

Organization Name _____

Contact Name & Phone _____

Facility _____

Purpose _____

Date of Use _____

Time of Use _____

HEBER-OVERGAARD UNIFIED SCHOOL DISTRICT #6

FACILITY USE AGREEMENT

FOR DISTRICT OFFICE USE ONLY

Certificate of Liability Attached _____

Event on Calendar _____

Check Rec'd _____

FACILITY USE OCCUPANT MANUAL

Forward

District owned facilities are available for public use pursuant to the Arizona Revised Statute (A.R.S.) Section 15-1105 et seq. The Governing Board adopted the spirit and intent of this public law in making the district facilities available to the public. In doing so, however, the District cannot subject itself nor its residents to liability not otherwise assumed in the normal course of operations. Therefore, as an Occupant of District facilities, you must read and sign the enclosed Facility Use Agreement, Facility Use Guidelines and provide the required evidence of insurance. All fees, if any, must be paid in advance of the use of the facilities.

General Liability Insurance

Should the Occupant not have the necessary general liability insurance to comply with the terms of the Facility Use Agreement located in Appendix B to this Facility Use – Occupant’s Manual, the District made arrangements through Scottsdale Indemnity Company to make the insurance available. This coverage contains exclusions, most notably for assault and battery and participants’ liability. The policy has a \$250 per claimant deductible, which the Occupant is responsible for in the event of a claim.

To obtain general liability insurance coverage through Scottsdale Indemnity Company, the Occupant must complete the General Liability Insurance Questionnaire located in Appendix D to this Facility Use – Occupant’s Manual and return it, with the proper payment to the District. The District will forward the Questionnaire and payment to Scottsdale Indemnity Company, via the Arizona School Risk Retention Trust, Inc. (Trust). The Occupant should follow the Facility Use Procedure and Occupant Checklist on the next page to schedule the use of the facility and/or purchase the insurance.

If insurance is purchased, please allow up to four weeks for delivery of a copy of the policy and certificate of insurance after receipt of the Questionnaire and payment by the Trust. An original certificate of insurance is mailed directly to the District to satisfy the general liability insurance requirements of A.R.S. 15-1105 et seq. and the Facility Use Agreement. A sample certificate of insurance is attached as Appendix E to this Facility Use – Occupant’s Manual.

Scottsdale Indemnity Company reserves the right to deny coverage to any organization that does not meet the underwriting criteria set for this Facility Use Insurance Program.

FACILITY USE PROCEDURE and OCCUPANT CHECKLIST

To be completed and signed by the occupant. Check each box.

Y N

- | | | | |
|--------------------------|--------------------------|----|---|
| ☐ | ☐ | 1. | Read, complete, and sign the Facility Use Agreement. Will you comply with its terms and conditions? |
| ☐ | ☐ | 2. | Read and sign the Facility Use Guidelines. Will you comply with its requirements? |
| ☐ | ☐ | 3. | Do you understand that you are responsible for informing all event participants of the need to comply with the terms of the Facility Use Agreement and Facility Use Guidelines? |
| ☐ | ☐ | 4. | Do you have the necessary evidence of liability coverage? |

Please sign below and return this form to the district, along with a signed copy of the Facility Use Agreement, Facility Use Guidelines.

Name of occupant's organization: _____

Signature of occupant: _____

Name of occupant (print): _____

Date: _____

FACILITY USE AGREEMENT BETWEEN

Heber-Overgaard Unified School District #6

and

(Name of Organization Using Facility)

1. PARTIES

The parties to this agreement (the "Agreement") are *Heber-Overgaard Unified School District #6*, hereinafter referred to as "*DISTRICT*", and _____
(enter name of organization using the facility), hereinafter referred to as "*OCCUPANT*".

2. RECITALS

This Agreement is made with reference to the following facts:

- 2.1 OCCUPANT has requested that DISTRICT make available the _____ (enter name of location) FACILITY to be used by OCCUPANT for occasional use as a/an _____ (enter intended use of location).
- 2.2 OCCUPANT represents that the FACILITY will only be used for the purpose so stated.

3. USE

When using FACILITY or any portion thereof, OCCUPANT agrees to comply with all applicable federal, state, and municipal laws and regulations, and with the policies and regulations of the DISTRICT pertaining to the use and occupancy of FACILITY. OCCUPANT agrees to take good care of FACILITY and any equipment and furniture located therein, and to leave FACILITY at all times in as good order and condition as existed prior to OCCUPANT's use thereof. OCCUPANT shall not use or allow any portion of FACILITY to be used for any unlawful purpose. OCCUPANT shall not commit or allow to be committed any waste or nuisance in or about FACILITY or subject FACILITY to any use that would damage any portion of FACILITY or raise or violate any insurance coverage maintained by DISTRICT. OCCUPANT shall not allow a number of persons in any portion of FACILITY at any time in excess of the legal or normal capacity of such portion of FACILITY. OCCUPANT shall not permit any food, drink or smoking in any portion of FACILITY without the prior written consent of DISTRICT. OCCUPANT agrees that DISTRICT has not agreed and will not agree to warrant the suitability or safety of FACILITY or any of FACILITY's contents for the uses intended by OCCUPANT, such that OCCUPANT accepts full responsibility therefore.

