEFAULT. NBR shall be in default if (1) NBR shall fail to obtain and continuously maintain the insurance coverage required hereunder; or (2) NBR shall fail to observe, keep or perform any other provision of this Agreement; or (3) there is a filing of any bankruptcy action by or against NBR, there is insolvency of NBR or the general assignment by the NBR of its assets for the benefit of its creditors.

UG shall be in default hereunder if it shall fail to observe, keep or perform any provision of this Agreement, and such failure shall continue for a period of ten (10) days after written notice is given by NBR.

11. **REMEDIES.** If NBR is in default and such default shall continue for a period of ten (10) days after written notice is given by UG (except for the failure by NBR to maintain insurance which shall require no notice and shall be the basis for immediate default and termination), UG shall have the right to exercise any one or more of the following remedies, concurrently or separately, and without any election of remedies being deemed to have been made: (a) UG may terminate this Agreement; (b) UG may pursue any other remedy available by law or in equity. No right or remedy herein conferred upon or reserved to UG is exclusive of any other right or remedy herein, or by law or by equity provided or permitted, but each shall be cumulative of every other right or remedy given herein, or now or hereafter existing by law or equity or by statute or otherwise, and may be enforced concurrently therewith or from time to time. No single or partial exercise by UG of any right or remedy hereunder shall preclude any other or further exercise of any other right or remedy.

If UG is in default and such default shall continue for a period of ten (10) days after written notice is given by NBR, NBR shall have the right to pursue any remedy available by law or in equity. No right or remedy herein conferred upon or reserved to NBR is exclusive of any other right or remedy herein, or by law or by equity provided or permitted, but each shall be cumulative of every other right or remedy given herein, or now or hereafter existing by law or equity or by statute or otherwise and may be enforced concurrently therewith or from time to time. No single or partial exercise by NBR of any right or remedy hereunder shall preclude any other or further exercise of any other right or remedy.

12. **NOTICE.** Any notices of demand to be given by one party to the other as required by this contract or otherwise shall be delivered by the deposit thereof in the United States mail, postage prepaid, certified, with return receipt requested by personal delivery or by facsimile (with the original being mailed by certified mail) to the parties at the addresses listed below unless, in the event of

any change of address, the other party shall have been notified promptly in writing of a change of address. Said notice shall become effective on the date postmarked or the date of delivery (in the case of notice personally delivered or sent by facsimile).

TO UG:

Unified Government Parks and Recreation
Attn: Angel Ferrara, Director
5033 State Ave
Kansas City, KS 66102
P: 913-573-8354
aferrara@wycokck.org

TO NBR:

NBR Name
Attention: NBR Executive Director Name
NBR Address
Kansas City, KS 6610X

13. ASSIGNMENT. This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their successors and assigns, PROVIDED, HOWEVER, that NBR shall not transfer or assign its rights or liabilities hereunder to any other party without the express written consent of UG.
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 representative of NBR and UG, 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. 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 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.

16. APPLICABLE LAW. This Agreement shall be construed under the laws of the State of Kansas.