

BILL NO. 19-01

ORDINANCE NO. 4.452

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH NORTH KANSAS CITY HOSPITAL TO STAFF AND OPERATE A COMMUNITY HEALTH AND WELLNESS AREA WITHIN THE GLADSTONE COMMUNITY CENTER.

WHEREAS, the City of Gladstone is interested in expanding opportunities for community health and wellness education to the residents of Gladstone and visitors of the Gladstone Community Center; and

WHEREAS, expanding community health and wellness opportunities has been a defined initiative of the citizen-based strategic planning committee Shaping our Future; and

WHEREAS, North Kansas City Hospital has agreed to staff and operate a Community Health and Wellness area within the Community Center.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI AS FOLLOWS:

That the City Manager of the City of Gladstone, Missouri, is hereby authorized to execute the proposed agreement with North Kansas City Hospital, on the terms and conditions described herein and as more particularly set forth in the agreement and to take any other such measures as may be required to ensure the operation of a Community Health and Wellness area within the Gladstone Community Center.

INTRODUCED, READ, PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF GLADSTONE, MISSOURI THIS 14TH DAY OF JANUARY, 2019.



Mayor Bill Garnos

ATTEST:



Ruth Bocchino, City Clerk

First Reading: January 14, 2019

Second Reading: January 14, 2019



Request for Council Action

RES ☐ # City Clerk Only

BILL ☒ # 19-01

ORD # 4.452

Date: 1/2/2019

Department: General Administration

Meeting Date Requested: 1/14/2019

Public Hearing: Yes ☐ Date: [Click here to enter a date.](#)

Subject: An Ordinance authorizing the City Manager to execute an agreement with North Kansas City Hospital to staff and operate a Community Health and Wellness area within the Gladstone Community Center.

Background: One of the key initiatives recommended by Shaping Our Future was an increased effort towards improving community health and wellness. In response to that goal, staff has negotiated an agreement with North Kansas City Hospital for the staffing and operation of a Community Health and Wellness area in the Gladstone Community Center. This area will contain educational material and will be staffed twice a week by a Registered Nurse, who will conduct health screenings and be a medical resource for patrons of the Community Center. There are no anticipated annual costs to the city associated with this agreement.

Budget Discussion: Funds are budgeted in the amount of \$0 from the Fund. Ongoing costs are estimated to be \$ 0 annually. Previous years' funding was \$0

Public/Board/Staff Input: Staff recommends approval of this Resolution.

Provide Original Contracts, Leases, Agreements, etc. to: City Clerk and Vendor

Bob Baer
Department Director/Administrator

PC
City Attorney

SW
City Manager

FACILITY USAGE AGREEMENT

THIS FACILITY USAGE AGREEMENT (the "Agreement"), commencing as of February 1, 2019 is made by and between the CITY OF GLADSTONE ("City"), located in the State of Missouri, and the BOARD OF TRUSTEES OF NORTH KANSAS CITY HOSPITAL (the "Hospital"), a Missouri non-profit corporation. Said "parties" or a "party," intending to be legally bound, and for the mutual benefits and good and sufficient consideration set out below, hereby agree as follows:

RECITALS:

- A. The City operates the GLADSTONE COMMUNITY CENTER (the "Facility"), a multi-purpose facility located in the City of Gladstone, Missouri, on property owned by the City of Gladstone which includes facilities suitable for wellness services and other related amenities.
- B. The Hospital is dedicated to improving the quality of life for all participants by providing medical programs, services and facilities.
- C. The Hospital and City deem it to be in their best interests to enter into this venture with the intent to promote general public welfare through wellness programs (the "Hospital Programs") at the Gladstone Community Center as a part of both the Hospital's and City's strategic plans.

NOW, THEREFORE, in furtherance of the purposes set forth above, the parties agree as follows:

- 1. **Term; Termination.** Unless earlier terminated, this Agreement is for a three (3) year term beginning February 1, 2019 (the "Initial Term") and shall automatically renew for additional one-year term(s) ("Renewal Term(s)") unless either party elects to terminate this Agreement at the end of the Initial Term or any Renewal term by giving the other party at least sixty (60) days prior written notice of such desired termination. The Initial Term and any applicable Renewal Term are sometimes referred to herein as the "Term."
- 2. **Access and Rights for Hospital;** During the Term, the Facility grants the Hospital the exclusive right to use the "Hospital Program Space" of approximately 120 square feet as outlined on **Exhibit A** attached hereto and made a part hereof during normal Facility hours of operation for its Hospital Programs pursuant to a schedule to be reasonably agreed upon by Hospital and Facility.

