

FACILITY USE AGREEMENT

This Facility Use Agreement ("Agreement") is made and entered into this 20th day of October, 2020 ("Effective Date"), by and between the City of Redlands, a municipal corporation ("City"), and the AARP, a United States-based non-governmental organization and interest group ("AARP"). City and AARP are sometimes individually referred to herein as a "Party" and, together, as the "Parties."

ARTICLE 1. PREMISES

- 1.1 City agrees to permit AARP to use City's auditorium, consisting of approximately two thousand five hundred fifty three (2,553) square feet within the Redlands Joslyn Senior Center located at 21 Grant Street, Redlands, California and City's multi-purpose room, consisting of approximately one thousand eight hundred forty eight (1,848) square feet, and City's small classroom, consisting of approximately eight hundred thirty six (836) square feet within the Redlands Community Center, located at 111 West Lugonia Avenue, Redlands, California (collectively, the "Premises") on the terms and conditions hereinafter set forth.

ARTICLE 2. TERM

- 2.1 This Agreement shall be for a term of three (3) years commencing on its Effective Date, unless earlier terminated as provided for herein.
- 2.2 Either Party may terminate this Agreement, without cause, by providing ninety (90) days prior written notice to the other Party specifying the date for termination of this Agreement.

ARTICLE 3. RENTAL FEE

- 3.1 Except as provided in Section 4.2, below, City not require by AARP of City's per hour facility rental fee, or the per hour staff attendant fee, for AARP's use of the Premises during the term of this Agreement.

ARTICLE 4. USE OF PREMISES

- 4.1 The Premises shall be used for the exclusive purpose of providing tax assistance to senior citizens and the driver safety program. AARP shall not use or permit the Premises to be used for any other purpose without the prior written consent of City.
- 4.2 During the term of this Agreement, AARP shall, unless prevented by conditions beyond its control, conduct business of the type and nature specified in Section 4.1 of this Agreement on the Premises in a safe and business-like manner. The Premises shall be used only for the time and dates approved for AARP, as identified on City's Facility Rental form for the same. In the event that scheduling modifications are necessary, AARP shall make a forty five (45) day advance schedule change request to City indicating the proposed modification. City shall respond to such requests within two (2) weeks of receipt. City may charge AARP a fee in the amount of sixty one dollars (\$61) per hour for any scheduling changes made by AARP without the aforementioned forty five (45) day notice. AARP

shall assume full responsibility for its personal property used at the Premises, and shall hold City harmless for any theft or damage relating to AARP's personal property.

- 4.3 AARP shall be solely responsible for any set up and cleaning associated with its use of the Premises, and shall maintain the Premises in a clean and litter free manner.
- 4.4 AARP shall not commit, or permit the commission of, any acts on the Premises, or use or permit the use of the Premises, in any manner that will increase the existing rates for, or cause the cancellation of, any fire, liability, or other insurance policy insuring the Premises or the improvements on the Premises. AARP shall, at its own cost and expense, maintain insurance for all personal property and improvements on the Premises.
- 4.5 AARP shall not commit, or permit the commission by others, of any waste on the Premises. AARP shall not maintain, commit or permit the maintenance or commission of any nuisance on the Premises, and AARP shall not use or permit the use of the Premises for any unlawful purpose.

ARTICLE 5. INDEPENDENT CONTRACTOR

- 5.1 It is the express intention of the Parties that AARP is, and shall remain during the term of this Agreement, an independent contractor and not be an agent or employee of City. AARP represents to City that is free from the control of City as to how AARP's services are provided to the public; the services provided by AARP are not part of City's business, and AARP is providing the same or similar Services to other persons and entities through AARP's own business, or through other businesses; and that AARP agrees its provision of the services within the Premises is not AARP's sole source of business. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between AARP and City. The Parties acknowledge that AARP is not a City employee for State tax, Federal tax or any other purpose.

ARTICLE 6. COMPLIANCE WITH LAWS

- 6.1 AARP shall, at AARP's sole cost and expense, comply with all statutes, ordinances, regulations and requirements of all governmental entities, federal, state and county or municipal, relating to AARP's use and occupancy of the Premises for AARP's operation of business whether those statutes, ordinances, regulations and requirements are now in force or are subsequently enacted. The judgment of any court of competent jurisdiction, or the admission by AARP in a proceeding brought against AARP by any government entity that AARP has violated any such statute, ordinance, regulation or requirement shall be conclusive as between City and AARP and shall constitute grounds for termination of this Agreement by City.

ARTICLE 7. INDEMNITY AND INSURANCE

- 7.1 AARP shall defend, indemnify and hold harmless City, and its elected officials, officers, employees and agents from and against any and all claims, causes of action, damages and liability resulting from AARP's negligent acts or omissions, and the willful misconduct of AARP, and that of AARP's agents, employees and invitees, during AARP's occupation

and use of the Premises during the term of this Agreement. This section shall survive any termination or expiration of this Agreement.