4. SCHEDULING

OCCUPANT shall schedule by written notice to the DISTRICT to:

Katie Tomerlin
PO Box 547
Heber, AZ 85928

Said written notice will state the exact times during the term hereof that it desires to use any portion of FACILITY. OCCUPANT shall confirm the date, time, and function of usage of FACILITY by follow-up telephone call with:

Katie Tomerlin
928-535-4622 x 5000 FAX 928-535-5146
katie.tomerlin@h-oschools.org

Said confirmation shall occur at least fourteen (14) days prior to such intended use. If OCCUPANT has not so scheduled and confirmed for its use any portion of FACILITY prior to such time, then DISTRICT shall be free to use or allow others to use such unscheduled portion of FACILITY at its discretion.

5. TERM

The term of this Agreement shall commence on _____ (date) and end on _____ (date), at which time OCCUPANT's rights to use the FACILITY under this Agreement shall automatically expire unless otherwise extended by DISTRICT in its sole and absolute discretion.

6. COMPENSATION

OCCUPANT will compensate DISTRICT for use of FACILITY as follows (insert terms of compensation):

Name & Address for billing: _____

7. INSURANCE

Pursuant to A.R.S. Section 15-1105 et seq., OCCUPANT, agrees to procure, at its expense and maintain during the term hereof, a policy of general liability insurance, against claims for bodily injury, death, and property damage occurring in connection with OCCUPANT's use of any portion of FACILITY and/or FACILITY's contents, which insurance shall name DISTRICT as an additional insured and be primary and non-contributing to any coverage maintained by on behalf of DISTRICT. Such insurance shall have minimum limits of \$1,000,000.00 per occurrence, and OCCUPANT shall provide DISTRICT with a certificate evidencing such insurance coverage is in effect.

8. LIABILITY AND INDEMNITY

OCCUPANT agrees to conduct its activities in FACILITY in a careful and safe manner. As a material part of the consideration to DISTRICT, OCCUPANT hereby assumes all risk of damage to and loss or theft of property, as well as injury or death to persons, related in any way to OCCUPANT's use or occupancy of any portion of FACILITY from any cause whatsoever, including when caused in whole or in part by OCCUPANT, and OCCUPANT hereby waives all claims in respect thereof against DISTRICT.

OCCUPANT shall indemnify, defend, and save harmless DISTRICT and all of its employees, agents, and representatives from any and all claims, notices of claim(s), demands, suits, actions, proceedings, loss, cost, and damages of every kind and description, including any attorney's fees and/or litigation expenses, which may be brought or made against or incurred by DISTRICT, on account of loss of or damages to any property and/or for injuries to or the death of any person(s) arising in whole or in part out of any act or omission by OCCUPANT or its employees, agents, representatives, invitees, or subcontractors, or arising in whole or in part out of its and/or their use of FACILITY, or arising in whole or in part out of workers' compensation claims or unemployment disability compensation claims of employees of OCCUPANT or out of claims under similar such laws. OCCUPANT'S obligation under this Section 8 shall not extend to any liability caused by the sole negligence of DISTRICT, or its employees. Where both DISTRICT and OCCUPANT, including their employees, agents or representatives participated in the liability causing event, each party shall contribute to the common liability a pro rata share based upon its relative degree of fault as established by compromise, arbitration or litigation.

9. ENTIRE CONTRACT

This Agreement embodies the entire contract between OCCUPANT and DISTRICT. The parties shall not be bound by or be liable for any statement or representation of any nature not set forth in this Agreement. Changes of any of the provisions of this Contract shall not be valid unless reduced to writing and signed by both parties.

10. SUSPENSION AND TERMINATION

DISTRICT may, by written notice, direct OCCUPANT to suspend its use of the FACILITY for such period of time as may be determined by DISTRICT to be necessary or desirable. Upon receipt of such suspension or termination notice, OCCUPANT shall immediately discontinue use of FACILITY under this Agreement. Payment for use already completed or in process at the time of the notice of suspension or termination is received shall be adjusted between DISTRICT and OCCUPANT in a fair and equitable manner but shall exclude any allowance for the value of any unperformed use or anticipated profits thereon. If it is known that there are ANY physical or verbal altercations between participants, privileges may be revoked.

11. WAIVER

The failure of DISTRICT to insist upon strict performance of any of the provisions of this Agreement or to exercise any rights or remedies provided by this Agreement or DISTRICT's delay in the exercise of any such rights or remedies available under this Agreement shall not release OCCUPANT from any of its responsibilities or obligations imposed by this Agreement and shall not be deemed a waiver of any right of DISTRICT to insist upon strict performance of this Agreement.

