UNIVERSITY WELLNESS AND PARKS MULTI-PURPOSE RECREATION CENTER

DEVELOPMENT AND PARTNERSHIP AGREEMENT

THIS ("Agreement") is between the **Board of Curators for Lincoln University** ("Lincoln University") and the **City of Jefferson Parks and Recreation Commission** ("Parks Commission").

General Terms of Partnership

1. Purpose. The purpose of this Agreement is to provide for a partnership between the parties for the planning, improvement, development, funding, maintenance, use, management, and operation of a University wellness and Parks multi-purpose center located on the Lincoln University campus (hereafter the "Facility").

2. General Use. The facility shall be operated as a public facility. It shall be utilized for University and community educational, recreational, wellness, and civic activities and events, for the community and Lincoln University to enhance the quality of life of community, surrounding area residents, and the University.

3. Effective Date and Term. This Agreement shall become effective on the date signed by the last party to sign the Agreement. This Agreement and all rights granted hereunder shall continue until terminated by the parties pursuant to the terms of this agreement.

4. Disputes. The parties shall designate a representative who shall be the party's representative with respect to any matters in dispute or requiring agreement under the terms of this Agreement. Should the designees be unable to resolve the issue, the parties shall submit the dispute to the Advisory Committee. The Advisory Committee shall make a good faith attempt to resolve the dispute. Should they be unable to resolve the issue, the parties shall submit the issue to Lincoln University and the Parks Commission. Should the parties be unable to resolve the dispute, suit shall be brought only in the Circuit Court of Cole County, Missouri.

5. End of partnership terms. At the end of this agreement or upon a party's election to exercise a Buyout clause or an Opt out clause, the party keeping ownership of the facility shall provide "just compensation" to the other. Upon termination of this Agreement and absent agreement of the parties to some other arrangement, title to the Facility and related permanent improvements located on Land owned by Lincoln University shall be placed with the purchasing party. Just compensation, as defined in this agreement, shall be paid to the party divesting their interest in the facility and land. Temporary structures and removable furnishings and equipment which can be removed, may be removed by the party divesting their interest.

6. Branding. After execution of the agreement, the parties shall develop a common brand/logo for the facility in an effort to make the operation of the facility appear singular to the end user, or reach other mutual agreement.

7. Land. Lincoln University will make sufficient agreed upon acres available on its Jefferson City campus, more specifically defined by location as shown on the attached Exhibit A (the "Land"). Lincoln University and the Parks Commission will cooperate in surveying the Land if required by any public authority or financing entity.

8. Site safety. Lincoln University warrants and affirms the site to be used for construction of the facility is now and shall be at the time of construction free of hazardous waste contaminants.

9. Facility to be constructed. The improvements to be constructed on the Land, and subject to and governed by this Agreement, consist of a University wellness and Parks multi-purpose recreation center, parking lots, and related improvements (collectively, the "Facility" or the "Center").

10. Initial Development Criteria. The parties agree that they shall jointly pursue a design which satisfies the needs of both parties per the cost share agreements for architectural services dated February 10, 2015 and the Owner-Consultant agreement dated March 2, 2015 previously executed by the parties.

10.1 The facility will be designed to serve both the Jefferson City Community and Lincoln University needs and will be approximately seventy nine thousand eight hundred and eight(79,808) total square feet on three levels consisting of at least the following.

10.1.1 Main Level Floor approximately forty six thousand eight hundred thirty two (46,832) sq. feet: Four full size gymnasiums, offices, lobby, restrooms, counter desk, concession area, storage, and meeting/classrooms.

10.1.2 Upper Level Floor approximately twenty three thousand one hundred forty eight (23,148) sq. feet: a fitness center, offices, meeting/classrooms, restrooms, and elevated walking track.

10.1.3 Basement Level Floor approximately nine thousand eight hundred twenty eight (9,828) sq. feet: Lincoln University athletic department, offices, locker rooms and restrooms, which will be furnished at the expense of Lincoln University, with such expense being in addition to any other contribution, stated herein this agreement.

10.2 The facility will be designed with LEED Certification features for energy efficiency.

10.3 The facility will be designed with dedicated parking spaces sufficient to satisfy City of Jefferson building and planning codes.