- A. Comprehensive general liability insurance, with carriers acceptable to City, with minimum coverage of One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) aggregate for public liability, property damage and personal injury. City shall be named as an additional insured and such insurance shall be primary and non-contributing to any insurance or self-insurance maintained by City. A certificate of insurance with endorsements evidencing such coverage shall be provided to City prior to AARP's occupancy of the Premises.
- B. Workers' Compensation and Employer's Liability insurance in the amount that meets statutory requirements with an insurance carrier acceptable to City, or certification to City that AARP is self-insured or exempt from the worker's compensation laws of the State of California. AARP shall provide City with Exhibit "A," titled "Workers' Compensation Insurance Certification," which is attached hereto and incorporated herein by this reference prior to occupancy of the Premises.
- C. AARP shall defend, indemnify and hold harmless City, and its elected officials, officers, employees, agents, and volunteers, from any and all damages, costs, suits, claims, losses and liability for injury to persons including death, and damage to property, arising out of, or in connection with, any act or omission of AARP or its officers, employees, agents or volunteers, in connection with operation of its business at the Premises.

ARTICLE 8. TAXES AND UTILITIES

- 8.1 City shall pay, and hold AARP free and harmless from, all charges for the furnishing of gas, water, sewer, electricity, solid waste disposal and other public utilities provided to the Premises during the term of this Agreement. AARP shall pay, and hold City free and harmless from, all charges for telephone usage by AARP at the Premises.

ARTICLE 9. ATTORNEYS' FEES

- 9.1 In the event any action is commenced to enforce or interpret the terms or conditions of this Agreement, the prevailing Party shall, in addition to any costs and other relief, be entitled to the recovery of its reasonable attorneys' fees, including fees for use of in-house counsel by a Party.

ARTICLE 10. NOTICES

- 10.1 Any notice or other communication required, or which may be given, pursuant to this Agreement, shall be in writing. Any such notice shall be deemed delivered (i) on the date of delivery in person; (ii) five (5) days after deposit in first class registered mail, with return receipt requested; (iii) on the actual delivery date if deposited with an overnight courier; or (iv) on the date sent by facsimile, if confirmed with a copy sent contemporaneously by first class, certified, registered or express mail; in each case properly posted and fully prepaid to the appropriate address set forth below, or such other address as a party may provide notice in accordance with this section:

CITY:

City Clerk
City of Redlands
35 Cajon Street
P.O. Box 3005 (mailing)
Redlands, CA 92373
jdonadlson@cityofredlands.org
(909) 798-7531

AARP:

William Jochimsen
District Coordinator
35525 Ivy Avenue
Yucaipa, CA 92399
b.n.kogneeto@aol.com
(909) 790-1475

ARTICLE 10. MISCELLANEOUS

- 11.1 AARP shall not encumber, assign, or otherwise transfer this Agreement, any right or interest in this Agreement, or any right or interest in the Premises or any improvements that may now or hereafter be constructed or installed on the Premises. Any encumbrance, assignment, transfer or subletting by AARP without the prior written consent of City, whether voluntary or involuntary, by operation of law or otherwise, is void and shall, at the option of the City, result in immediate termination of this Agreement.
- 11.2 This Agreement constitutes the entire agreement between City and AARP respecting AARP's use of the Premises, and correctly sets forth the obligations of City and AARP to each other as of its Effective Date. Any agreements or representations between the Parties respecting the Premises not expressly set forth in this Agreement are null and void.
- 11.3 In the event any action is commenced to enforce or interpret the terms or conditions of this Agreement, the prevailing Party shall, in addition to any costs and other relief be entitled to the recovery of its reasonable attorneys' fees, including fees for use of in-house counsel by a Party.
- 11.4 This Agreement may be terminated by either Party by giving ninety (90) days prior written notice to the other Party.

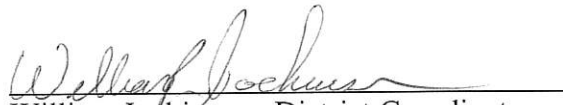
Executed as of the 20th day of October, 2020, at Redlands, California.

CITY OF REDLANDS

AARP

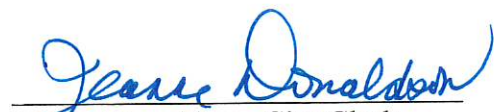


Paul W. Foster, Mayor



William Jochimsen, District Coordinator

ATTEST:



Jeanne Donaldson, City Clerk

EXHIBIT "A"

WORKERS' COMPENSATION INSURANCE CERTIFICATION

Every employer, except the State, shall secure the payment of compensation in one or more of the following ways:

- (a) By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State.
- (b) By securing from the Director of Industrial Relations, a certificate of consent to self-insure, either as an individual employer, or as one employer in a group of employers, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his or her employees.

CHECK ONE

 I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work and activities required or permitted under this Agreement. (Labor Code §1861).

 X I affirm that at all times, in performing the work and activities required or permitted under this Agreement, I shall not employ any person in any manner such that I become subject to the workers' compensation laws of California. However, at any time, if I employ any person such that I become subject to the workers' compensation laws of California, immediately I shall provide the City with a certificate of consent to self-insure, or a certification of workers' compensation insurance.

I certify under penalty of perjury under the laws of the State of California that the information and representations made in this certificate are true and correct.

AARP

Date: 9/29/20

By: 
William Jochimsen, District Coordinator