



Memorandum

To: Honorable Mayor and Members of the City Council
CC: Members of Administration and Public Works Committee
From: Lawrence C. Hemingway, Director of Parks, Recreation, & Community Services
Subject: Approval of a Program Partnership Agreement with Northwestern University for the use of Robert Crown Community Center
Date: April 26, 2021

Recommended Action:

Staff recommends the City Council authorize the City Manager to execute a program partnership agreement with Northwestern University (633 Clark Street, Evanston, Illinois 60208) to provide access to use the ice rinks, locker rooms, classrooms and hockey storage space at the Robert Crown Community Center. The agreement calls for the payment of the \$1 million dollars to be paid over a 3 year period, while allowing the university to utilize agreed upon usage of the facility equal to or lesser than the value of \$1 million dollars for up to a maximum of 5 years.

Funding Source:

Revenues will be deposited into revenue account Crown Construction Fund-Donations 416.4.4160.56011.

Council Action:

For Action

Summary:

In the fall of 2016, the Friends of Robert Crown, a 501c3 organization, was created for the purpose of raising private donations to support the construction of the new Robert Crown Community Center. As part of their fundraising efforts, the Friends of Robert Crown approached Northwestern University for their financial support with their efforts. The University agreed to support the fundraising efforts with a \$1M commitment with the understanding that a new community center would be a tremendous community asset that could support all residents in Evanston.

Due to the University's tax status they are precluded from donating to capital projects, and thus this is structured as a Programmatic Partnership Agreement. The payment will be used for access to the facility for the University's club hockey and synchronized skating teams, along

with other facility usage. The agreement calls for the payment of the \$1 million dollars to be paid over a 3 year period, while allowing the university to utilize agreed upon usage of the facility equal to or lesser than the value of \$1 million dollars for up to a maximum of 5 years.

The agreement uses current market rates to calculate the cost for access for the University regardless of which part of the facility they are using. The University will be paying \$400/hr. for ice rental, \$15/person for open skating access, \$300/hr. for room rentals and \$330/hour for access to the gymnasium.

The City through its Parks and Recreation Department will provide access to the University by scheduling all activities for a twelve month calendar period no later than July of each year. The agreement will start on September 1, 2021 and run through August 31, 2026.

Attachments:

[City and NU Program Partnership Agreement Final](#)

ROBERT CROWN CENTER PROGRAM PARTNERSHIP AGREEMENT
City of Evanston

This Agreement (the “Agreement”) is made this ____ day of _____, 20__ by and among NORTHWESTERN UNIVERSITY, a not-for-profit organization with offices at 633 Clark Street, Evanston, Illinois 60208 (hereinafter referred to as “Program Partner” or “Northwestern”), and the CITY OF EVANSTON, an Illinois home rule municipal corporation, with offices at 2100 Ridge Avenue, Evanston, Illinois 60201 (hereinafter referred to as “the City”).

The Program Partner and the City agree as follows:

1. Purpose. The City of Evanston is constructing a new Robert Crown Community Center (the “Center”) with athletic fields, ice rinks, and a new branch library (the “Project”). In order to support the long term financial viability of the center, the City agrees to enter into a long term facilities use agreement for the Center with Program Partner to use the ice rinks, locker room, training room, meeting and conference rooms, and hockey equipment storage space. This Agreement is not a lease agreement; Program Partner does not have exclusive control of the Center or a portion thereof. Program Partner is permitted to use the facility according to specified time periods each day during the Term defined below and restricted to the agreed upon schedule with the City.
2. Program Partner Payment. The Program Partner hereby pays the City the sum of One Million and 00/100 Dollars (\$1,000,000.00) (“Payment”). This Payment constitutes the advance purchase of facility use time at the Center that is worth \$1 million.
3. Payment. The Payment will be made over a period of three (3) years to the Friends of Robert Crown Center (“FRCC”). Program Partner may accelerate the Payment of any or all of this amount at any time in Program Partner’s discretion so long as the cumulative total of all payments meets the forgoing schedule. All payments are non-refundable unless otherwise specifically provided in this Agreement.
4. In return for the Payment, the City agrees to provide the following:
 - a. Five (5)-year use agreement to commence September 1, 2021 – August 31, 2026. The start date is dependent on Covid restrictions and protocols and may be delayed until Northwestern can use the Center for its intended purposes.
 - b. Dedicated use of an ice rink for the Northwestern University Men’s Club Hockey team (the “Team”) during a mutually agreed upon schedule with the Parks, Recreation, and Community Service Department, that shall include, at a minimum:
 - i. **Practice and Games**: Ice time for practice and games pursuant to Attachment A.