If the Agreement is renewed by the parties after the Initial Term, the Facility shall have the option to re-negotiate the terms of this agreement.

In consideration for the use of Facility space, the Hospital shall use the Hospital Program Space solely for the purposes of its programs described in this Agreement and no other

purposes without the prior written consent of the Facility.

Hospital program participants shall have access to the main lobby, restrooms, and Community Wellness Corner at the Facility at no charge while enrolled in, and attending, Hospital Programs. Without a Gladstone Community Center membership, program participants will not have access to the swimming pools, gymnasium, child care, and exercise sections of the facility.

3. Hospital Program Space; Build Out and Equipping.

- a. The Hospital will provide its own furniture, equipment and other furnishings for the Hospital Wellness Corner. Any hospital owned furniture, equipment and other furnishings will be covered under the hospitals insurance policy.
- b. The Hospital may provide a dedicated data service connection for private use.
- c. The Hospital will be permitted to place its brand/signage and that of Meritas Health Corporation, a wholly owned subsidiary of Hospital, in the Facility as reasonably approved by facility.
- d. The Facility will provide utility, telecommunication and cleaning services for the Hospital Wellness Corner.
- e. The Facility shall be responsible for maintenance and repair of all parts of the Hospital Wellness Corner (not including Hospital-owned furniture or equipment) unless such maintenance or repair is caused by the negligence or willful misconduct of Hospital's employees.

4. Hospital Use of Other Facility Space

- a. For any event co-sponsored by the city and depending on availability, the Hospital may reserve the Facility's community rooms, at no charge.

5. Other Financial Considerations. The Hospital shall be responsible for the provision of all human resources to deliver wellness and rehabilitation programs and services for the Hospital Programs.

6. Scheduling. Representatives of the Facility and the Hospital shall meet periodically as requested by the other party, but not less than once every six (6) weeks, to determine the written schedules for usage by the Hospital of the facilities at the Gladstone Community Center other than the Hospital Program Space. Each party agrees that in connection with the scheduling of such usage by the Hospital, there shall be taken into account the Facility's regularly scheduled usage of its facilities and any long-term commitments to third parties in existence at the time of such scheduling and each party shall reasonably

cooperate with each other to attempt to accommodate all reasonable Hospital requests for usage. The agreed-upon schedules shall be in writing. The usage of such facilities by the Hospital will be conducted in a manner so as to not interfere with the Facility's standard operations.

Notwithstanding the above, the City shall not be required to operate its facilities at the Gladstone Community Center during hours different than Facility's normal hours of operation. In the event the Hospital requires operation of such facilities for Hospital purposes before or after the Facility's normal operating hours, the Hospital agrees to pay the Facility any extra employee, utility, and other costs incurred by the Facility for such extended operations as reasonably determined by the Facility.

7. Programming.

The City agrees to co-sponsor or promote private health care related events exclusively with North Kansas City Hospital or Meritas Healthcare at the Community Center. Upon request, the Community Center will share the event/room schedule with NKCH Wellness Corner staff.

North Kansas City Hospital will be the preferred choice for healthcare programming and partnership opportunities during the term(s) of this agreement.

Insurance based reimbursement plans for access to fitness centers and gyms (e.g. Silver Sneakers, Renew Active) are exempt of any exclusivity agreement with North Kansas City Hospital or Meritas Healthcare.

8. Indemnification.

- a. To the extent permitted by law and so as to not waive Hospital's sovereign immunity, the Hospital shall defend, hold harmless and indemnify the City and Facility, including their affiliates, officers, employees, agents, and directors, from and against all claims, liabilities, costs, damages, expenses, and attorneys' fees arising solely from the finally determined negligent acts or omissions or willful misconduct of the Hospital or its employees that occur while fulfilling Hospital duties or results from its employees' use of the Gladstone Community Center facilities under this agreement. This indemnification shall also extend to negligent acts performed by Meritas Health Corporation employees.
- b. To the extent permitted by law and so as to not waive City's sovereign immunity, City shall defend, hold harmless, and indemnify the Hospital, its affiliates, officers, employees, agents, directors and participants, from and against all claims, liabilities, costs, damages, expenses, and attorneys' fees arising solely from the alleged negligent acts or omissions or willful misconduct of the Facility or its agents, contractors or employees that occur while fulfilling its duties hereunder.