11. Improvements; Financing of construction and improvements.

11.1 Based upon an estimated budget of eleven million one hundred thousand dollars ($11,100,000) Lincoln University shall contribute four million six hundred thousand dollars ($4,600,000.00) toward the financing of the project, and the Parks Commission

shall contribute six million five hundred thousand dollars ($6,500,000.00), which includes any funds received from the City Council of Jefferson City, toward the financing of the project. Should the cost be more or less than the estimated budget, the same pro-rata ratio shall be used for financing the project.

12. Bidding award and administration.

12.1 Lincoln University will be responsible for solicitation and receiving of competitive bids for site development and facility construction. The project management team consisting of the architect, and an equal number of appointees from Lincoln University and the Parks Commission who shall evaluate the bids and make a recommendation to Lincoln University and to the Parks Commission, both of whom must agree prior to award.

12.2 Construction shall be performed in accordance with all city standards.

13. Title to Improvements and Land. During the term of this Agreement, title to the Facility shall be held jointly. Title to the real property upon which the facility sits shall be held by Lincoln University, but the terms of this agreement shall also constitute a lease for utilization of any activity or leasehold improvements contemplated by this agreement, at no additional cost to the beyond the contribution identified in this agreement, to the Parks Commission for all activities identified herein.

14. Expansion. The parties shall cooperate on future expansions.

Operation and Post-Construction Terms

15. Administration, Management and Operation. Administration, management, and operation of Facility shall be under direction of the Parks Commission and Lincoln University acting by and through their Director and President or their respective designees, being guided by the concept that this facility to be successful must be operated as a true partnership between the parties.

16. Monthly Financial reports. The parties shall develop agreed upon monthly financial reports for the income and expenses of the operation of the facility and will be provided to both parties for review.

17. Name and Naming Rights.

17.1 Name of the exterior of the Facility.

17.1.1 The name of the Facility shall be agreed upon by the parties.

17.1.2 Renaming of the Facility. Subject to agreement of the two parties, the Parks Commission and Lincoln University are authorized to rename the Facility, or a part or parts of the Facility, in exchange for a donation or donations under the terms of any hereinafter "naming rights" agreement or agreements.

17.1.3 Income from naming of the Facility. The parties shall continue to work on a joint fundraising plan and process however unless agreed to otherwise, any amounts received for any naming rights of the facility shall be split as follows: 90% to the party securing the donation, 10% to the other party, unless jointly secured for each party, the amount shall be split 50/50. If fundraising is successful each party shall be authorized to have one name on the facility and the official name of the facility shall include up to two names.

17.2 Naming of any interior area within the Facility._ The parties shall develop a jointly approved policy in regard the naming rights and division of income for any area or piece of equipment within the Facility. .

18. Joint Powers of Lincoln University and Parks Commission. Consistent with and subject to the terms of this agreement and applicable laws. Lincoln University and Parks Commission shall have the following joint powers and duties:

18.1 To coordinate planning and development of the Facility;

18.2 To enter into agreements with entities, including private entities, to provide for maintenance and construction of improvements;

18.3 To establish admission fees, membership fees, rental rates, and other fees, and adopt rules and guidelines governing usage and distribution of revenue; ;

18.4 To coordinate regarding joint use of the elevated walking track, and inclusion of students in agreed to intramural and public programs.

18.5 To perform other acts consistent with this Agreement necessary to implement the intent of the parties.

19. Parks Commission Powers. Consistent with and subject to terms of this Agreement and applicable laws, Parks Commission shall have the following powers and duties:

19.1 Not less than six months in advance, the Parks Commission shall designate dates and times for which they shall require exclusive use of the public space.

19.2 To operate, schedule, market, and manage Facility, and enter into reasonable lease or rental agreements and other contracts required for operation, scheduling, and management of the main level floor of the building and advise Lincoln University regarding the same;

19.3 To operate concessions or enter into concession contracts with other parties. Alcoholic beverages shall be permitted to be served or sold, so long as the manner is consistent with any reasonable policy adopted by Lincoln University.

19.4 To expend Parks Commission funds for operations, repairs, maintenance, and other purposes consistent with this Agreement;

19.5 Collect all fees for programs, drop-ins, and rental uses of the main floor of the

building and elevated walking track, pertaining to the general public, as well as any and all other parks system and recreation program fees & charges and distribute any funds due to Lincoln in a timely manner consistent with all adopted policies and procedures adopted by the parties regarding the same.

