

## FACILITY USAGE CONTRACT

**THIS CONTRACT** (hereafter referred to as the District's standard Facility Usage Contract or simply as the "Contract") is made and entered into on the date indicated on Exhibit "B," by and between the Fayette County Board of Education (the "District") and the individual or organization (the "Applicant") indicated on Exhibit "B."

### WITNESSETH:

**WHEREAS**, Applicant has requested the use of District facilities, grounds, and/or equipment for non-commercial activities during non-instructional time either before the commencement or after the conclusion of the school day; and

**WHEREAS**, the Principal or other supervisor of such facilities or grounds has, in his or her discretion, confirmed the availability and initially approved the use of designated portions of such facilities and grounds, and/or the use of designated equipment, all on specified date(s) and time(s) pursuant to the terms and conditions of this Contract; and

**WHEREAS**, the District's Department of Physical Support Services has determined usage fees relating to the use of the facility, grounds, and/or equipment approved by the Principal and has, in its discretion, additionally approved the use of such facilities, grounds, and/or equipment on specified date(s) and time(s) pursuant to the terms and conditions of this Contract; and

**WHEREAS**, Applicant has agreed to pay all applicable usage fees and to abide by and satisfy all other terms and conditions of this Contract as consideration for the use of the specified area(s) of the facility, grounds, and/or equipment on the specified date(s) and time(s),

**NOW, THEREFORE**, in consideration of the mutual promises set forth herein and other good and valuable consideration the receipt of which is hereby acknowledged, the parties hereby agree as follows:

1. The document appended hereto as Exhibit "A" is incorporated by reference into and made a part of this Contract.
2. As consideration for Applicant's agreements to timely pay all usage fees set forth in Exhibit "A" and to abide by and satisfy all terms and conditions set forth in Paragraph 3 of this Contract, the District agrees to make available for Applicant's reasonable use, on the date(s) and time(s) specified in Exhibit "A," the area(s) of the facility and/or grounds ("Facility/Grounds") and/or the District equipment ("Equipment") specified in Exhibit "A."

3. The parties agree that the use by Applicant of the specified area(s) of the Facility/Grounds and/or the specified Equipment shall be subject to each of the following terms and conditions:
- a. At least two (2) weeks prior to its proposed use of the Facility/Grounds, Applicant shall:
    - i. Execute and return this Contract;
    - ii. Submit payment of the usage fee deposit listed in Exhibit "A;"
    - iii. If requested by the District, procure and maintain throughout the term of this Contract a general liability insurance policy with a reputable insurer having an A.M. Best financial strength rating of "A-" or better, in which: (a) the District is indemnified in an amount not less than \$1,000,000 for any and all claims whatsoever, including injury to persons and damage to property, arising out of the use of the Facilities/Grounds by Applicant, its agents, servants or invitees; and (b) the District is named as an additional insured under the policy. A certificate of insurance must be provided to the District prior to the use of the Facilities/Grounds.

Applicant and the District agree that any insurance policy(ies) procured by Applicant that provides benefits or protection for the District shall be primary and that any insurance policy(ies) procured by the District that might happen to provide benefits or protection to the District arising out of Applicant's use of the Facilities/Grounds shall be excess.

The executed Contract, usage fee or deposit, and any requested certificate of insurance shall each be submitted to the District's Department of Physical Support Services, 400 Springhill Drive, Lexington, Kentucky 40503 (Fax: 859-381-3852).

Applicant acknowledges and agrees that failure on its part to timely submit an executed Contract or payment of the full usage fee or a requested certificate of insurance shall be grounds for non-approval by the District of Applicant's facility usage application and immediate cancellation by the District of this Contract. In the event of non-approval and cancellation, the District shall refund any and all usage fee deposits or other payments received by the District as of the date of such non-approval or cancellation.

Applicant further acknowledges and agrees that any usage fees other than those set forth in Exhibit "A" (such as usage fees relating to catering, food services, and extra time) may, at the option of the District, be separately billed to the Applicant either before or after the Applicant's use of the Facility/Grounds.