- c. Each party agrees to tender the defense of any such claim for which indemnification is sought to the other indemnifying party and agrees to reasonably cooperate fully with the indemnifying party in the defense of the claim.

9. Insurance.

- a. The Hospital shall maintain at all times during the Term hereof the following insurance or self-insurance:
 - i. Professional liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate;
 - ii. General liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate; and
 - iii. Statutory workers compensation insurance;

Such insurance shall cover the activities of its employees with an insurance company or companies qualified to write such insurance in the State of Missouri or through a program of self-insurance. The Hospital shall furnish satisfactory evidence of such insurance coverage to the City upon execution of this Agreement and annually or at such other reasonable times upon request.

- b. The City shall maintain at all times during the term hereof general liability insurance with an insurance company or companies qualified to write such insurance in the State of Missouri covering the activities of its employees, with limits of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate which shall cover Facility operations and activities. The City shall furnish satisfactory evidence of such insurance coverage to the Hospital upon execution of this Agreement and annually or at other reasonable times upon request.

10. Further Actions; Reasonableness and Cooperation by Parties; Time for Certain

Actions. Each party agrees to take such further actions and to execute such additional documents or instruments as may be reasonably requested by the other party to carry out the purposes and intent of this Agreement. Except where expressly stated to be in a party's sole discretion, or where it is stated that a party has the ability to act in its sole judgment, or for its own uses or purposes, wherever the Agreement states or implies that a party must give its consent or approval to actions or inactions by the other party or a third party in connection with the transactions contemplated hereby, such consent or approval will not be unreasonably withheld or delayed, nor will any other determinations which must be made by a party in the course of performing and administering this Agreement be unreasonably made. The Facility and the Hospital each also agree to cooperate with and reasonably assist each other in good faith in carrying out the purposes and intent of this Agreement. If no time period is set hereunder for a party to approve or

consent to an action or inaction by the other party or a third party, such approval shall be given or affirmatively withheld in writing within (15) days after it is requested in writing or it shall be deemed given.

- 11. Default; Cure Rights; Remedies.** In the event either party fails to perform any of its obligations under this Agreement for a period of fifteen (15) days after written notice from the other party describing such failure, without further notice the non-performing party shall be deemed in default hereunder and the other party shall have such rights and remedies as are provided at law and equity generally for the type of default in question and the other party shall have the right to terminate this Agreement.
- 12. Force Majeure.** If by reason or force majeure, either party is unable in whole or in part to carry out its obligations under the Agreement, such party shall not be deemed in default during the continuance of such inability, provided reasonably prompt notice thereof is given to the other party. The term “force majeure” as used here shall mean without limitation, the following: acts of God, strikes, lockouts, or other industrial disturbances; acts of public enemies or military authority; insurrections, riots, terrorist acts; landslides, earthquakes; fires; storms, droughts floods, or other weather conditions; explosions; breaks or accident to HVAC, utility lines, machinery, or waste disposal systems; or any other cause or event not reasonably within the control of such party and not resulting from its negligence or intentional wrongful acts or omissions.
- 13. Compliance.** Hospital is an acute care hospital that participates in the Medicare and Medicaid programs. As such, Hospital is subject to the federal and state anti-kickback regulations and is prohibited from conditioning payment to a party based on the number of patient referrals that party provides to Hospital. The City of Gladstone owns and operates an ambulance service which does, if medically appropriate, transfer patients to North Kansas City Hospital.

Both parties certify that neither Hospital’s decision to operate Hospital Programs and services at the Gladstone Community Center, nor the monetary value of the programs and services will be influenced by, or conditioned on, the number or type of patients taken by the City of Gladstone ambulance service to Hospital, or by any other business between the parties.

- 14. Notices.** All notices required or desired to be given hereunder shall be in writing, and all such notices and other written documents required or desired to be given hereunder shall be sent by registered or certified mail, or by a recognized overnight delivery service such as FedEx, as follows:

Notices shall be deemed duly given three days after mailing, first class postage. Notice shall be deemed duly given the next day if sent via overnight delivery charge prepaid, addressed as above indicated. Notices sent by a party’s counsel shall be deemed sent by such party.

