

**USE, MANAGEMENT, and MAINTENANCE of SPACE AGREEMENT**

**MCDONOUGH COMMUNITY CENTER**

The Public Housing Agency of the City of Saint Paul (“PHA”) and the City of Saint Paul acting by and through its Department of Parks and Recreation (“City”) enter into this Agreement (“Agreement”) on this \_\_\_ day of \_\_\_\_\_, 2014.

WHEREAS, the purpose of the McDonough Community Center (“Community Center”) is to provide appropriate space and facilities for the PHA and various service providers to deliver programs and services that primarily serve the needs of the McDonough Homes residents; and

WHEREAS, the PHA and the City have partnered in providing space and facilities for recreational programming for over forty-five years for McDonough residents and community members at the McDonough Community Center; and

WHEREAS, the PHA desires to maximize the use of the McDonough Community Center space and facilities; and

WHEREAS, the City desires to continue providing year-round adult and youth recreational programming at the McDonough Recreation Center (“Recreation Center”), located in the McDonough Community Center, primarily for McDonough residents as well as for non-public housing residents, as it does in other areas of the City;

NOW, THEREFORE, the PHA and the City agree to the following terms and conditions:

**I. SCOPE OF RESPONSIBILITIES**

**A. General**

1. The PHA’s Family Senior Manager will be the PHA’s primary contact with the City for purposes of implementing this Agreement. For day-to-day on-site program operations, the PHA’s primary contact with the City will be the McDonough Housing Manager, the McDonough Human Services Coordinator, or a designee.

2. The City’s Manager of Recreation Services will be the City’s primary contact with the PHA for purposes of implementing this Agreement. For day-to-day on-site program operations, the City’s primary contact with the PHA will be the lead full-time recreation staff assigned primarily to McDonough Recreation Center.

**B. The PHA:**

1. Shall manage all areas of the McDonough Community Center except those areas assigned to the City as designated in Attachment A to this Agreement.
2. Shall conduct monthly coordination meetings led by PHA Management Staff to ensure schedules and services are reviewed and coordinated with the various tenants in the facility.
3. Shall conduct monthly inspections of the areas assigned to the City with representatives from the City, and the PHA (Resident Services Management, Maintenance Contracts, and Maintenance Management).
4. Considers the City the primary user and manager of the space assigned to it in Attachment A.
5. Reserves the right, upon thirty (30) days written notice to the City, to temporarily suspend the terms of this Agreement and assume full management of the entire McDonough Community Center, including the space assigned to the City in Attachment A, when it determines just cause for doing so.
6. Shall work cooperatively with the City in scheduling PHA use of the spaces assigned to the City's management under this Agreement, including the children's gymnasium.
7. Shall allow the City to schedule the use of PHA space for programming needs when such space is available. Requests will be reviewed by the PHA and will be approved or denied based on availability.

**C. The City shall:**

1. Manage the areas in the McDonough Community Center assigned to it as designated in Attachment A.
2. (a) Use the space assigned to it under this Agreement primarily for recreational programming. The City will make the areas it manages pursuant to the Agreement available to the PHA and other service providers under contract with the PHA during times when there is no scheduled City recreational programming in those areas. There shall be no cost to the PHA for its use of any area in the Community Center managed by the City. The City may charge fees to other users based upon its Facility Use Charges.
  - (b) Maintain and post a schedule, including the dates and times, of all users of the areas it manages under this Agreement.
3. (a) Provide year-round adult and youth recreational programming, including a lead full-time recreation staff person assigned primarily to the McDonough Recreation Center and

other appropriate staff. The programming shall be at least equivalent to and consistent with the programming provided at other City Recreation Centers as determined by the City and shall specifically meet the needs of the McDonough community. The City will provide a written notice to the PHA of any staff leadership or supervisory change at the McDonough Community Center as soon as the City is aware of the changes or at least ten (10) days prior the effective date of the staff change. The City will otherwise work cooperatively with the PHA regarding the planning and implementation of the City programs.

(b) Be responsible for controlling the behavior of its program and services participants and visitors to the Recreation Center during the Recreation Center's hours of operation. This provision does not apply when another group has been approved to use space assigned to the City's management under this Agreement.

(c) Provide on-site adult staff in the Recreation Center and in any other area assigned to the City for which it has management responsibilities under this Agreement, during all hours the City's Recreation Center or other City-managed area is open, unless the PHA or another PHA-approved service provider is administering a program and is specifically providing adult staff and has notified the City in writing of the fact including program content, schedule, and assigned staff.

(d) Ensure at least one adult staff person or designated activity leader is located in each room or space under its management that is open to or in use by youth.

4. Supply all equipment, furnishings, supplies, or other materials needed for the operation of its recreational programs and services.