- b. The District reserves the right to have one or more District employees (“Employee”) present at all times the Facility/Grounds is used by Applicant. In the event Employee(s) is/are present, said Employee(s) shall in no way be responsible for the conduct of persons present at Applicant’s activity(ies), nor shall such employee(s) perform duties other than those involving the care, safety, and security of the Facility/Grounds and/or Equipment.
- c. Access to Facilities/Grounds shall be strictly limited to those parts of the Facilities/Grounds specified in Exhibit A and the entrances to those Facilities/Grounds.
- d. Applicant shall abide by all District policies, procedures, rules and regulations in its use of the Facility/Grounds, and Equipment, and shall be legally responsible for any and all damage resulting from its use of the Facility/Grounds, and Equipment, whether caused by negligence, recklessness, or willfulness on the part(s) of Applicant, its agents, servants, or invitees.
- e. Applicant agrees to indemnify and hold harmless the District, all District elected and appointed officials, all District administrators, all District principals, all District teachers and other employees, all District volunteers and representatives, and all persons and bodies corporate acting for or on behalf of them:
  - i. Against all liability, claims, demands, actions, suits, damages, proceedings, costs and expenses (including reasonable attorneys fees) whatsoever, including injury to persons and damages to property, for which they may be or become liable directly or indirectly arising out of the use of the Facilities/Grounds by Applicant or by Applicant’s agents, servants, or invitees; and
  - ii. For such further sums in excess of those contained in any insurance policy procured by Applicant relating to the use of the Facilities/Grounds or for such amounts as may not be payable under any such insurance policy.
- f. Applicant shall observe all fire and safety regulations.
- g. Applicant agrees that, except as specified in Exhibit “A,” no hazardous materials (including, but not limited to, flammable materials or liquids, fireworks, pyrotechnic devices, explosives, poisonous materials or plants, or strong acids or caustics) and no dangerous animals will be brought onto the Facilities/Grounds or used in any way while occupying any portion of the Facilities/Grounds.

- h. Applicant agrees that, except as specified in Exhibit "A," no amusement rides or attractions (including, but not limited to, trampolines of any type, enclosed air support structures of any type, climbing walls, climbing ropes, firearms or shooting activities, bow and arrow shooting activities, or equipment or devices related thereto) will be brought onto the Facilities/Grounds or used in any way while occupying any portion of the Facilities/Grounds.
- i. Applicant shall prohibit the use of tobacco products and alcoholic beverages in or on the Facility/Grounds, except that tobacco products may be used after school in such area(s) as may be designated by the Principal
- j. Applicant shall not allow any immoral or illegal activity, including gambling, in or on the Facility/Grounds.
- k. The Principal or other supervisor of the Facility/Grounds and/or the District's Department of Law Enforcement shall determine the need for security during Applicant's use of the Facility/Grounds.
- l. Applicant shall not make any alterations to the Facility/Grounds without prior approval of the District's Department of Physical Support Services.
- m. Applicant shall not sublease or reassign any portion of the Facility/Grounds or item of equipment covered by this Contract.
- n. The use of equipment shall not be a part of this Contract unless such equipment is specifically listed in Exhibit "A". In the event equipment is listed in Exhibit "A," Applicant agrees that:
  - i. Equipment may not be used by Applicant if it is needed for school activities;
  - ii. Equipment shall not be removed from the Facility/Grounds; and
  - iii. Applicant shall assume full responsibility for any and all expenses resulting from the transfer, repair, or replacement of Equipment necessitated by its use.

In case of damage to Equipment, the Facility Principal shall send a report to the District's Department of Financial Services at 701 East Main Street, Lexington, Kentucky 40502, and to Applicant at the address listed in Applicant's Facility Usage Application. Settlement agreeable to the District shall be a pre-requisite to additional use by Applicant of any facility or grounds in the District.