- ii. **Storage:** Secure storage for at least twenty (20) bags and forty (40) hockey sticks for the Team.
 - iii. **Locker Room Facilities:** Use of locker rooms by the Team and the Team's opponents.
 - c. Dedicated use of an ice rink for the Northwestern University Synchronized Skating Team during a mutually agreed upon schedule with the Parks, Recreation, and Community Service Department, that shall include, at a minimum:
 - i. **Practice and Shows:** Ice time for practice and shows pursuant to Attachment A.
 - d. Use by the Northwestern University Community
 - i. During the term of this Agreement, Northwestern students, staff, and faculty can use the ice rink at no cost during open skate hours pursuant to Attachment A.
 - ii. The City will track the number of Northwestern students, staff, and faculty using this benefit.
 - iii. In addition, Northwestern may use meeting space for Northwestern meetings and events pursuant to Attachment A.
 - e. Dedicated use of meeting rooms for the Northwestern University educational and outreach programs including those serving at-risk or low income Evanston youth and young adults during a mutually agreed upon schedule with the Parks, Recreation, and Community Service Department, that shall include early literacy training, job training, high school mentorship, academic tutoring, and youth camps. In addition, Northwestern may use the meeting rooms for occasional Northwestern meetings and special events pursuant to Attachment A.
 - f. Attachment A represents the agreed upon rates for Northwestern's use of the Center during the term of this Agreement as well as estimated amount of hours of use in each category. Northwestern has the ability to use the Center during the term of this Agreement up to \$1million worth of time.
 - 4. Facilities Covered: The term "Indoor Active Use Areas" will be used for purposes of this Agreement to mean the ice rinks, storage areas, training room, and meeting and conference rooms. The Parties shall have the right to add or exclude Indoor Active Use Areas during the term of this Agreement, provided that any such change shall be in writing and approved by both the Parties.

5. Indoor Active Use Area Guidelines: The City hereby grants permission to Program Partner to use the Indoor Active Use Areas as set forth below for the sole purpose of providing its team members practice and contest space to compete, meeting space for educational and outreach activities and any related uses to the activities described in Section 4.
 - a. Program Partner understands and agrees that during the Term, if Program Partner is not scheduled to utilize the Indoor Active Use Area, it will be used by other City patrons and users not affiliated with Program Partner. Program Partner must conduct its activities so as not to interfere or impede other users from using the Indoor Active Use Areas.
 - b. Supervision. Program Partner is responsible for providing personnel necessary for the direction and supervision of activities in Indoor Active Use Areas listed in Sections 4b-d. Program Partner shall enforce all City rules, regulations, and policies provided by the City while supervising the Indoor Active Use Areas. Program Partner is responsible for notifying the City within 24 hours in the event that an Active Use Area suffers damage during Program Partner's scheduled time.
6. Scheduling: The City and the Program Partner shall meet and finalize a twelve (12) month schedule each July. The City and Program Partner shall coordinate any necessary changes throughout the twelve (12) month schedule. The Program Partner recognizes that the City has use agreements with other entities for use of the Center, and shall provide the City with requests for changes to their schedule in a timely manner. The City shall make every reasonable effort to accommodate the Program Partner's change request without negatively impacting other users of the Center.
7. Compliance with Law. All use of the Center shall be in accordance with state and local law. In the case of a conflict between the terms of this Agreement and the requirements of law, the relevant law shall govern. Any actions taken by Program Partner that are required by law, but are inconsistent with the terms of this Agreement shall not be construed to be a breach or default of this Agreement.
8. Obligations of City
 - a. Access and Security

