

**Collin County
Myers Park & Event Center
Facility Usage Agreement**

THE STATE OF TEXAS
COUNTY OF COLLIN

AGREEMENT #**16-061**
RENTAL DATE(S): **May 28 - 29, 2016**

This Facility Use Agreement (the "Agreement"), is made and entered into this **11th** day of **January, 2016**, by and between the Myers Park & Event Center, acting by and through the Collin County Commissioners Court, hereinafter called COUNTY, and **Color Fun Fest** hereinafter called LESSEE (collectively, the "Parties").

In consideration of the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Grant of Right to Use.** Upon payment in accordance with the Agreement, County shall grant Lessee the right to use and occupy the described space and/or premises more particularly described in the attached Event Sheet, which is incorporated herein as if set forth fully, subject to the restrictions and limitations set forth herein.

2. **Payment for Use.** Lessee hereby covenants and agrees to pay to County, at its office at the Myers Park & Event Center, for the use of said premises, the sum as described in the attached Event Sheet, and Lessee further covenants and agrees to pay County on demand any and all sums which may be due to County for additional services, accommodations or material furnished to or loaned to Lessee including, but not limited to, items indicated on the attached Event Sheet.

3. **Security Deposit.** A security deposit of **\$300.00** shall be payable by Lessee to County in advance, pursuant to this paragraph, without demand ("Security Deposit"). The amount of the Security Deposit required for each facility is listed on the current Collin County Fee Schedule. All Security Deposits are in addition to rental fees and rental fees may not be taken out of Security Deposits. **Cash, check or credit card payment of Security Deposit is required within ten (10) business days** after reservations for a facility have been made, or at the time of the reservation if made less than ten (10) calendar days before the date of use of a facility. Failure to do so will result in the loss of the reservation date. Lessee and County shall agree that the effective date of the Facility Usage Agreement is the date it is signed by the Park Manager. County shall hold the Security Deposit without liability for interest as security for the performance by Lessee of Lessee's covenants and obligations under this lease. Lessee shall not consider such deposit an advance payment of rent or the full measure of County's damages in case of default. Upon the occurrence of any event of default by Lessee, County may without prejudice to any other remedy, use such security deposit to the extent necessary for clean-up costs or to make good any other damage, injury, expense or liability caused to County by any such event of default. Any other additional cost incurred by the County, as a result of use of the space or premises will be borne by the person, entity or group signing the Agreement. If all requirements of this Agreement have been met and additional clean-up or repairs by County are not required, Security Deposits will be refunded by the Collin County Auditor's office approximately three (3) to four (4) weeks following the date of use.

4. **Rental Fees.** Cash, check or credit card payment of **all** rental fees, excluding The Landing are due **ten (10) calendar days prior to the event**. Payment of all rental fees for The Landing are **due ninety (90) calendar days prior to the event**. Rental fees for each facility are listed on the current Collin County Fee Schedule. **Failure to pay rental fees ten days prior to the event will result in a late fee of 18% of total rental amount to be paid in full by 4:00 pm on the last business day (Monday – Friday) prior to your event. If payment has not been received, your event will be cancelled in accordance with Section 8 of this document.** Rental fees apply during the fiscal year in which the event is booked, with deposit paid (October 1 – September 30), see Rental Fees section of Myers Park & Event Center Policies for full explanation. Reservations may be made during the current fiscal year for the next fiscal period and held with a security deposit not more than 12 months out. Events booked prior to October 1st rental fees will fall under the current fiscal year fee requirements.

 **Initials** ←

5. **Reservations.** Reservations must be made for all facilities. Upon making reservations, an individual or group has ten (10) business days to sign an agreement and pay the Security Deposit, unless the date of reservation is less than ten (10) calendar days before the date of use. In such an event, an agreement must be signed, a Security Deposit and all rental fees paid at the time the reservation is made. If an agreement has not been signed and deposit made within the required time, reservations will be canceled.

6. **Agreements.** A binding Agreement may be issued, unless: 1) the proposed activity or use of the facilities or grounds will unreasonably interfere with or detract from the public health, safety or welfare; or 2) the conduct of the proposed activity or use would result in or create a clear and present danger of violence by the Lessee to persons or property resulting in serious harm to the public; or 3) the facility requested has already been reserved; or 4) false or misleading information is contained in the agreement, or required information is omitted from the agreement.

