

NEIGHBORHOOD PARK CENTER CONCESSION AGREEMENT

THIS NEIGHBORHOOD PARK CENTER CONCESSION AGREEMENT (the “Agreement”), made and entered into this 1st day of January, 2024, (the “Effective Date”), by and between the **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government organized pursuant to Chapter 67A of the Kentucky Revised Statutes, which has its primary offices at 200 East Main Street, Lexington, Kentucky 40507, (“LFUCG”), and **Oakwood Neighborhood Association**, a Kentucky nonprofit corporation, with a principal address located at 1050 Briarwood Drive (the “Neighborhood Association”).

RECITALS

WHEREAS, LFUCG is the owner of the **Oakwood Neighborhood Park Center** located at 1050 Briarwood Drive, Lexington, KY 40511 (the “Center”); and

WHEREAS, the Neighborhood Association wishes to retain and perform the delegated, onsite management of the Center for purpose of all activities, functions, gatherings, and rentals; and

WHEREAS, the parties have agreed to enter into this Agreement regarding management and operation of the Center, based upon the guiding principles of 1) Neighborhood Engagement and Activation and 2) Shared Governance and Accountability, as further defined in Sections 5 and 6, respectively, of this Agreement.

STATEMENT OF AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the receipt and sufficiency of which are acknowledged, the parties hereby agree as follows:

1. **RECITALS INCORPORATED; DEFINITIONS.** The recitals above are hereby incorporated into and made part of this Agreement. In addition to the terms defined elsewhere in this Agreement, the terms set forth below shall have the following meanings for the purpose of this Agreement:

- a. **“Center Keyholder”** means the neighborhood association member and resident who serves as the primary point of contact for public access to the Neighborhood Park Center. The Center Keyholder coordinates the scheduling and reservation of rental events with the general public. The Center Keyholder also is a liaison to LFUCG Parks and Recreation for general maintenance and repairs at the Center. The Center Keyholder assists the Neighborhood Association with activity and financial reporting required to be submitted to LFUCG Parks and Recreation.

- b. **“Division of Parks & Recreation”** means the administrative and operational authority for public parks, open spaces, and recreational facilities on behalf of LFUCG.
- c. **“Neighborhood Association”** means a formally organized group of residents, as recognized with non-profit status through the Kentucky Secretary of State’s office, who volunteer to lead in neighborhood advocacy, safety, and general public interest. The members of Neighborhood Association leadership are duly elected and / or appointed by eligible members of respective organization, independently of LFUCG regulation or oversight.
- d. **“Neighborhood Park Center”** means one of the 12 single-story public facilities owned by LFUCG and located at parks throughout the Lexington-Fayette County that will be managed by the Neighborhood Association pursuant to this Agreement. The Neighborhood Park Centers are listed below:

<u>Park Name</u>	<u>Street Address</u>	<u>Zip Code</u>
<i>Coolavin Park</i>	550 W. Sixth Street	40508
<i>Douglass Park</i>	726 Georgetown Street	40511
<i>Green Acres Park</i>	1560 LaSalle Road	40511
<i>Highlands Park</i>	1991 Mark Avenue	40511
<i>Lou Johnson Park</i>	190 Prall Street	40508
<i>Marlboro Park</i>	1970 Benton Place	40505
<i>ML King Park</i>	1625 McCullough Drive	40511
<i>Meadowthorpe Park</i>	333 Larch Lane	40511
<i>Oakwood Park</i>	1050 Briarwood Drive	40511
<i>Valley Park</i>	2077 Cambridge Drive	40504
<i>Whitney Young Park</i>	1033 St. Martins Avenue	40511
<i>Woodhill Park</i>	457 Larkwood Drive	40509