The City shall provide the personnel necessary to open and close the Indoor Active Use Areas during the hours of the Center. The City believes the regular hours of operation to be 5:30 a.m. to midnight at the time of signing this Agreement, these hours are subject to change, with no amendment to the Agreement necessary. The City will provide keys to the Program Partner's assigned storage area.
 - b. Inspection and Notification

City personnel shall inspect the Indoor and Outdoor Active Use Areas to ensure these sites are returned in the condition they were received.

c. Custodial

The City shall make its trash receptacles available during the Center hours of operation. Program Partner will encourage users to dispose of trash in the trash receptacles. Program Partner will ensure that its users leave the Indoor Active Use Areas and locker rooms with the equipment stowed away.

9. Maintenance. The City shall perform normal maintenance of Indoor Active Use Areas and the equipment contained therein to basic level of service subject to normal wear and tear. The City shall notify Program Partner of any known change in condition of the Active Use Areas. The City will maintain and repair equipment and fixtures contained in the Indoor Active Use Areas, including the equipment in the training room and ice rinks during the Term.

10. Restitution and Repair

a. Inspection and Notification. Program Partner shall, through its designated employee, inspect and immediately notify the City through the Director of Parks, Recreation, and Community Service, or his designee, of any damage.

b. If equipment, fixtures, or property of the City is damaged by Program Partner during its use of the Center for group activities as identified in Attachment A, except for repairs which are due to ordinary wear and tear and mutually agreed by the Parties, Program Partner is responsible for the cost of replacement or repair. This provision does not apply when Northwestern community members are attending open skating hours. The City agrees to make such repairs or replacement, depending on the extent of the damage, within the estimated and/or fixed costs agreed upon. If it is mutually determined or if it is the result of Program Partner under Section 10(c) of this Agreement that Program Partner is responsible for the damage, then Program Partner agrees to reimburse the City a reasonable agreed-upon cost.

c. Reimbursement Procedure. The City shall send an invoice consisting of the reasonable amount agreed to by the Parties to the Program Partner's designated employee within ten (10) business days of completion of repairs or replacement of damaged property. The invoice shall itemize all work hours, equipment and materials with cost rates as applied to the repair work. If the repair is completed by a contractor, a copy of the contractor's itemized statement shall be attached. Program Partner shall reimburse the City the reasonable agreed upon cost within thirty (30) days from receipt of such invoice.

d. Disagreements. Program Partner shall retain the right to disagree with any and all items of damage to buildings, facilities, property, or equipment as identified by the City,

provided this disagreement is made within five (5) business days after a first notification.

- i The City shall notify Program Partner of any disagreements in writing by email to Program Partner's designated employee. Program Partner shall clearly identify the reasons for refusing responsibility for the damages. Failure to make the disagreement within the prescribed time period shall be considered as an acceptance of responsibility by Program Partner.
- ii After proper notification, representatives from the Parties, or other designated representatives of the City and Program Partner, shall make an on-site investigation and attempt a settlement of the disagreement.
- iii In the event an agreement cannot be reached, the matter shall be referred to the City Manager and Program Partner's Senior Vice President for Business & Finance or their designees, for resolution.
- iv The City shall have the right to make immediate emergency repairs or replacements of property without voiding Program Partner's right to disagree.

10. Operational Costs

a. Documentation of Costs

The City and Program Partner shall maintain records of costs associated with the Agreement.

b. Payment of Overtime

Each party shall bear the cost of any overtime incurred by their employees in carrying out this Agreement.

11. Damage or Destruction. If the Center is damaged or destroyed by fire or other casualty ("Casualty"), City may, within one hundred eighty (180) days after such incident occurs (subject to being able to obtain all necessary permits and approvals, including, without limitation, permits and approvals required from any agency or body administering environmental laws, rules or regulations, and taking into account the time necessary to effectuate a satisfactory settlement with any insurance company) repair such damage at City's expense and this Use Agreement shall not terminate. Notwithstanding any provision contained herein to the contrary, either party will have the option and right to terminate this Use Agreement if such an event occurs.