19.6 To prepare a staffing plan and schedule employees, including sharing coordination of "Manager on duty" responsibilities with University staff.

19.7 To prepare a budget of revenues and expenses, including covering any operational deficit, for their share of the expenses of the Facility.

19.8 To allow or disallow gate fees to be collected at rental events (such gate fees to be kept by the renter of the facility).

19.9 To perform other acts consistent with this Agreement necessary to implement the intent of the parties.

20. Lincoln University Powers. Consistent with and subject to terms of this Agreement and applicable laws, Lincoln University shall have the following powers and duties:

20.1 To operate, schedule, market, and manage Facility, and enter into reasonable lease or rental agreements and other contracts required for operation, scheduling, and management of the second floor and basement of the building, and advise the Parks Commission regarding the same.

20.2 To expend Lincoln University funds for operations, repairs, maintenance, and other purposes consistent with this Agreement;

20.3 To establish admission fees, membership fees, rental rates, and other fees, and adopt rules and guidelines governing usage and distribution of revenue of the upper level floor of the building pertaining to student, faculty, staff, and alumni of Lincoln University as well as general public authorized use of the upper level floor in cooperation with the Parks Commission.

20.3.1 Lincoln University shall be solely responsible for the cost of furnishings and equipment and replacement thereof for the upper level floor.

20.4 To prepare a staffing plan and schedule employees, including sharing coordination of "Manager on duty" responsibilities with Parks Department staff.

20.5 To be responsible for all expenses for construction, improvement, furnishing, operation, and maintenance of the basement floor level of the building.

20.6 To prepare a budget of revenues and expenses, including covering any operational deficit, for their share of the expenses of the Facility.

20.7 To perform other acts consistent with this Agreement necessary to implement the intent of the parties.

21. Exclusive Use.

21.1.1 Not less than six months in advance, Lincoln University shall designate dates and times for which they shall require exclusive use of the public space on the main floor and upper level floor, of the facility, exclusive of the fitness facility and any administrative offices, for the following events, which shall be provided without charge, for the following events:

21.1.1.1 The Lincoln Gala;

21.1.1.2 Homecoming Week;

21.1.1.3 Commencement;

21.1.1.4 Spring Fest;

21.1.1.5 Orientations;

Should the total of such use exceed fifteen (15) days in a calendar year, then any such exclusive use beyond fifteen (15) days shall be treated as exclusive use pursuant to section 21.1.3.

21.1.2 Not less than six months in advance, the Parks Commission shall designate up to fifteen days per calendar year for which they shall require exclusive use of the public space on the main floor and Upper Level Floor, of the facility, exclusive of the fitness facility and administrative offices, which shall be provided without charge.

21.1.3 With not less than six months' notice either party may reserve exclusive use of the main floor of the facility above and beyond what is listed in paragraphs 21.1.1 and 21.1.2 but shall be responsible to pay the other party one half (1/2) of the regular rental charge for the facility.

21.1.4 Rental of the facility by outside parties who are paying the rental fee for the facility shall not be considered use by either party to this agreement pursuant to section 21.1.1, 21.1.2 or 21.1.1.3.

21.1.5 This provision shall be reviewed annually to assure that this exclusive use provision provides use equitably between the parties.

21.1.6 The parties agree that even when they have exercised their exclusive use provision, whenever possible they shall make every effort to allow public and student use of the Facility during some portion of the day.

22. Revenues.

22.1 The Parks Commission shall collect all drop-in fees, other user fees, and rental fees for use of the courts and/or track, for its own programs, for classroom/meeting

room rentals, and rental fees for the facility from outside parties. The Parks Commission shall be responsible to distribute to Lincoln University any money due them pursuant to this agreement and subject to any policies or procedures for such distribution adopted by the parties hereinafter.

22.2 All revenues that are generated by use of the facility, including but not limited to rental fees, drop-in fees, user fees, vending fees, concessions (not provided by a Lincoln University contractor), etc., shall be divided evenly between the parties, regardless of which party collected the revenues except for the following:

22.2.1 Any and all revenue derived from fees collected for a Parks Commission sponsored program, including Parks Commission sponsored tournaments and operation of the main floor concession stand, shall be retained by the Parks Commission.