- e. **“Public Risk Mitigation Allowance”** means the monetary amount (up to \$1,000.00 during each fiscal year, being July 1-June 30) reimbursed by LFUCG to the Neighborhood Association for the costs of the required insurance policy premiums under this Agreement.
- f. **“Rental Event Maintenance Stipend”** means the monetary amount (up to \$5,000.00 during each fiscal year, being July 1-June 30) reimbursed by LFUCG to the Neighborhood Association for expenses incurred to procure supplemental janitorial and housekeeping services to support rental events and

programs at the Center. Eligible expenses that may be reimbursed under the Rental Event Maintenance Stipend include, but are not limited to, building cleaning, emergency contract services, deep cleaning, window cleaning, and floor cleaning and/or maintenance at the Center. Reimbursement will only be considered for eligible services provided by a person or business entity that is lawfully registered or authorized to do business in the Commonwealth of Kentucky and holds a valid occupational license from the LFUCG Division of Revenue to do business in Lexington-Fayette County.

- g. “Rental Fee Income”** means the monetary amount assessed and collected by the Neighborhood Association from residents, groups, or organizations to host an event at the Center during a reserved date and time.

2. EXHIBITS. This Agreement consists of the provisions herein as well as the following additional documents, which are attached hereto as exhibits and incorporated by reference as if fully stated:

- a. Exhibit “A”** – Center Management Rules and Regulations
- b. Exhibit “B”** – Center Rental Agreement
- c. Exhibit “C”** – Biannual Financial Report
- d. Exhibit “D”** – Rental Event Maintenance Stipend (REMS) Form
- e. Exhibit “E”** – Public Risk Mitigation Allowance (PRMA) Form

To the extent that there is any conflict between or among any of these documents, the terms and provisions of this Agreement shall prevail, followed by the terms and provisions of Exhibit “A”, “B”, “C”, “D”, and “E” in that order.

3. TERM OF AGREEMENT. Subject to the termination rights set forth herein, this Agreement shall be effective for an initial term of two (2) years, beginning as of the Effective Date, and automatically renewing for a period of two (2) years. The Neighborhood Association shall have the right throughout the term of this Agreement to occupy, possess, manage, and rent the Center under the terms and conditions provided herein. LFUCG shall have the right to enter the Center at any time and for any reason. Either party may terminate this Agreement by providing the other with written notice of its intent to terminate at least thirty (30) days prior to its proposed termination date.

4. CENTER CONCESSIONS. LFUCG may grant the Neighborhood Association, subject to its full compliance with this Agreement, the concessions of a Rental Event Maintenance Stipend and/or a Public Risk Mitigation Allowance (the “Concession” or “Concessions”). The Rental Event Maintenance Stipend and Public Risk Mitigation Allowance may be available, annually, on a fiscal year basis, beginning September 1, 2024. The Neighborhood Association must follow all terms and conditions of this Agreement, including timely submission of Biannual Financial Reports and the required reimbursement forms, in order to request disbursement for any Concession(s). The Neighborhood Association shall have the right to retain any Rental Fee Income at the

delivery of service to the rental party and at the time such income is generated. Rental Fee Income is not required or anticipated to be remitted to LFUCG.

5. NEIGHBORHOOD ENGAGEMENT AND ACTIVATION.

- a. Designation of Center Keyholder.** Subject to the terms of this Agreement, LFUCG hereby retains and delegates to the Neighborhood Association's designated Center Keyholder the performance of the duties and services hereinafter set forth, and the Center Keyholder accepts such delegated designation. The Center Keyholder agrees to comply with the Center Management Rules and Regulations established in Exhibit "A". The Neighborhood Association shall cooperate with LFUCG to perform a background check on the Center Keyholder before LFUCG will grant such person access to the Center.
- b. Utilization and Public Access.** The Center shall be used by the Neighborhood Association for community events and shall not be used for any other purpose without the prior written consent of LFUCG. The Neighborhood Association shall comply with the Center Management Rules and Regulations in Exhibit "A" governing the use and occupancy of the building. LFUCG may amend the Center Management Rules from time to time, and a written copy of such amendments will be given to the Neighborhood Association who shall thereafter comply with the same.
- c. Rentals.** The Center Keyholder shall rent the Center in accordance with the Center Management Rules and Regulations in Exhibit "A". The Center Keyholder shall make reasonable efforts to ensure that all groups or individuals renting the Center comply with a Center Rental Agreement, an example of which is attached as Exhibit "B"; and shall promptly notify LFUCG of any group that refuses to satisfy its obligations and duties under the terms of the Center Rental Agreement. Groups or individuals that have failed to comply with the terms of the Center Rental Agreement shall be ineligible to rent the Center for a period of one (1) year thereafter.
- d. Taxes and Fees.** The Neighborhood Association agrees to pay all applicable taxes and assessments against its personal property, and any applicable permit, regulatory and/or license fees. The Neighborhood Association is not responsible for any applicable real property taxes.