7. **Restrictions.** The County may impose reasonable conditions or restrictions on the event, including, but not limited to the following: restrictions on fires, amplified sound, equipment or vehicles, the number of persons to be present, the location of any stage or any other use which appears likely to create a risk of unreasonable harm to park premises. The County shall have the authority to

cancel an Agreement or event upon finding violation of any rule, policy, local, State or Federal Law, or upon the violation of any condition or restriction under which the agreement was issued.

8. **A. Cancellations.** All cancellations must be in writing and received in the Myers Park & Event Center office to be considered for a refund. Cancellations made more than sixty (60) days in advance of rental date will receive deposit refund. Cancellations received within thirty (30) and sixty (60) days in advance of rental date will forfeit their deposit. Cancellations received less than thirty (30) days from the rental date or as a result of non-payment of rental or security fees will lose their deposit and be responsible for paying full rental fees. Initials ←

B. Cancellations for Private Events at The Landing. (i.e. Weddings, Receptions, Rehearsal Dinners, etc.) All cancellations must be in writing and received in the Myers Park & Event Center office to be considered for a refund. Cancellations made more than one hundred and twenty (120) days in advance of rental date will receive deposit refund. Cancellations received within ninety (90) and one hundred and twenty (120) days in advance of rental date will forfeit their deposit. Cancellations received less than ninety (90) days from the rental date or as a result of non-payment of rental or security fees will lose their deposit and be responsible for paying full rental fees. Initials ←

9. **Governmental Regulations.** Lessee will comply with all Federal, State and local laws, ordinances, orders, rules, regulations and requirements. No fireworks or firearms are allowed on park premises without prior approval from Myers Park Manager.

10. **Park Policies.** Lessee and Lessee's agents, employees, youth groups, participants and invitees will comply fully with all requirements of the Myers Park & Event Center Policies. Lessee hereby acknowledges having received a photocopy of same. Initials ←

Administration. The Park Manager is designated by the Collin County Commissioners Court as their representative to ensure policy compliance. The Park Manager reserves the right to deny approval of any Park use request and/or halt any activity in-progress which may disrupt normal operations, offend public visitors, compromise the health, safety, and welfare of public visitors, or is in violation of this policy or any local, State or Federal law. The Park Manager has the responsibility to bring in law enforcement personnel to ensure policy compliance if necessary.

12. **Security.** The County shall schedule the required security as detailed in the Myers Park & Event Center Policies. Lessee is responsible for paying the security officer(s) directly in cash on the day of the event from the officer's arrival time through the end of the event rental time. Security officer(s) must be provided by the Collin County Sheriff's Department. See Security Section of Myers Park & Event Center Policies for number of officers required. Initials ←

13. **Alcoholic Beverages.** Alcohol is strictly prohibited on all Park premises unless consumed at a contracted event where the lessee has an approved park rental agreement that provides for alcohol and has paid the applicable deposit and rental rate for the consumption of alcohol. If a lessee contracts to provide alcohol, alcohol consumption is limited to beer (non-bottled), wine and margaritas via machine only and may only be served in the designated areas. Sales of alcohol must be pre-approved by the Park Manager and TABC.

13. **Vendors.** A vendor is any person or entity that sells, solicits or otherwise transacts business on Park premises during an event. A list of event vendors is to be submitted to the Park Manager – vendor fees can be collected by the lessee or the Park, with the Lessee ultimately responsible for payment of all Vender fees. Vendor fees are found on the current Collin County Fee Schedule. Vendor permits will be issued by the Park and must be displayed over the duration of the event. Vendors may set up in areas designated by Park Manager or designee.

14. **Overnight Parking.** Limited overnight (RV) parking is available during Lessee's rental period for Lessee's agents, employees or invitees. Lessee accepts all obligations hereunder imposed for anyone overnighing in the Park.

