



USE AGREEMENT
FOR
THE PROPERTY AND FACILITIES OF
THE CITY OF CALVERT CITY, KENTUCKY

THIS AGREEMENT is made and entered into this _____ day of _____, 2009, by and between THE CITY OF CALVERT CITY, KENTUCKY, of P. O. Box 36, Calvert City, Kentucky 42029, by and through the Chairman of the City Parks, Playgrounds, and Recreational Board, Karen Fitzgerald, (hereinafter "City") and

(Name of individual or organization)

of _____, by and through its
(Address)

authorized representative, _____
(Name and office of representative)

_____, (hereinafter "User").

W I T N E S S E T H:

WHEREAS the User desires to make use of the City's _____

_____, "Facilities".
(Location and identity of City property and/or facilities)

for the purpose of conducting _____
(Description of activity)

_____ ; and,

WHEREAS the User desires to make use of the Facilities on the dates and at the times set forth on **Exhibit "A"**; and

WHEREAS the City has determined that the activities proposed by the User either will serve the public purposes of the City or will not interfere with the City's public use of the referenced facilities.

NOW THEREFORE IN CONSIDERATION OF the aforestated premises and the hereinafter stated terms and conditions, the parties hereby agree as follows:

1. **RENTAL:** The User hereby agrees to pay to the City the sum of \$_____ as rental for the Facilities on the dates and at the times set forth on Exhibit "A". Said rental shall be paid to the Calvert City Clerk on or before the _____ day of _____, 20_____.

2. **CONTACT PERSONS:** In the event that the City needs or desires to contact the User or notify the User of any cancellation, change, complaint, or other right or obligation of the City set forth herein, the City may contact _____
(Name of primary contact person)
at _____ or _____.
(Address) (Telephone number)

In the event that the aforesaid person cannot be reached at the stated telephone number(s) within a reasonable time (considering the purpose and nature of the contact), the City may contact or notify any person identified on **Exhibit "B"** hereto, and such contact or notification shall constitute contact or notification of the User.

3. **FEES AND CHARGES:** All fees and charges to be paid to User and related to User's use of the Facilities are specifically and completely set forth on **Exhibit "C"** hereto. No other fees or charges may be levied by the User with reference to the use of the City's premises unless specifically approved by the City, in writing.

4. **SAFETY PRECAUTIONS AND EQUIPMENT:** The User shall require all persons using the Facilities pursuant to this Agreement to exercise all ordinary and reasonably necessary safety precautions and to utilize all ordinary and reasonably necessary safety equipment in the conduct of such activities.

5. **USE OF VEHICLES:** The User shall not authorize or allow any person to operate any vehicle, licensed or otherwise, off roadways in the public parks of the City, except as set forth on **Exhibit "D"** hereto.

The User shall not authorize any person to operate any unlicensed or other off-road vehicle, including but not limited to all-terrain vehicles, motorized bicycles, off-road surface vehicles or golf carts upon City property, except as set forth on **Exhibit “D”** hereto.

Exhibit “D” provides a complete and exclusive list of the vehicle(s) to be authorized, the name(s) of the owner(s), and the name(s) of all operators who will be operating said vehicles on behalf of User (User represents that all listed persons are at least 16 years of age and possess a valid vehicle operators license). No other use of vehicles shall be allowed by User.

The City will issue a registration number card which must be conspicuously displayed upon each authorized vehicle prior to and during use in the City’s parks.

Any violation of this section by the User shall be cause for the immediate revocation of authority to operate vehicles in the City’s parks.

Under no circumstances shall a vehicle be brought into the confined space of a building owned by the City.

6. **MANAGEMENT RIGHTS:** It is understood and agreed that the City hereby reserves the right, **but not the duty**, to control and manage the Facilities and to enforce all necessary and proper rules for the management and operation of same and for its authorized representatives to enter the portions of the Facilities hereby demised to the User at any time and on any occasion. The City also reserves the right, **but not the duty**, to its duly appointed representatives and employees to eject any objectionable person or persons from the premises. The User hereby waives any and all claims for damages against the City or any and all of its officers, agents, or employees resulting from the exercise of any authority reserved by the City herein.

