

FACILITY USE AGREEMENT  
NOT A LEASE

This agreement is made this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the City of Medford, a municipal corporation of the State of Oregon, hereinafter known as "CITY" and Aging Community Coordinated Enterprises and Support Services, hereinafter known as "ACCESS".

The agreement outlines the conditions of use of the Santo Community Center by ACCESS for its Tuesday weekly West Medford Food Pantry service.

**1. TERM AND TERMINATION**

This agreement will run for a two (2) year period spanning Jan. 4, 2016 to Dec. 31, 2017. The agreement may be terminated or amended by the CITY for cause. ACCESS will be given a thirty (30) day written notice prior to termination and a ten (10) business day notice of usage modification.

**2. FACILITIES AND AVAILABILITY**

- a. CITY assigns ACCESS year-round exclusive use of the south half of the Santo Community Center Main Hall storage room for storage of dry goods.
- b. CITY grants ACCESS permission to use the south half of the Main Hall as a food pantry distribution and waiting area each Tuesday, 9 a.m. until 5:30 p.m., during normal CITY hours and days of operation, September through May.
- c. ACCESS customers, volunteers and staff are directed to utilize the west half of the Santo Community Center parking lot on food pantry days of operation, and on days when a mobile distribution unit is deployed.
- d. On food pantry days of operation, ACCESS may stage boxes, carts and crates in CITY-designated areas outside the Main Hall doorways nearest to the storage room in a safe and orderly manner that does not obstruct doorways and walkways.
- e. ACCESS may use the gated enclosure between the Main Hall and the Gymnasium for after-hours storage of empty boxes and crates Tuesday afternoon through Wednesday at Noon.
- f. ACCESS is authorized to operate a mobile distribution unit for food pantry operations, June through August, at the Jackson Park parking lot along Clark Street, or other mutually agreeable suitable locations.
- g. Specific locations are depicted in Exhibit A.

### 3. INTERESTS OF PARTIES

- a. This agreement shall not be construed to create any leasehold interest in or by any entity. The designated areas shall be and at all times remain a public recreation facility of the CITY. Usage areas shall be available for public use when not scheduled for use by ACCESS.
- b. Facility availability is subject to unforeseen factors including but not limited to facility condition and emergency use determined by the CITY.
- c. ACCESS will reimburse CITY for labor costs associated with above-standard supervision needs. CITY reserves the right to determine whether ACCESS operations require CITY supervision above the standard site staffing levels if ACCESS fails to ensure compliance with facility usage guidelines.
- d. Any volunteer assisting with the pantry operation at the Santo Community Center must complete a CITY volunteer registration form and consent to a criminal history check processed by ACCESS. Individuals who do not consent to a background check or those who fail background checks (~~based on standard CITY interpretations determined by the CITY's HR department~~) are not permitted to serve in a volunteer capacity at the Santo Community Center.

### 4. CONDITIONS OF USE

- a. ACCESS shall maintain facility use areas in a clean and orderly manner that complies with applicable local, state and national building, safety and health codes, laws and ordinances.
- b. CITY staff may enter and inspect facility usage areas at any time. ACCESS must furnish CITY with three duplicate keys for any storage room lock(s).
- c. Facility modifications or improvements proposed by ACCESS must be submitted to the CITY for written pre-approval. If approved, ACCESS is responsible for all associated costs, building permits or land use approvals, unless CITY opts to financially participate in the proposed project. All contracts (as defined in ORS 279A.010(z)) initiated by ACCESS for facility modifications or improvements shall comply with all public contracting requirements contained in ORS Chapters 279A, 279B, and 279C and elsewhere, including but not limited to public bidding and payment of prevailing wage rates for public works contracts as required by ORS 279C.365 and ORS 279C. 800-870.
- d. ACCESS is responsible for facility repairs, routine maintenance and custodial needs associated with its operations, including normal wear-and-tear of assigned usage areas as well as damage that may occur as a result of ACCESS staff, volunteer or customer use of the Santo Community Center.