- o. In the event Equipment assigned for Applicant's use is either unavailable or in unsatisfactory working condition on the date and at the time scheduled for its use, Applicant's sole remedy shall be a refund of any equipment usage fees paid by Applicant up to that point.
- p. Applicant shall ensure that proper care is taken of the Facilities/Grounds during use and that the Facility/Grounds are left in as good a condition as before used. Applicant agrees that any furniture and equipment moved during the use of the Facilities/Grounds shall be restored to its original position and that the Facilities/Grounds shall be left in a clean and tidy condition.
- q. Applicant shall not operate food or drink concessions unless approved by the Principal or other supervisor of the Facility/Grounds.
- r. Applicant shall not sell or offer for sale any merchandise at any function conducted in or on the Facility/Grounds, other than approved food and drink concessions.
- s. Applicant shall abide by all District and other administrative procedures relevant to conservation of energy.
- t. Applicant shall be responsible for the conduct of individuals using the Facility/Grounds. Applicant shall not charge admission or solicit or accept donations for attendance at or participation in events held in or on the Facility/Grounds, except that civic, charitable government, non-profit, and religious groups may charge admission or accept donations when the net proceeds of such charges or donations are used exclusively for civic, charitable, government non-profit, and religious purposes.
- u. Applicant shall not use the Facility/Grounds, or equipment for commercial, for profit activities.
- v. Unless otherwise provided in this Contract, Applicant's privilege of using the Facility/Grounds or Equipment shall terminate upon the earlier of either (1) the delivery by one party to the other of written notice of termination; (2) the last day of the Applicant's activity as specified on Exhibit "A," or (3) June 30 following the effective date of this Contract. Notice of termination shall be delivered by one party to the other at the address of the other party as set forth at the conclusion of this Contract. In the event Applicant terminates this Contract by delivering written notice of termination to the District at least forty-eight (48) hours prior to the earliest date and time scheduled for the Facility's/Ground's use, Applicant shall not be charged any facility usage fees. In the event Applicant terminates this Contract by delivering written notice of termination to the District within the forty-eight (48) hour period immediately prior to the earliest date and time scheduled for the Facility's/Ground's use, Applicant shall pay a minimum of one (1) hour worth of the Full Operational Fee. In the event this Contract terminates or is terminated at any other time, Applicant shall

owe all facility usage fees associated with Applicant's use of the Facility/Grounds and/or Equipment.

- w. In the event of inclement weather, Applicant shall be solely responsible for ensuring that it has adequate ingress to, parking at, and egress from the Facility/Grounds by removing snow, ice, and other impediments from established Facility driveways and parking lots. Applicant may contract with a qualified outside entity for the removal of snow, ice, and other impediments, provided the outside entity is able to demonstrate that it possesses at least as much general liability insurance as that demonstrated by Applicant.
- x. In the event the Applicant's activity takes more time than that originally scheduled for the activity, or in the event District employees are required to work more time than originally scheduled to get the Facility/Grounds ready for District use the next business day, the Applicant agrees to pay any additional usage fees attributable to the extra time. The District shall invoice Applicant for such additional usage fees and Applicant agrees to pay such invoices within thirty (30) days after receipt.
- y. Applicant agrees that if the Facility/Grounds, Employees, or Equipment become unavailable due to circumstances beyond the District's control, including but not limited to loss of electrical power, sickness, terrorism, war, or natural disaster (earthquake, fire, flood, ice storm, tornado, windstorm, etc.), Applicant's sole remedy shall be a refund of the applicable usage fee(s) paid by Applicant.
- z. Applicant agrees that, before conducting any activities at or on the Facility/Grounds, Applicant will require its on-site personnel to review such materials as may be furnished by the District concerning procedures to be followed by the District during earthquakes, fires, severe weather, tornados, and other emergencies.
- aa. Applicant agrees to give notice to the District, within 24 hours, of any incident resulting in bodily injury or property damage occurring on or in any way connected with the use of the Facilities/Grounds. Such notice shall include details of the time, place, and circumstances of the incident, as well as the names and addresses of any person(s) witnessing the incident.

Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**IN WITNESS WHEREOF**, the parties have hereunto set their hands (via the signatures of their respective, authorized representatives on Exhibit "B"), on the date indicated on Exhibit "B."

## **Facility Usage Hourly Rate Schedule for School Year 2016-2017**

**Background/Rationale:** Pursuant to Board Policy 05.3, the District is required to recover costs associated with the use by outside groups of facilities and grounds for non-school activities. In order to recover utility, maintenance, personnel, and other operational costs, a Facility Usage Hourly Rate Schedule has been developed. The Hourly Rate Schedule is revised annually to accommodate changes in District costs and needs and is presented to the Board for its information.

Utility/Maintenance Fees are designed to recover expenses associated with utilities such as electric, gas, water, and sewer; and expenses associated with facility maintenance and wear and tear. The utility component of the Utility/Maintenance Fees is customarily increased each year to account for annual increases in utility costs. The utility component of the 2016-17 Utility/Maintenance Fees is 3.0% higher, overall, than its 2015-16 counterpart. Maintenance and wear and tear costs have been established at 200% of utility fees for high school football fields; and at 25% of utility fees for all other facilities.