12. Insurance

- a. Program Partner: Program Partner agrees to obtain at its own cost and expense a policy or policies of commercial general liability insurance written by an insurance carrier licensed to do business in the State of Illinois which shall insure against liability for injury to and/or death of and/or damage to personal property of any person or persons, with policy limits of not less than \$2,000,000.00 combined single limit for injury to or death of any number of persons or for damage to property of others not arising out of any one occurrence. Program partner may elect to self-insure such coverage. Program Partner will provide evidence of such insurance or self-insurance upon request from the City
 - b. City: City is self-insured up to \$1.25 Million and agrees to maintain an excess policy or policies of commercial general liability insurance over the self-insured limit written by an insurance carrier with a rating at least Class A or better in the Best's Key Rating Guide and licensed to do business in the state in which the Center is located which shall insure against liability for injury to and/or death of and/or damage to personal property of any person or persons, with policy limits of not less than \$2,000,000.00 combined single limit for injury to or death of any number of persons or for damage to property of others not arising out of any one occurrence. The City will issue a certificate of insurance at the time of execution of this agreement naming Program Partner as an additional insured. City shall maintain casualty insurance covering the entire Center and any alterations, improvements, additions or changes made by City thereto in an amount not less than their full replacement cost from time to time during the Term, providing protection against any peril included within the classification of "all risks".
 - c. Waiver of Subrogation. Neither Party shall be liable to the other or to any insurance company (by way of subrogation or otherwise) insuring the other party for any loss or damage to any building, structure or other tangible property, or any resulting loss of income for property or general liability losses, even though such loss or damage might have been occasioned by the acts or omissions of such party, its agents, contractors or employees. Notwithstanding anything to the contrary contained herein, City and Program Partner hereby release and waive any and all rights of recovery, claim, action or cause of action, against the other, or its respective directors, shareholders, officers, agents, invitees and employees, for any loss or damage that may occur to the property or the equipment, fixtures and improvements comprising any part of the Center, by reason of fire, the elements, or any other cause which could be insured against under the terms of an "all risk" fire insurance policy, in the state where the Center is located, regardless of cause or origin, including negligence of the parties hereto, their agents, officers, invitees and employees. Subject to the provisions of the Agreement, no insurer of a party hereunder shall ever hold or be entitled to any claim, demand or cause of action against either party by virtue of a claim of loss paid under any such insurance policies, whether such insurer's claim be in the nature of subrogation or otherwise.
13. Entire Agreement. This Agreement contains the entire understanding of the parties with respect to the subject matter of the Agreement and is subject to the laws of the State of Illinois. This Agreement also supersedes all other agreements and understandings, both

oral and written, between the Parties relating to the subject matter of the Agreement. The captions inserted in this Agreement are for convenience only and in no way define, limit, or otherwise describe the scope or intent of this Agreement, or any provision hereof, or in any way affect the interpretation of this Agreement.