22.2.2 Any and all revenue derived from fees collected by Lincoln University from student fees or Lincoln University programs shall be retained by Lincoln University.

22.3 Both parties shall provide a full accounting for all revenues relative to the facility, on a monthly basis.

22.4 The division of revenues shall be re-evaluated annually to determine if this division and process reflects the fairness expected of this partnership. Any party desiring to modify the revenue division shall notify the other of their intention to renegotiate by March 1st of that year. The parties shall negotiate any revision in good faith. Failure to notify the other party shall cause the revenue division to continue in full force and effect.

23. Expenses and Utility Payments.

23.1 Payment of utility costs and other expenses for the facility shall be paid as follows:

23.1.1 The Parks Commission shall pay 60% of all utilities (excluding the basement which shall be on its own utility meter) and Lincoln University shall pay 40% of all utilities.

23.1.2 The division of expenses shall be re-evaluated annually to determine if this division and process reflects the fairness expected of this partnership. Any party desiring to modify the expense division shall notify the other of their intention to renegotiate by March 1st of that year. The parties shall negotiate any revision in good faith. Failure to notify the other party shall cause the expenses division to continue in full force and effect.

23.1.3 The Parks Commission shall be solely responsible to repay any debt due from the Parks Commission to the City of Jefferson borrowed for use in this project.

23.2 Lincoln University shall be responsible for receipt and issuing payment to the utility provider.

23.3 Unless another procedure is provided in this agreement, Lincoln University shall submit a copy of any bill to the Parks Commission along with an invoice for the Parks Commission's share for payment within thirty (30) days of receipt of said bill.

23.4 Unless another procedure is provided in this agreement, the Parks Commission shall submit a copy of any bill to Lincoln University along with an invoice for Lincoln University's share for payment within thirty (30) days of receipt of said bill.

23.5 This provision shall be re-evaluated annually to determine if this division and process reflects the fairness expected of this partnership.

23.6 Upon becoming aware of any bill in excess of twenty five thousand dollars ($25,000) which may come due in the following three (3) months, that party shall notify the other party of such possibility.

24. Maintenance. Maintenance of the Facility may be performed by contractors agreed upon by the parties. If either party identifies a maintenance issue they shall notify the other party as soon as practical to discuss correction of the issue.

25. Improvements and Additions.

25.1 Additions to the square footage of the facility shall only be made upon written agreement of both parties.

25.2 The Parks Commission may make improvements to the first floor of the facility upon notice to Lincoln University, at their sole cost.

25.3 Lincoln University may make improvements to the second floor of the facility upon notice to the Parks Commission, at their sole cost.

25.4 The parties shall discuss any joint renovations or improvements which are to come from the Capital Replacement Fund.

26. Staffing.

26.1 Staffing. These precepts are intended to clarify responsibilities and provide general guidelines for staffing, the supervision, programming, and operation of the facility to facilitate planning and budgeting with the realization that adjustments, good will, and cooperation between the partners to this agreement will be necessary to assure the highest quality use in the most effective and cost efficient manner.

26.2 Front Desk. Initially, the Parks Commission will be generally responsible for staffing the area during the hours of 6 a.m. – 5 p.m., Monday thru Friday utilizing existing permanent staff currently budgeted to other areas of responsibility. After the first year of operation a portion of their personnel expenses based on time spent on facility supervision and business responsibilities will be pro-rated in the facility budget.

26.2.1 Staffing costs after 5:00 p.m. to be shared. The Parks Commission will hire additional part-time seasonal Front Desk staff to cover extended operating hours on evenings, weekend, and holidays. The cost of staffing this area will be split equally by the Parks Commission and Lincoln University. The Parks Commission will invoice Lincoln University for reimbursement quarterly.

26.3 Work Study participants and Students. Lincoln University and Parks Commission shall seek to utilize students participating in Lincoln's Work Study Program and other available students where appropriate to help reduce staffing costs.

26.4 Fitness Center. Lincoln University will be generally responsible for staffing this area during all hours it is open to students and the public.

26.5 Programming/Supervision. Initially, the Parks Commission will be generally responsible for staffing the main floor during normal business hours as well as extended public program hours utilizing existing permanent recreation staff currently budgeted to other areas of responsibility. After the first year of operation a portion of their personnel expenses based on time spent on facility programming will be pro-rated in the facility budget.