Personnel Fees are designed to recover expenses associated with the compensation of District personnel assigned to oversee the use of District facilities. Personnel Fees are established by using the maximum level for the appropriate grade on the single salary schedule, plus 25% for benefits, times 150% for overtime. It is the recommendation of the Budget and Planning Department that the Personnel Fees remain the same as the 2015-16 Personnel Fees

Rental Fees are only applied to rentals initiated by non-commercial organizations other than school-related, charitable, civic, governmental, non-profit, and religious groups. Where applicable, Rental Fees are charged in addition to Utility/Maintenance and Personnel Fees. Each Rental Fee is established at 50% of the sum of (a) the applicable Utility/Maintenance Fee, plus (b) an amount equal to the Personnel Fee for 1 custodian (or, in the case of a kitchen rental, the Personnel Fee for 1 food service worker).

The Hourly Rate Schedule is customarily updated on July 1 of each year. **Groups or individuals using District facilities or grounds are subject to the rates in effect at the time facilities or grounds are used.**

**See RATE CHART below ...**

<u>TYPE OF ROOM / FACILITY</u>	<u>UTILITY / MAINTENANCE FEE</u>	<u>PERSONNEL FEE*</u>	<u>RENTAL FEE</u>
<b>CLASSROOM / LIBRARY</b>			
<i>Elementary</i>	\$11.00	See Personnel Fees	\$29.15
<i>Middle School</i>	\$19.50	See Personnel Fees	\$33.45
<i>High School</i>	\$25.75	See Personnel Fees	\$36.55
<b>AUDITORIUM:</b>			
<i>High School</i>	\$53.75	See Personnel Fees	\$50.55
<b>CAFETERIA:</b>			
<i>Elementary</i>	\$21.65	See Personnel Fees	\$34.50
<i>Middle School</i>	\$32.35	See Personnel Fees	\$39.85
<i>High School</i>	\$53.75	See Personnel Fees	\$50.55
<b>KITCHEN:</b>			
<i>Elementary</i>	\$11.00	See Personnel Fees	\$29.15
<i>Middle School</i>	\$21.65	See Personnel Fees	\$34.50
<i>High School</i>	\$28.30	See Personnel Fees	\$37.85
<b>ATHLETIC FACILITY:</b>			
<b>GYMNASIUM:</b>			
<i>Elementary</i>	\$17.30	See Personnel Fees	\$32.30
<i>Middle School</i>	\$21.65	See Personnel Fees	\$34.50
<i>High School</i>	\$75.40	See Personnel Fees	\$60.40
<b>FOOTBALL FIELD:</b>	\$155.00	See Personnel Fees	\$101.15
<b>RUNNING TRACK:</b>	\$64.75	See Personnel Fees	\$56.05
<b>BASEBALL FIELD:</b>	\$41.20	See Personnel Fees	\$44.25
<b>SOFTBALL FIELD:</b>	\$41.20	See Personnel Fees	\$44.25
<b>OTHER:</b>	\$21.65	See Personnel Fees	\$34.50

**\* PERSONNEL FEES**

**CUSTODIAL:** The Personnel Fee for custodians is **\$47.35 per custodian per hour**. As a general rule, at least one custodian or other type of District employee is required to be on duty for all rentals. If the District determines additional custodial or other personnel are required, the applicant will be charged accordingly.

**FOOD SERVICE:** The Personnel Fee for food service workers is **\$49.40 per worker per hour**. At least one food service worker is required to be on duty at all times for rentals involving kitchen areas--no exceptions. If the District determines additional food service personnel are required, the applicant will be charged accordingly.

**TECHNICAL SUPPORT:** The Personnel Fee for technical support personnel is **\$53.05 per technician per hour**. As a general rule, at least one technician is required to be on duty during the use of school-owned technical equipment (audio, video, lighting, etc.). If the District determines additional technical support personnel are required, the applicant will be charged accordingly.

**SECURITY:** The Personnel Fee for law enforcement personnel is **\$62.00 per officer per hour**. If the District determines security is required for an activity, at least one District law enforcement officer must be on duty at all times designated by the District. If the District determines additional law enforcement personnel are required, the applicant will be charged accordingly.