7. **PROPER USE:** The User shall use and occupy the property and facilities of the City in a safe and careful manner and shall not do any act or allow any acts to be done which will in any way mar, deface, alter or injure any part of the Facilities. The User is strictly prohibited from allowing to be driven any nails, hooks, tacks or screws in any part of the Facilities.

8. **COMPLAINTS:** Should the User, its members, guests, participants or representatives have any complaints concerning the condition or availability of the Facilities, such complaints shall be made directly to the City Administrator, Chairman of the Calvert City Parks, Playground and Recreational Board (hereinafter, "Parks Board"), or Mayor, as available. In no event shall complaints or requests be directed to other persons employed by the City.

9. **USE OF PARKING FACILITIES AND PASSWAYS:** The User shall take all reasonable steps and precautions to assure that all persons using the Facilities pursuant to this Agreement are aware of and obey all applicable parking and traffic control rules and regulations.

10. **RESPONSIBILITY FOR DAMAGES:** Upon termination of this Agreement, the User will return the Facilities to the City in as good a condition and repair as when received by the User, ordinary wear and tear excepted. If the Facilities or any portion thereof shall be damaged by the act, fault, or negligence of the User or its agents, representatives, guests, or any persons admitted to the Facilities by the User, the User will pay to the City, upon demand, such sum as shall be necessary to restore the Facilities to their present condition. Further, the User hereby agrees to provide responsible supervision in order to provide reasonable control and oversight of persons admitted to the Facilities during User's use of the Facilities.

11. **SECURITY DEPOSIT:** Upon execution of this Agreement, the User shall deposit with the City the sum of \$_____ ; which security deposit may be refundable to the User in the event that no damages, repairs, exceptional cleaning or any other unforeseen or unexpected expenses have occurred as a result of the User's activities and/or use of the City's property and/or facilities. The security deposit, or any portion thereof, shall be refunded only at the direction of the City Administrator, but no later than sixty (60) days after the termination of this Agreement, if a refund is to be made.

12. **ADVERTISEMENT:** The advertising of any activity conducted by the User upon the Facilities or other property and/or premises of the City shall clearly indicate that the activity is sponsored by the User, with the City being listed only as the place of the activity. The City shall not be advertised as a sponsor of such activity.

13. **CANCELLATION:** If at any time in the judgment of the Mayor, the City Administrator, or the Chairman of the Calvert City Parks Board, the use of the Facilities by the User is illegal, indecent, obscene, immoral, or in the reasonable judgment of such person(s) presents, or may present, a clear and present danger to persons or property, such person(s) may direct that the User either cease and desist from continuing such objectionable use, or may, without liability, cancel and/or terminate this Agreement. Further, the City reserves the right to interrupt and/or temporarily cancel this Agreement and/or any event scheduled hereunder, should the City have emergency need for the use of the Facilities, as determined in the City's sole discretion. In such event, the City will make all reasonable efforts to provide temporary/substitute facilities, should the City have such facilities available. The User hereby releases the City and its officers, agents, employees and representatives from any loss or damage occasioned by such cancellation.

14. **WAIVER OF CLAIMS:** The User hereby expressly waives any and all claims for compensation for any and all loss or damage sustained by reason of any defect, deficiency, failure or impairment of the water supply system, drainage system, HVAC system, steam system, electrical system or ventilation system leading to, from or on the demised premises. In the event the Facilities or any part thereof are damaged by fire or if for any other reason, including strikes, failure of utilities, or act of God, which, in the judgment of the Mayor, City Administrator, or Chairman of the Calvert City Parks Board, renders the fulfillment of this agreement by the City more burdensome upon the City or impossible, the User hereby expressly releases and discharges the City and its agents from any and all demands, claims, actions and causes of action arising from any of the aforesaid causes.