26.6 Manager on Duty. It is generally intended for at least the first year of operation to have a supervisory level staff member designated as "Manager on Duty" for all hours the building is open for use. A rotating Manager on Duty schedule distributing daytime, evening, weekend, and holiday work hours equitably among both Lincoln University and Parks and Recreation permanent employees will be developed with the goal of providing staff with a minimum of 30 days advance notice of Manager on Duty assignments.

26.7 Extended Operation Hours. It is intended that any extension of operating hours specified in this agreement, or hereinafter agreed to by the parties, for programs or events shall be staffed by and at the sole expense of the organizer whether Lincoln University or the Parks Commission.

27. Law Enforcement.

27.1 For law enforcement purposes, the building and property upon which the facility and parking facilities are located shall be considered under the joint jurisdiction of the City of Jefferson and Lincoln University such that Jefferson City police may respond and patrol on an equal basis with the Lincoln University police for the benefit of public safety.

27.2 The Parks Commission will reimburse Lincoln University twenty-five percent (25%) of the salary and benefits of the lowest paid uniformed University Police Officer for Facility security duties. The parties have agreed that Lincoln University will hire one additional officer to assist their force with security, although the parties understand this officer will not be dedicated to the Facility. Lincoln University will invoice the Parks Commission quarterly for this cost.

27.3 Lincoln University parking rules, policies, and procedures shall apply for parking

for the facility.

27.4 Upon concurrence of Lincoln University and Parks Commission, groups utilizing the Facility may be required to pay an additional fee for security purposes.

28. Emergency Action Plans. The parties shall within six months of the agreement develop a joint emergency action plan which shall include, but not be limited to:

28.1 First Aid / CPR Emergencies;

28.2 911 Activation;

28.3 Lost Child;

28.4 Fire;

28.5 Tornado;

28.6 Active Shooter; and

28.7 Other policies deemed appropriate by the parties.

29. Capital Replacement Fund. Each year Lincoln University shall contribute into the Capital Replacement Fund an amount equal to four (4%) of the total gross revenue received from both parties for the facility from the previous year. Each year, the Parks Commission shall contribute into the Capital Replacement Fund an amount equal to six (6%), of the total gross revenue received from both parties for the facility from the previous year. For purposes of this paragraph "total gross revenue" shall include any funds received by Lincoln University through student activity fees dedicated to the Facility. The Capital Replacement Fund shall be used for replacement of the Facility's mechanical systems and maintenance of the interior or exterior of the building's structure. Such funds shall be reserved and accounted for and used for no other purposes than those identified in this paragraph.

30. Buyout clause:

30.1 As to Lincoln University. Lincoln University shall have the right to purchase all interest owned by the Parks Commission at any time after the fiftieth (50^{th}) anniversary date of facility being opened upon the payment of "just compensation" (as defined in this agreement) to the Parks Commission. Such election shall be made by notifying the Park's Commission seven hundred thirty (730) days prior to the buyout.

30.2 As to the Parks Commission. The Parks Commission shall have the right to purchase all interest owned by Lincoln University at any time after the fiftieth (50^{th})) anniversary date of facility being opened upon the payment of "just compensation" (as defined in this agreement) to Lincoln University. Such election shall be made by notifying Lincoln University seven hundred thirty (730) days prior to the buyout. If the Parks Commission exercises this option but Lincoln University cannot lawfully transfer ownership of the real property to the Parks Commission, then Lincoln University shall be obligated to lease the real property upon which the Facility is built to the Parks Commission for 50 years for one dollar per year after which time they are released from

any further obligation to lease to the property to the Parks Commission.

30.3 Option prior to the Fiftieth Anniversary. Either party may exercise their buyout clause prior to the fiftieth (50^{th}) anniversary of the facility being opened in the same manner as prescribed above but shall pay the following penalty:

30.3.1 If before the thirtieth (30^{th}) anniversary of the date the facility is opened, the just compensation shall be increased by thirty percent (30%).

30.3.2 If on or after the thirtieth (30^{th}) anniversary of the date the facility is opened, but before the fortieth (40^{th}) anniversary, the just compensation shall be increased by twenty percent (20%).