6. SHARED GOVERNANCE AND ACCOUNTABILITY.

- a. Record Keeping and Reporting.** The Center Keyholder shall keep full, true, and accurate records of every rental and the proceeds generated therefrom, which records shall be submitted to LFUCG or made available for LFUCG's

inspection, in the Biannual Financial Report provided in Exhibit "C". The Biannual Financial Report will be for periods January 1st through June 30th, and July 1st through December 31st; and shall be delivered to LFUCG no later than 30 days immediately ending these said time periods. The Neighborhood Association shall notify LFUCG in writing of any change in its officers and/or the Center Keyholder within ten (10) calendar days of such change.

b. Utilities and Services. LFUCG shall be responsible for providing and paying for all utilities to the Center. The Center Keyholder shall be responsible for the routine maintenance and housekeeping of the Center. In addition to routine maintenance and housekeeping provided by the Center Keyholder and renters at the Center, the Neighborhood Association may elect to procure supplemental janitorial and housekeeping services at the Center and seek reimbursement for eligible expenses upon submission and approval of the Rental Event Maintenance Stipend Form attached as Exhibit "D". The Neighborhood Association may submit multiple Rental Event Maintenance Stipend Forms throughout the fiscal year; however, all forms must be submitted to LFUCG Parks and Recreation, along with required documentation, by May 1 to receive funds for eligible expenses incurred during the current fiscal year. Reimbursement under the Rental Event Maintenance Stipend for approved expenses may take up to 30 business days.

c. Damage to the Premises. The Neighborhood Association shall reimburse LFUCG immediately upon demand for the cost(s) of repairing any damage caused to The Center by the Neighborhood Association, including the Center Keyholder or its employees, agents, officers, invitees, or sub-lessees.

d. Risk Management.

i. Insurance. The Neighborhood Association shall procure and maintain, at its cost, throughout the term of this Agreement, and annually for any extension thereof, commercial general liability (CGL) insurance in the amount of \$2,000,000.00, as well as worker's compensation insurance, with an insurance company authorized to do business in the Commonwealth of Kentucky, with a rating classification of no less than Excellent (A or A-) and a financial size category of no less than VIII, as defined by the most current Best's Key Rating Guide. The CGL policy shall name the Lexington-Fayette Urban County Government and Division of Parks and Recreation as additional insureds and shall be primary to any applicable insurance of LFUCG. The insurance coverages shall fully waive rights of subrogation against LFUCG. The certificate of insurance shall be provided to the Department of Human Resources – Risk Management, Safety and Loss Control of the

Lexington-Fayette Urban County Government at 200 East Main Street, 10th Floor, Lexington, Kentucky 40507. The costs of the required insurance policy premiums set forth herein may be reimbursed to Neighborhood Association by LFUCG upon submission of the Public Risk Mitigation Allowance Form attached as Exhibit "E". The Neighborhood Association may submit multiple Public Risk Mitigation Allowance Forms throughout the fiscal year; however, all forms must be submitted to LFUCG Parks and Recreation, along with required documentation, by May 1 to receive funds for the eligible costs incurred during the current fiscal year. Reimbursement under the Public Risk Mitigation Allowance for approved costs may take up to 30 business days.