15. **DAMAGE AND LOSS OF PROPERTY:** The City, its officers, agents, employees and representatives shall not be held responsible for damage to or loss of property brought onto the City's property and/or the Facilities, nor shall any of them be held responsible for injuries to anyone which may occur on City property as a result of the User's activities.

16. **HOLD HARMLESS:** To the fullest extent permitted by law, the User agrees to indemnify and hold the City, its elected and appointed officials, employees, volunteers and others working on behalf of the City, harmless from and against all loss, costs, expense, damage, liability or claims, whether groundless or not, arising out of bodily injury, sickness or disease (including death resulting at any time therefrom) which may be sustained or claimed by any person or persons; or the damage or destruction of any property, including the loss or use thereof, based on any act or omission, negligent or otherwise, of the User, or anyone acting in its behalf in connection with or incident to the use of the City's property by the User, regardless of whether a claim is made that the City or its employees were negligent. Further, the User shall, at its own cost and expense, defend any such claim and any suit, action or proceeding which may be commenced thereunder, and the User shall pay any and all judgments which may be recovered in any suit, action or proceeding, and any and all expense, including but not limited to, costs, attorney's fees and settlement expenses which may be occurred therein.

17. **INSURANCE:** The User shall provide a certificate of insurance to the City, certifying that the City, its officers and employees, are sufficiently protected against all risks resulting from the User's use of the Facilities. The sufficiency of such insurance may be approved or disapproved by the City Administrator; or if disapproved by the City Administrator, may be presented to the Calvert City Parks Board for reconsideration. Such insurance policy shall contain a cancellation clause of no less than thirty (30) days minimum notice prior thereto, in writing, directly to the City at City Hall, Calvert City, Kentucky. Further, such policy shall provide coverage on an "occurrence" basis, rather than a "claims made" basis.

Any additional insurance required by the City (i.e. workers compensation, motor vehicle liability, contractual liability, etc.) and the specific requirements thereof, are set forth on **Exhibit "E"**, attached hereto.

18. **TERMINATION:** Should the User breach any term or provision hereof, the City may terminate this Agreement by giving written notice of such termination to the User at the address first recited above. Such notice of termination shall be effective upon hand delivery to

one of the Contact Persons identified in numbered paragraph 2. or **Exhibit "B"** of this Agreement, or forty-eight (48) hours after mailing notice to such Contact Person, by first class mail.

19. **ASSIGNMENT:** The User shall not assign its rights, duties or obligations under this agreement, nor allow any use of the Facilities, other than herein specified, nor sublet the Facilities or any part thereof without the written consent of the City.

20. **ENTIRE AGREEMENT:** This agreement constitutes the entire agreement by and between the parties.

IN WITNESS WHEREOF, the parties have caused the signatures of their authorized representatives to be affixed hereto as of the day and year first written above.

CITY OF CALVERT CITY, KENTUCKY

BY: _____
Chairman, Calvert City Parks,
Playgrounds, and Recreation Board

USER:

By: _____
Authorized Representative/Title

COMMONWEALTH OF KENTUCKY

COUNTY OF MARSHALL

Subscribed, sworn and acknowledged before me by _____, known by me to be the Chairman of the Calvert City Parks, Playgrounds and Recreation Board, this _____ day of _____, 20____.

My commission expires: _____.

Notary Public,
Commonwealth of Kentucky at Large

COMMONWEALTH OF KENTUCKY

COUNTY OF MARSHALL

Subscribed, sworn and acknowledged before me by _____,
known by me to be the _____ of _____,
this _____ day of _____, 20_____.

My commission expires:_____.

Notary Public
Commonwealth of Kentucky at Large

The foregoing Agreement was prepared by Gregory K. Northcutt, Attorney,
P. O. Box 996, Calvert City, KY 42029.

Gregory K. Northcutt

EXHIBIT "A"

EXHIBIT "C"

FEES AND CHARGES
(INCLUDING SECURITY DEPOSITS)

EXHIBIT “E”

ADDITIONAL INSURANCE REQUIREMENTS

EXHIBIT "F"

VENDERS OF FOOD AND/ OR DRINK SERVICES