15. General Provisions.

- a. Whole Agreement. This Agreement constitutes the complete understanding between the parties regarding the subject matter hereof, superseding all prior and contemporaneous understandings and agreements between them, oral and written, on the same subject.
- b. Choice of Law. This Agreement shall be construed in accordance with the laws of the State of Missouri except those pertaining to conflicts of law.
- c. Assignment. This agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Neither party shall assign its rights or interests under this Agreement without the prior written consent of the other party. Such consent shall not be unreasonably denied.
- d. Severability. Should any part or provision of this Agreement be declared illegal or in conflict with any law, rule, or regulation, the validity of the remaining portion, terms, or provisions shall not be affected thereby.
- e. Incorporation. The Recitals set forth at the beginning of this Agreement are true and correct and an important part of this Agreement and shall be given full force and effect. The captions at the beginning of the Sections are used for convenience only and are not to be used in attempting to construe any part of this Agreement.
- f. Consent to Amend. None of the provisions of this Agreement may be amended without the written consent of both parties.
- g. Waiver. Any waiver by a party of any provision or condition of this Agreement shall not be construed or deemed to be a waiver of any other provision or condition of this Agreement, nor a waiver of a subsequent breach of the same provision or condition, unless such waiver be so expressed in writing and signed by the party to be bound.
- h. Authority. Each person executing this Agreement in a representative capacity warrants and represents that such person has the authority to do so and will furnish proof of such authority in customary form upon request of the other party.
- i. Execution. This Agreement may be executed at different times and in any number of originals or counterparts, each of which shall be deemed an original, but all of which together shall constitute only one instrument. In proving or enforcing this Agreement, it shall only be necessary to produce one such counterpart executed by the party against whom enforcement is sought.

16. Electronic Transactions. The parties agree that the transaction described herein may be conducted and this Agreement and related documents (including signatures of parties to this Agreement and related documents) may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed

documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit to the appropriate court of law.

- 17. Optional Evidence of Execution.** Each party may enter into this Agreement by sending the other party a facsimile (fax) or PDF e-mail copy of its signature hereon with such party, upon request, to provide the other party with an original executed copy of this Agreement as soon as reasonably possible thereafter.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed as of the date first above written.

BOARD OF TRUSTEES OF
NORTH KANSAS CITY HOSPITAL

By: 

Date: 11/16/19

Printed Name: Peggy Schmitt

Title: President and CEO

OK
RB

CITY OF GLADSTONE

By: 

Date: 11/15/19

Printed Name: Scott Winger

Title: City Manager

ATTEST:



Ruth E. P'occhino

City Clerk, City of Gladstone, MO

EXHIBIT A

Wellness Corner Agreement between North Kansas City Hospital (“Hospital”) and the Gladstone Community Center

Objective:

To provide a complimentary resource for preventative health and wellness guidance as a first step toward a complete wellness strategy for the residents of Gladstone.

Specifications:

- Hospital will develop and staff a “Wellness Corner” at the Gladstone Community Center, to be located in the meeting room behind the main desk.
 - Hospital will provide its own equipment and signage for the operation of the Wellness Corner and all related activities and screenings.
 - Hospital will be allowed to place promotional materials and branded wall signage for Hospital and Meritas Health in the Wellness Corner area in the Community Center lobby – north wall.
 - Hospital agrees to use design and décor that complements the Center and will provide the City with final drawings of the Wellness Corner design for approval prior to installation.
 - The City shall install a storefront glass door in the meeting room – east wall.
- The Hospital will use the Wellness Corner to provide complimentary health screenings (such as blood pressure checks and regular lipid / sugar screenings) on a regular schedule mutually agreeable to both parties. The screenings will be performed by a licensed health-care professional or nurse.
 - As appropriate and by request, Gladstone Emergency Medical Services personnel will assist Hospital staff with blood pressure and other community screening sessions.
 - Hospital and Meritas Health staff and other service-line personnel may also provide counseling and information.
 - As the healthcare and wellness partner, the Hospital will advise, participate, and help build additional programs upon request.
- Both partners will share responsibility for promoting the Wellness Corner to Gladstone residents. Partners will develop a marketing plan to announce the opening of the Wellness Corner.