- e. ACCESS agrees to maintain usage areas to a standard based on facility appearance and existing conditions as of Jan. 2, 2016.
- f. Perishable items must be kept in a cold storage unit or brought in the day of food distribution.
- g. The electrical needs of cold storage units in the storage area must not exceed the rated capacity of the power supply, as specified by the CITY.
- h. No signage may be affixed to walls, doors or windows without approval from Parks and Recreation Department management.
- i. ACCESS may use CITY stackable chairs in the Main Hall during weekly food pantry operations. Chairs and equipment must be returned to proper locations at the end of the operational period. CITY has no obligation to assist with pantry set-up or take-down.
- j. ACCESS may use the CITY water and electricity for food pantry operations. Electrical usage must be conducted in a reasonable and safe manner.
- k. ACCESS is responsible for collection and removal of trash and recyclables accumulated as a result of its operations. A maximum of two 33-gallon plastic bags may be deposited into the CITY on-site dumpster each operational day. Recyclable materials may be stored in the storage room Wednesday overnight for pick up no later than Thursday at Noon.

## 5. INDEMNITY AND INSURANCE

- a. ACCESS is responsible for meeting CITY insurance requirements as determined by the Risk Manager.

ACCESS agrees that it is solely responsible for any damage to CITY property as well as any damages arising out of death or bodily injury to persons or any other liability or damages resulting from or in connection with its operation, and that ACCESS will hold CITY harmless from any claim, liability, damages or obligation arising therefrom and indemnify CITY for the amount of any obligation it may incur on account thereof or arising therefrom. ACCESS shall not be required to indemnify CITY against liability for damage arising out of death or bodily injury to persons or damage to property caused solely by the negligence of CITY.

ACCESS shall obtain at its own expense and maintain continuously in effect during the term of this Agreement the following minimum insurance:

- (1) Commercial General Liability Insurance on an “occurrence” policy form covering Bodily Injury and Property Damage, Products/Completed Operations, Personal & Advertising Injury, and blanket Contractual

Liability. Such insurance shall be primary and non-contributory, and provide limits of at least \$1,000,000 per Occurrence and a General Aggregate of at least \$2,000,000. “*The City of Medford*” shall be named an Additional Insured by endorsement.

- (2) Commercial Automobile Liability Insurance for Bodily Injury and Property Damage covering owned, non-owned, rented, and hired autos. Such insurance shall provide a combined single limit per accident of at least \$1,000,000.
- (3) Workers Compensation Insurance meeting statutory requirements of Oregon Workers Compensation Law must be provided by ACCESS (and any sub-contractor ACCESS may use) for any subject workers, as well as Employers Liability Insurance with limit of at least \$500,000. If ACCESS is statutorily exempt from the requirement to provide Workers Compensation Insurance, ACCESS shall complete, sign, and submit the City’s form for ***Declaration of Exemption from Oregon Statutory Workers Compensation*** in lieu of Workers Compensations Insurance.

ACCESS shall submit to CITY certificates of insurance for all policies listed above at time of this Agreement, and at each subsequent insurance renewal for the life of this Agreement. Certificate must include Additional Insured Endorsement for General Liability Insurance. Certificates of insurance for current coverage or activated tail coverage for Professional Liability Insurance, because it is a claims-made coverage, shall continue to be submitted to CITY for two (2) years following the effective term of this Agreement. Certificate Holder (and additional insured for General Liability) shall be shown as: City of Medford, 411 West 8<sup>th</sup> Street, Medford, OR 97501. *Any request for exemption from this requirement must be in writing and approved by the CLIENT’S Risk Manager.*

ACCESS is responsible to assure that CITY receives a required thirty (30) days written notice prior to cancellation of, material change to, exhaustion of aggregate limits of, or intent not to renew any insurance policy for coverage required in this Agreement. Ten (10) days will be accepted for cancellation due to non-payment of premium. ACCESS shall itself provide the written notice in the event that its insurance companies will not or do not provide such notice. Failure to maintain proper insurance and/or provide timely notification of a change in coverage is grounds for potential immediate termination of this contract.

Notwithstanding insurance requirements stated or any modifications made thereto, in no case shall the presence or absence of any insurance coverage, or any insurance policy limit, provision, term, or condition reduce the obligations of ACCESS for liability granted generally by law or specifically in the terms of this Agreement. In no case shall CITY be responsible for any amount of ACCESS self-insurance, or any retention, deductible, or coinsurance amount required by ACCESS’s insurance policies.

**6. MEETINGS**

ACCESS management and CITY facilities management staff shall coordinate a joint inspection of assigned usage areas on or around Oct. 1 and Feb. 1 of each year, or as requested by the parties.

IN WITNESS WHEREOF, the CITY and ACCESS have caused this agreement to be executed for and on their behalf by their duly authorized officer(s) on the day and year first above written.

CITY OF MEDFORD, OREGON

ACCESS

By: \_\_\_\_\_

By: \_\_\_\_\_

Title\_\_\_\_\_

Title\_\_\_\_\_