5. Attend monthly coordination meetings with PHA Management staff.

6. Attend monthly inspections of the area assigned to the City with PHA Management staff.

7. Establish and maintain a monthly statistical summary of the number of persons being served by the City's recreational programs in the Recreation Center, including an approximate percentage breakdown of residents and non-residents of McDonough Homes, and present this summary to the PHA McDonough Homes Human Services Coordinator at the monthly coordination meeting.

8. Comply with the McDonough Community Center Code (Attachment B) and Commitment to Diversity Statement (Attachment C).

9. Utilize the space assigned and designated in Attachment A for the purposes, programs, and/or services as scheduled unless otherwise agreed, in writing, by the PHA.

10. Ensure the PHA has access in the morning hours to Kitchen 113 (Headstart) through door 113a for kitchen deliveries.

11. Not lease or sub-lease any area within the McDonough Community Center.

## II. MAINTENANCE RESPONSIBILITIES

### A. The PHA, at its sole cost and expense, shall:

1. Subject to available funding through the U.S. Department of Housing and Urban Development, furnish all labor, material and equipment necessary to:

- (a) make all the ordinary repairs to and provide routine maintenance for all the interior areas of the Center including, but not limited to, interior painting, repairs to light fixtures and receptacles, window panes, repairs to floor surfacing, walls, exterior and interior doors, cabinets, hardware, unit heaters, the repairs and replacement of plumbing fixtures;

- (b) maintain in good repair the exterior of the Community Center; the electrical and plumbing lines to the location of their outlet within the Community Center; and shall assure the maintenance of the underground sewer and water service connections for the Community Center;

- (c) make major repairs to the interior and exterior of the Community Center. To the extent possible, the City shall submit a written request to the PHA for anticipated major repairs at least six (6) months in advance of when the physical work must be performed to allow for budget approvals and the awarding of contracts for such work.

- (d) provide daily housekeeping and janitorial services for the Center.

2. Provide all necessary fuel and electric power for the proper heating and lighting and all water utility services for all areas of the Center not assigned to the City's management under this Agreement.

3. Maintain and make repairs to the boiler and all HVAC and package heating/cooling equipment for all areas of the Center. The PHA shall also maintain and make repairs to the variable air volume (VAV) equipment located in and servicing the lobby 117, meeting room 118, corridor 121, and activity room 128.

4. Maintain and make repairs to the Community Center's main security system including audio alarms on all exit doors, activation and deactivation of the front door key pad, and the public address system.

5. Maintain and make repairs to the Community Center parking lot, including sidewalks and lighting.

6. Maintain and make repairs to the interior and exterior playground equipment.

7. Provide all necessary telephone and communication connections for all areas of the Center not assigned to the City's management under this Agreement.

8. Provide all necessary meters and submeters for fuel, electric power and water, and distribution panels for telephone, communications, and security connections to the areas assigned to the City's management under this Agreement.

**B. The City, at its sole cost and expense, shall:**

1. Upon prior written approval of the PHA, have the right to attach fixtures and install equipment in or upon the areas assigned to it under this Agreement. Any fixtures or equipment installed shall remain the property of the City and may be removed by the City, provided that the City shall, at its cost and expense, restore any surfaces that may have been damaged by the removal of said fixtures and equipment, and otherwise restore the areas to the condition thereof as the same existed at the time of making such installation of structures, fixtures, and equipment.

2. (a) Provide or cause to be furnished all necessary fuel and electric power for the proper heating, cooling, and lighting services to and for the areas assigned to its management under this Agreement. The majority of the areas will be separately metered.

(b) For the 1,800 square feet of space assigned to the management of the City under this Agreement that is not separately metered for utility costs (see Attachment A – lobby 117, meeting room 118, corridor 121, activity 128), the City shall reimburse the PHA for the cost of providing utilities at an agreed upon per square foot energy cost rate. The PHA will invoice the City annually based on actual energy consumption data. The payment from the City to the PHA is payable within twenty (20) days of receiving the invoice from the PHA.

3. Pay the water utility costs for the areas assigned to its management under this Agreement. The Saint Paul Water Utility will separately meter and bill the City for these utility costs.

4. Provide all necessary telephone and communication service for the areas assigned to the City's management under this Agreement.

5. Be responsible for any repairs for damages or corrections to the Community Center or grounds caused by the City or its program participants, except as they result from ordinary wear and tear.

If the City is responsible for any repairs or corrections to the Community Center or grounds, the PHA has the right to first repair the damages or make corrections and invoice the City for the cost. If the PHA chooses not to repair the damages or make corrections, the City may either repair the damages or make the corrections or hire a licensed outside entity to complete the repairs or corrections.