15. **Obligations.** Lessee will not in any manner deface or injure the premises and will pay the cost of repairing any damage or injury done to the premises or any part thereof by Lessee or Lessee's agents, employees or invitees. Lessee shall take good care of the premises and keep them free from waste and nuisance. Lessee will not make or allow any alterations or physical additions in or to the premises without prior written consent from County. At the termination of this lease, Lessee shall, remove all alterations; physical additions or improvements directed by Collin County and restore the premises to their original condition. In the event such removal restoration and cleaning is not performed by Lessee, Collin County shall perform such work and bill Lessee for the same, and Lessee shall promptly pay such statement upon receipt thereof. All of Lessee's fixtures and personal property, if not promptly removed from the premises at the terminations of this lease, shall be presumed to have been abandoned by Lessee and become the property of County.

16. **Insurance.** If required by the Collin County Risk Manager, Lessee shall, at its own expense, provide and maintain in force during its term of the leased premises liability insurance coverage required by Collin County naming Collin County as an additional insured. If additional insurance is required, Lessee will furnish a valid Certificate of Insurance with the amounts and categories of coverage required.

17. **Joint and Several Liabilities.** If there is more than one Lessee, the obligations hereunder imposed on Lessee shall be joint and several.

18. **Indemnity.** Collin County shall not be liable for and Lessee will indemnify and save Collin County harmless of and from all fines, suits, claims, demands, losses and actions (including attorney fees) for any injury to person or damage to or loss of property on or about the premises caused by the negligence, misconduct, or intentional acts of Lessee, its employees, invitees, or by any other person entering the premises under express or implied invitation of Lessee, or arising out of Lessee's use of premises. Collin County shall not be liable or responsible for any loss or damage to any property, death or injury of any persons occasioned by theft, fire, act of God, public enemy, injunction, riot, strike, insurrection, war, or any other action of any governmental body or authority, by other Lessee of the premises or any other matter beyond the control of Collin County.

19. **Waiver of Subrogation.** Each party hereto waives any and every claim which arises or may arise in its favor against the other party hereto or any Lessee of premises during the term of this lease for any and all losses of or damage to any of its property located within or upon or constituting a part of premises hereunder, which loss or damage is covered by insurance policies, to the extent that such loss or damage is recoverable under said insurance policies. Said mutual waivers shall be in addition to, and not in limitation or derogation of, any other waiver contained in this lease with respect to any loss of or damage to property of the parties hereto.

20. **Events of Default.** The following events shall be deemed to be an Event of Default by Lessee under this lease: 1) failure of Lessee to pay rent; 2) failure of Lessee to comply with any term, provision or covenant of this lease; or 3) failure of Lessee to comply with Park Policies.

21. **Remedies.** Upon any occurrence of any Event of Default specified in Paragraph 21 hereof, County shall have the option to pursue any one or more of the following remedies without any notice or demand whatsoever:

A. Terminate this lease, in which event Lessee shall immediately surrender the premises to County. If Lessee fails to surrender the premises, County may without prejudice to any other remedy, enter upon and take possession and expel or remove Lessee and any other person who may be occupying said premises or any part thereof, by force if necessary, without being liable for prosecution or any claim for damages. Lessee agrees to pay to County upon demand the amount of all loss and damage, which County may suffer by reason of such termination.

B. Enter upon the premises, by force, if necessary, without being liable for prosecution or any claim for damages, and do whatever Lessee is obligated to do under the terms of this agreement. Lessee agrees to reimburse County on demand for any expenses that County may incur in this effecting compliance with Lessee's obligations under this agreement. Lessee further agrees that County shall not be liable for any damages resulting of the Lessee from such action.

22. **Attorney Fees.** If, on account of any breach or Event of Default by any party hereto of the respective obligations under this agreement, it shall become necessary for the other to employ an attorney to enforce or defend any of its rights or remedies hereunder, and should such party prevail, it shall be entitled to reasonable attorney fees incurred in such connection.

23. **Notices.** Any notice or document required to be delivered hereunder shall be deemed to be delivered whether or not actually received, when deposited in the United States mail, postage prepaid, certified or registered mail, addressed to the parties hereto at their respective addresses set forth below:

County: Collin County

Myers Park & Event Center Manager
7117 County Road 166
McKinney, Texas 75071

Lessee: Color Fun Fest

222 Municipal Dr. Suite 138
Richardson, TX 75080

24. **Amendment.** This lease embodies the full and final agreement between the parties and may not be altered, changed or amended except by instruments in writing signed by all parties hereto.