12. ASSIGNMENTS AND SUBLETTING

OCCUPANT shall not have the right to assign this Agreement or allow any other person or entity to use or occupy any or all of FACILITY without the prior written consent of DISTRICT, which consent may be granted or withheld in DISTRICT's sole and absolute discretion.

13. DEFAULT

In the event that OCCUPANT fails to pay any fee or other sum required to be paid by OCCUPANT hereunder when due or otherwise fails to comply with or observe any other provisions of this Agreement, in addition to any other remedy that may be available to DISTRICT by reason of such failure, whether at law or in equity, DISTRICT may immediately and unilaterally terminate this Agreement and all rights of OCCUPANT hereunder-including any right of adjustment of amounts paid hereunder.

14. ARBITRATION

In the event of a dispute hereunder, the parties agree to use arbitration insofar as required by Sections 12-1518 and 12-133, Arizona Revised Statutes, and rules promulgated thereunder. To the extent arbitration is not required under the above-referenced laws then the parties shall submit any dispute hereunder for adjudication by Arizona's state courts.

15. CONFLICT OF INTEREST

The parties understand that this Agreement is subject to cancellation pursuant to Section 38-511 of Arizona Revised Statutes, without penalty or further obligation on the part of DISTRICT, if any person significantly involved in initiating, negotiating, securing, drafting, or creating this Agreement on behalf of DISTRICT is, at any time while this Agreement or any extension hereof is in effect, an employee or agent of OCCUPANT, in any capacity, or a consultant to OCCUPANT, with respect to the subject matter of this Agreement.

16. GOVERNING LAW

This Agreement shall be governed by the laws of the State of Arizona, the courts of which state shall have jurisdiction of the subject matter hereof.

17. RELATIONSHIP

The parties agree that neither OCCUPANT nor any employees or other personnel of OCCUPANT will for any purpose be considered employees of DISTRICT, and with respect to OCCUPANT and any employees or other personnel of OCCUPANT, the DISTRICT shall not be responsible in any manner for the supervision, direction, and control of OCCUPANT and/or any of its employees or other personnel, the payment of salary (including the withholding of income taxes and social security) of any such employees or other personnel, and/or the provision of workers' compensation and disability benefits for OCCUPANT and any of its employees or other personnel.

18. AUTHORITY

The individual signing below on behalf of OCCUPANT hereby represents and warrants that he/she is duly authorized to execute and deliver this Agreement on behalf of the OCCUPANT and that this Agreement is binding upon the OCCUPANT in accordance with its express terms.

19. EXECUTION DATE

The parties have caused this Agreement to be executed by their duly authorized representatives, on this _____ day of _____, _____.

DISTRICT

Ron Tenney
Superintendent

Signature: _____

OCCUPANT

Name: _____
Title: _____

Signature: _____

FACILITY USE GUIDELINES

General Safe Practices

While using the District Facility, the occupant shall adopt and follow safe practices in its operations.

Cooperation

The occupant is expected to cooperate with District personnel to ensure safe operations. The occupant shall clarify with District personnel all safety and security requirements prior to use of the facilities.

1. Facility use shall be conducted in compliance with all applicable statutes, rules, and regulations.
2. The Occupant shall furnish and require participants to wear appropriate clothing.
3. The Occupant shall observe District vehicle parking guidelines. The Occupant shall not allow any parking in areas marked with red indicating a fire lane.
4. The Occupant shall maintain all areas used in a clean, well-organized manner.
5. If playground equipment is used, the Occupant shall provide adult supervision of at least one adult for every twenty (20) children using equipment.
6. Any electrical tools, appliances, or extension cords used by the Occupant shall be in good condition.
7. All means of access or egress shall be identified and communicated to participants.
8. The Occupant shall identify and inform participants of any areas in which travel is not permitted.
9. Roadways and sidewalks to be used shall be inspected by the Occupant and must remain clear of obstructions during use. Extension cords are to be taped to the floor to avoid a trip hazard.
10. All materials used shall be properly handled, stored, or stacked.
11. The Occupant shall provide adequate signs and markers necessary to inform participants of rules and maintain the facility in a safe manner.
12. The Occupant shall not use tobacco, smoke, nor serve or use liquor or narcotic drugs during use of the facility.
13. The Occupant shall maintain a list of emergency agencies and phone numbers at all times.
14. The Occupant shall provide adequate supervisory personnel to ensure that the foregoing guidelines are implemented and followed during facility use.
15. Do not remove the "Sound Shells" from the stage.
16. There are no inflatable slides, games, jump houses, etc. allowed on school property.

Occupant's name (print): _____ Date: _____

Occupant's Signature: _____