### **III. OTHER PROVISIONS**

#### **A. NON-DISCRIMINATION**

The PHA and the City agree that in the administration of any of the City's programs under this Agreement no person, on the grounds of race, color, religion, creed, national origin or ancestry, familial status, sex, status of regard to public assistance, marital status, disability, age, sexual or affectional orientation, political or other affiliation, shall be excluded from participation in a program or be denied benefits of a program and agree to comply with all federal, state and local laws regarding discrimination.

#### **B. INSURANCE AND INDEMNIFICATION**

The City does hereby release, discharge and agree to indemnify, protect, defend, and save harmless the PHA from liability for any cost, damage, expense, death, injury, or other casualty, to any person whomsoever, or property whatsoever caused by or arising out of the City's use, occupancy, management, and maintenance of spaces assigned to it under this Agreement; provided that such indemnification shall not be applicable where a decision or judgment of a court competent jurisdiction indicates that said casualty to person or property was the direct result of acts of commission, omission, negligence or fault of the PHA, their agents or employees.

#### **C. RIGHT OF ENTRY, INSPECTION AND REPAIR**

The PHA, through its authorized employees or agents, has the right to enter any City assigned Community Center space at any time, without advance notification, when there is reasonable cause to believe an emergency exists, or, during regular business hours, for the purpose of inspection or repair of the space or any PHA-supplied equipment located in the space, or for such other reasonable purpose as may be deemed necessary by the PHA.

#### **D. DATA PRIVACY**

All data collected, created, received, maintained, or disseminated by the City or the PHA for any purposes in the course of the performance of this Agreement is governed by the Minnesota Government Data Practices Act, Minn. Stat. 13.01 et seq., or any other applicable state statutes, any state rules adopted to implement the Act, as well as federal rules or regulations on data privacy. The parties agree to abide strictly by these statutes, rules, and regulations.

The PHA has designated, and the City also agrees to designate, a Responsible Authority pursuant to the Minnesota Government Data Practices Act, Minn. Stat. Chapter 13, who is the individual responsible for the collection, use and dissemination of any set of data on individuals, government data, or summary data pursuant to this Agreement. The City shall notify the PHA of the name of its designated responsible authority.

**E. DISPOSAL OF PERSONAL PROPERTY**

The PHA shall have the right, without notice, to sell, destroy, or otherwise dispose of, any personal property left in the Community Center after the City has vacated or abandoned the space assigned to it under this Agreement. The City will be responsible for any costs incurred by the PHA in the storage or disposal of such property. The PHA will assess charges in accordance with the PHA Schedule of Standard Service Charges.

**F. DISPUTES**

In the event of a dispute arising under this Agreement, either party shall notify the other promptly in writing of its contentions and submit its claim. Irrespective of the existence of a dispute, the City shall proceed with the responsibilities assigned to it under this Agreement, unless the PHA has exercised its right under this Agreement to assume full management of the entire McDonough Community Center.

**G. CHANGES**

Changes to any of the terms of this Agreement may be made only by mutual agreement of the City and the PHA and incorporated in a written amendment signed by both parties.

**H. NOTICE OF PROPOSED BUDGET**

Funding for City services to be provided pursuant to this agreement will be appropriated in the City's annual budget. The City shall notify the PHA if the Mayor's proposed budget reduces or fails to appropriate funding.

**I. TERMINATION**

The City may terminate this Agreement if the City Council fails to appropriate funds for services to be provided pursuant to this Agreement. In the event of such action by the City Council the City shall give immediate notice of the non-appropriation to the PHA and will complete services through the end of the then current budget year or six months, whichever is longer. Termination of this Agreement will result in the assumption by the PHA of the management of the space assigned to the City under this Agreement and the termination of all recreational programming unless otherwise agreed to in writing between the PHA and the City. This Agreement will expire on December 31, 2027. Upon expiration of this term, this Agreement may be renewed if mutually agreed up by the PHA and the City for successive five (5) year terms beyond the term described herein provided subject to the City's right to terminate above.

**J. ENTIRE AGREEMENT**

This Agreement represents the entire Agreement between the PHA and the City and replaces and supersedes any and all prior written and oral agreements relating to the subject matter of this Agreement.

By the signatures below, the PHA and the City have executed this Agreement effective as of the date first written above.

**PUBLIC HOUSING AGENCY OF THE CITY OF SAINT PAUL**

By: \_\_\_\_\_  
Its Chairman of the Board of Commissioners

By: \_\_\_\_\_  
Its Executive Director

By: \_\_\_\_\_  
Its Controller

**THE CITY OF SAINT PAUL**

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

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

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

Approved as to form:

\_\_\_\_\_  
Assistant City Attorney