- ii. **Liability and Indemnification.** The Neighborhood Association and Center Keyholder agree to indemnify, defend, and hold harmless LFUCG and its agents, officials, and employees, from any and all claims, liabilities, loss, damages, and actions of whatever kind or expense, including defense costs and attorney fees, that are in anyway incidental to or connected with or that arise from or that are alleged to have arisen from, directly or indirectly, in whole or in part, use of Center by the Neighborhood Association, including the Center Keyholder or its employees, agents, officers, invitees, or sub-lessees. LFUCG shall not be liable for any loss or damage to persons or property of the Neighborhood Association, including the Center Keyholder or its employees, agents, officers, invitees, or sub-lessees located on the Center. LFUCG shall not be liable for any injury or damage to persons or property resulting from fire, explosion, falling material, steam, gas, electricity, water, rain, snow, leaks from any part of the Center, pipes, appliances or plumbing works, or any other cause of any nature. Any property of the Neighborhood Association kept for storage at the Center shall be so kept or stored at the exclusive risk of the Neighborhood Association. This clause shall survive the termination of this agreement.

7. GENERAL TERMS AND CONDITIONS.

- a. **Notices.** Any notice or consent required to be given by or on behalf of either party upon the other shall be in writing and shall be given by hand delivery or U.S. Mail. If mailed, such notice shall be via certified mail, return receipt requested.

Notice shall be sent to LFUCG at the following:

Lexington-Fayette Urban County Government
Attn: Commissioner of General Services
200 East Main Street, Lexington, KY 40507

Notice shall be sent to the Neighborhood Association at the following:

Norman Beckham, President
Oakwood Neighborhood Association
1105 Briarwood Dr
Lexington KY 40511

- b. **Contractual Relationship Only.** In no event shall the parties be construed, held, or become in any way for any purpose the employee of the other party in the conduct of their respective endeavors or otherwise.
- c. **Sexual Harassment.** Organization must adopt or have adopted a written sexual harassment policy, which shall, at a minimum, contain a statement of current law; a list of prohibited behaviors; a complaint process; and a procedure which provides for a confidential investigation of all complaints. The policy shall be given to all members of the Neighborhood Association's Board of Directors, or similar body, and/or employees. The policy shall be made available to LFUCG upon request.
- d. **No Third-Party Beneficiaries.** Nothing contained herein shall create any relationship, contractual or otherwise, or any rights, in favor of any third party.
- e. **Successors and Assigns.** This Agreement shall be binding on both parties and their successors and assigns. The assigning party agrees to provide written notice to the non-assigning party to this Agreement of any assignment.
- f. **Compliance with Ordinances, Statutes, State and Federal Law.** The Neighborhood Association shall comply and cause its Center Keyholder, employees, officers, agents, invitees, and sub-lessees to comply with all applicable local ordinances and state and federal laws and/or regulations, as well as reasonable operational procedures and standards established by LFUCG in connection with use of the Center.
- g. **Amendments.** By mutual agreement, the parties to this Agreement may, from time to time, make written changes to any provision hereof. The Neighborhood Association acknowledges that LFUCG may make such changes only upon approval of its legislative authority, the Lexington-Fayette Urban County Council, and the signature of the Mayor.
- h. **Waiver.** The waiver by either party of any breach of any provision of this Agreement shall not constitute a continuing waiver or waiver of any subsequent breach by either party of either the same or another provision.
- i. **Entire Agreement.** This Agreement shall constitute the entire agreement between the parties and no representations, inducements, promises, or

agreements, oral or otherwise, which are not embodied herein shall be effective for any purpose. This Agreement shall replace any previous agreement between the parties on the same subject matter.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the last date of execution by the undersigned.

"LFUCC"

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

By: *Linda Gorton*
Linda Gorton, Mayor

Date: 3/22/2024

ATTEST:
Deborah
Clerk of the Urban County Council

"NEIGHBORHOOD ASSOCIATION"
Oakwood Neighborhood Association

By: *NORMAN BECKHAM* [sign]
Name: *Norman Beckham* [print]
Position: President

Date: 3-1-2024

By: *James B. Bolling* [sign]
Name: *James B. Bolling* [print]
Position: Treasurer

Date: March 1, 2024

By: *Deborah D. Dunn* [sign]
Name: *Deborah D. Dunn* [print]
Position: Center Keyholder

Date: March 1, 2024