25. **Binding Effect.** The terms, provisions, covenants and conditions contained herein shall apply to and ensure to the benefit of and be binding upon the parties hereto, and upon their respective successors in interest and legal representatives.

26. **Accommodations for the Disabled.** All attempts have been made to provide reasonable accommodations for the disabled, as required by the ADA. Persons requiring special accommodations should contact the Myers Park & Event Center office.

27. **Control of Vehicles.** All applicable state and local vehicle and traffic laws and ordinances shall continue in full force and effect on all Park premises. No person shall operate or park a vehicle over, through or on any Park grounds, except in areas designated by Park Manager. No person shall leave a vehicle, including trailers, unattended in the Park after an event is over without written permission from Park Manager. All unattended vehicles obstructing the flow of traffic, and vehicles parked in fire lanes will be towed at owner's expense. The Park Manager shall designate the location of vehicle and trailer parking. It is the user groups' responsibility to enforce and control parking during their event.

28. **Sanitation.** Lessee will not, nor allow any person to throw, discharge or otherwise place or cause to be placed in the waters of any pond, lake or stream any substance matter or thing, liquid or solid, which will or may result in pollution of such water. No person shall dump, deposit, or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage refuse or other trash except in designated containers. No person shall dump, deposit, or leave any gray water from a trailer or recreational vehicle on Park premises. Lessee may be required to furnish additional sanitary and refuse facilities that may be reasonably necessary, based on the use or activity.

29. **Concession.** The Concession Stand is located inside the main Show Barn. Any group leasing the Show Barn/Horse Barn has the right to lease the Concession Stand. The use of the concession stand requires a lease fee as outlined on the Collin County Fee Schedule. The County is not responsible or liable for any item sold or given away from the Concession Stand. Lessee must obtain a

health permit from the Collin County Health Department. The Collin County Health Inspector does make periodic checks of the Concession Stand. If the Inspector shuts down the Concessions Stand, the County is not liable for refunding rental fees or deposits.

**To get a Health Permit contact Collin County Health Department @ 972-548-5585.

Initials ←

30. **Damage.** Lessee will not permit any damage to be done to the grounds or structures on the Park premises and will reimburse the County for the cost of repair for any damage done by Lessee, its patrons or employees. Unless otherwise authorized by the Park Manager, Lessee will keep all livestock off of manicured areas of lawn surrounding facilities. Initials ←

31. **Horse Stalls.** Lessee is responsible for assigning and collecting all fees for stalls. If a Myers Park Seal is broken on a stall door, the Lessee will be charged the stall fee. There shall be no more than one horse in a stall with a minimum of one (1) bag of shavings per stall. When a stall is occupied, it may not be secured with a padlock.

32. **Permits/Licensing.** Lessee is responsible for paying any applicable licensing fees directly to the licensing agency and/or obtaining any necessary permits for their event. This includes but is not limited to; health permits, pyrotechnics, music licensing, etc.

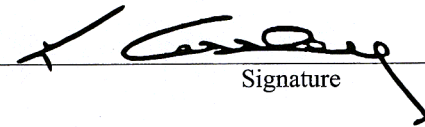
33. **General.** The County will provide the arena set-up and preparation as described in the Myers Park & Event Center Policies. Any other expense associated with set-up will be the responsibility of Lessee. Lessee is responsible for all labor costs associated with their event, which may include ticket takers, office help, or any labor associated with their show. If Lessee needs arena work during their event, they may hire a tractor and operator from the County for fees shown on the Collin County Fee Schedule. The County will provide personnel to stock and clean the restrooms and empty trash barrels during events.