14. Attorneys' Fees. The Parties shall bear its own costs, charges, expenses and attorney's fees, and any other fees incurred in the event of a dispute between the Parties.
15. Amendment. By mutual consent of the City and Program Partner or the Program Partner's legally or duly appointed agent or attorney-in-fact, any provision of this Agreement may be amended, modified, or deleted. Any such changes, deletions or additions shall be recorded in written signed addenda, which shall form part of this Agreement. Program Partner may not assign or transfer this Use Agreement or enter into a license agreement for any portion thereof without the written consent of the City.
16. Third Parties. Nothing herein expressed or implied is intended or shall be construed to give any person other than the parties hereto any rights or remedies under this Agreement.
17. No Waiver. The failure of any party to insist upon strict performance of any of the terms, covenants, or conditions hereof shall not be deemed a waiver of any rights or remedies which that party may have hereunder, at law or in equity and shall not be deemed a waiver of any subsequent breach or default in any of such terms, covenants, or conditions.
18. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Illinois without regard to any conflict of laws rule or principle that might refer the governance or construction of this Agreement to the laws of another jurisdiction.
19. Freedom of Information Act. This Agreement and all related public records maintained by, provided to or required to be provided to the City are subject to the Illinois Freedom of Information Act notwithstanding any provision to the contrary that may be found in this Agreement
20. Notices. Any notices required to be given hereunder, or which either party hereto may desire to give to the other, shall be in writing. Such notice may be given by reputable overnight delivery service (with proof of receipt available), personal delivery or mailing the same by United States mail, registered or certified, return receipt requested, postage prepaid, at the following addresses identified for Landlord and Tenant, or to such other address as the respective parties may from time to time designate by notice given in the manner provided in this Section.

If to the City:

City of Evanston
Attn: City Manager
2100 Ridge Avenue

with a copy to:

City of Evanston
Attn: Corporation Counsel
2100 Ridge Avenue

Evanston, IL 60201

Evanston, IL 60201

If to Program Partner:
Northwestern University
ATTN: Dave Davis
1800 Sherman Avenue
Evanston, Illinois 60208

Northwestern University
Office of General Counsel
633 Clark Street
Evanston, IL 60208

21. Severability. Except as otherwise provided herein, the invalidity or unenforceability of any particular provision, or part thereof, of this Agreement shall not affect the other provisions, and this Agreement shall continue in all respects as if such invalid or unenforceable provision had not been contained herein.
22. Savings Clause. If any provision of this Agreement, or the application of such provision, shall be rendered or declared invalid by a court of competent jurisdiction, or by reason of its requiring any steps, actions, or results, the remaining parts or portions of this Agreement shall remain in full force and effect.
23. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. A facsimile copy of a signature shall be as binding as an original signature.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first written above by their respective officers thereunto duly authorized.

NORTHWESTERN UNIVERSITY
An Illinois not-for-profit corporation

CITY OF EVANSTON
An Illinois home rule municipal corporation

By: _____

By: _____

Its: Senior Vice President for Business & Finance

Its: City Manager

Print Name: Craig Johnson

Print Name: Erika Storlie

Date: _____

Date: _____

Attachment A

The rates below represent the amount the parties have agreed to for the use of the Center by Northwestern during the term of this Agreement. The amount of time specified is an estimate of the amount of use in the first year and the time can be rolled over to the next year if unused. The parties agree that the estimated amount of time in each category can be adjusted on an annual basis.

Northwestern Club Hockey and Synchronized Skating

- Ice rental fee: \$400 per hour
- Hockey practice and games: 105 hours
- Synchronized skating practice and show: 68 hours
- Total annual cost: **\$69,200**

Open Skating for all Northwestern Faculty, Students and Staff

- Ice time, skate rental and locker fee: \$15 per person
- 235 people per week: Northwestern representatives must show a valid Wildcard
- Total annual cost: **\$183,300**

Exclusive Ice Time for Northwestern Special Events

- Ice rental fee: \$400 per hour
- Exclusive ice time and skate rental for all Northwestern representatives and their family members - including ice time for Northwestern sponsored events: One day each week (up to 4 hours) for six months.
- Total annual cost: **\$9,600**

Room and Gym Rental for Northwestern Educational and Outreach Programs

- Multipurpose room rental fee: \$300 per hour
- Gym/outdoor field rental fee: \$330 per hour
- Meeting rooms for Northwestern educational programs for at-risk or low-income Evanston youth and young adults: 66 hours
- Gym/outdoor field time for youth and young adults in Northwestern educational programs: 66 hours
- Total annual cost: **\$41,580**

Room Rental for Northwestern Community Events

- Multipurpose room rental fee: \$300 per hour
- Room and space rental for NU sponsored events and activities: 100 hours
- Total annual cost: **\$30,000**

Total Annual Cost: \$333,680