34. **Waiver of Liability.** Lessee agrees to indemnify and hold harmless and waive any and all claims against Collin County, Collin County Commissioners Court, Myers Park & Event Center Advisory Board, their agents, employees and/or volunteers, against all fines, suits, claims, demands, and causes of action of any kind by reason of the liability imposed upon County and/or employees, agents and/or volunteers for damages because of bodily injuries (including death at any time resulting there from) sustained by any person or persons; or on account of damage or in consequence of the performance of the Lessee; or by participating in the Lessee's program and/or activity; or any condition or defect in the premises; or by reason by any breach, violation or nonperformance of any condition of this agreement on the part of Collin County or Lessee. If Lessee is to sell, give, dispense or otherwise make available to the public any food or beverage or any other matter for ingestion by living creature, whether human or otherwise, Lessee hereby undertakes and agrees to indemnify and hold harmless and waive all claims against Collin County, Collin County Commissioners Court, Myers Park & Event Center Advisory Board and their agents, employees and/or volunteers, from, and against all fines, suits, claims, demands and causes of action or any kind by reason of liability, costs and expenses, including attorney's fees for the defense of such claims or demands, by the general public, employees or representatives of Lessee or other on account of or occasioned by Lessee's distribution of the aforesaid food, beverage or other ingestible matter. Lessee specifically hereby undertakes and agrees to indemnify and hold Collin County harmless from and against any and all claims, demands, loss, cost, expense, liability or damage, and any and all claims, demands or liability or judgment by or to the general public, employees of Lessee, or any bystanders or others as a result of any actions whatsoever of Lessee, or its agents or employees and whether due to the action of County, which would give rise to an action under any deceptive trade practices-consumer protection law of the State of Texas or of the Federal Government.

Acknowledged and Agreed To:

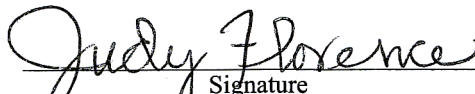
LESSEE

COLLIN COUNTY


Signature

Printed Name: Jamie Leibert

Date: 1/15/16


Signature

Title: Park Manager

Printed Name: Judy Florence

Date: 1-28-16

EVENT SHEET

Myers Park and Event Center
7117 County Road 166, McKinney, Texas 75071

Agreement No. 16-061

Issue Date: **January 27, 2016**

Lessee: Color Fun Fest

Address: 222 Municipal Dr. Suite 138

City/State: Richardson, TX 75080

Contact: Jamie Leibert

Phone: 805-630-1044

Email: jamie@colorfunfest.com

Second Contact:

Phone:

Email:

Event Start Date	May 28, 2016
Event Start Time	7:00 AM
Event End Date	May 30, 2016
Event End Time	12:00 AM
Event Name	5K Run
Facility Rented	Back 40

Customer Special Instructions

Deposit Amount:	\$300.00
Date Final Rental Payment is Due:	5/18/2016
Final Payment Amount:	\$4,000.00
Approx. Number of Guests:	2500 Plus
Alcohol:	No
Security Required:	Yes
Insurance Required:	Yes

Updates to Event
Sheet or Contract

Myers Park Special Instructions

Strike Dates are May 28th and 30th

All parking will be back on the soccer fields unless agreed to by Park Manager (Asphalt Parking lot could be used). Alternative parking could be required.

Cleanup must meet park requirements.

Security and a Mass Gathering Permit will be required for this event.

	Rental Fee	# of Each	Balance	Date/HTE Receipt #	Paid Amount
Trade Show/ Expo/ Festival	\$0.00		\$0.00	1/27/16 #3420	\$300.00
Fun/ Competitive Runs 12 hrs	\$1,500.00	2	\$3,000.00		
Jr. High/ High School/ Collegiate Cross Country Runs 12 hrs	\$300.00		\$0.00		
Large Outdoor Event 12 hrs	\$1,500.00		\$0.00		
Circus	\$0.00		\$0.00		
Strike Date 8 hrs	\$500.00	2	\$1,000.00		
Other Items:	Fee/Item/Day	# of Each			
Tables - Rectangle	\$5.00		\$0.00		
Tables - Round	\$5.00		\$0.00		
Chairs	\$1.00		\$0.00		
Stalls	\$12.00		\$0.00		
PA System	\$50.00		\$0.00		
Concession Stand	\$150.00		\$0.00		
*Vendors	\$50.00		\$0.00		
Laptop Projector	\$50.00		\$0.00		
Margarita Machine	\$100.00		\$0.00		
Other	\$0.00		\$0.00		
Total Rental Fee Due:			\$4,000.00		
Refundable Deposit Due:			\$300.00		
Total Amount Due:			\$4,300.00		
					Balance Due
					\$4,000.00