30.3.3 If on or after the fortieth (40^{th}) anniversary of the date of the facility is opened, but before the fiftieth (50^{th}) anniversary, the just compensation shall be increased by ten percent (10%).

31. Opt out Clause. Either party shall have the right to opt out of this partnership at any time after the date the facility is opened. By opting out the party exercising this right shall forfeit and divest to the other party any right to use the facility or equity in the facility or real property upon which its sits except that they may remove any of their furnishing and supplies not affixed to the property. Such election shall be made by notifying the other party seven hundred thirty (730) days prior to the opt out. If Lincoln University opts out of the partnership and cannot lawfully transfer ownership of the real property to the Parks Commission, then Lincoln University shall be obligated to lease the real property upon which the Facility is built to the Parks Commission for 50 years for one dollar per year after which time they are released from any further obligation to lease to the property to the Parks Commission.

32. Future Cooperation.

32.1 Generally. The parties agree that they shall cooperate on use of the Facility, all terms of partnership, additional green space and playing fields in the vicinity of the facility to accommodate additional Lincoln University and Parks Commission programming and public interest.

32.2 Use of space. The parties' intent is that the public and Lincoln students will have access to the courts (and at a minimum at least one court) and the walking track most of the time when the facility is open. However there may be times when programs, activities, or tournaments will necessitate the need for the use of all courts or the walking track, thus limiting access. Upon such occasions the parties will attempt to post notice in advance to let users know when access will be available or limited.

33. Codes of Conduct. Within six (6) months of the date the agreement is signed, but prior to the opening of the Facility, the parties shall agree to a joint policy regarding conduct in the facility and a procedure for disciplinary action.

34. Food at the Facility. Food provided within and to the facility shall be as follows:

34.1 Catering. Any group requesting or requiring sit down plated meals shall fall under Lincoln University's contract for food services.

34.1.1 If the event is sponsored or hosted by Lincoln University, Lincoln University shall retain all net proceeds from catering charges.

34.1.2 If the event is sponsored or hosted by the Parks Commission, the Parks Commission shall retain all net proceeds from catering charges.

34.1.3 The net proceeds from any other event shall be split evenly between the parties.

34.2 Concessions. The Parks Commission may operate a concession stand in the main floor lobby area during all Parks Commission programs and outside rentals. The Parks Commission shall retain all revenues from such concessions. Lincoln University may operate a concession stand in the main lobby area during all Lincoln University programs and events. Lincoln University shall retain all revenues from such concessions.

34.3 Vending. The Lincoln University shall utilize their vending machine contractor to place and stock machines, and all revenues from vending machines shall be split evenly between the parties.

34.4 Other sales of food prohibited. No party may sell food or drink other than Lincoln University and Parks Commission has identified above or hereinafter agreed.

35. Boys and Girls Club. The parties shall work together to accommodate the needs of the Boys and Girls Club for facility space.

36. Work Study. Lincoln University shall encourage students of Lincoln University to participate in a work-study program as staff for the facility, in an effort to reduce costs.

37. Weight room/cardio area.

37.1 Lincoln University shall have exclusive control over the weight room, cardio area, classrooms, offices, and game suite to be constructed on the second floor.

37.2 Lincoln University shall set an allowance for a limited number of non-student memberships to its weight room / cardio area available to the public at large. First right of refusal will be to faculty, staff, and alumni of Lincoln University and staff of the City of Jefferson. Thereafter, memberships may be offered to the general public.

38. Basement Level Floor. The basement level floor of the facility shall be under the exclusive control of Lincoln University which shall be responsible for all utilities, maintenance, improvements, and furnishings attributed to use of that level.

39. Operating Hours. The parties shall periodically review these hours based on all available data to determine if the hours are still most beneficial to the parties and the parties have

every expectation that hours shall be modified. The hours of operation for this facility to be open to the public/members/etc. shall be initially set as follows:

39.1	Monday-Thursday	6:00AM-10:00PM
39.2	Friday	6:00AM-9:00PM
39.3	Saturday	10:00AM-6:00PM
39.4	Sunday	12:00PM-10:00PM

40. Access. Both parties agree the other shall have the right of ingress to and egress to the facility for itself, its officers, employees, agents, servants, customers, vendors, suppliers, patrons, and invitees over any roadway owned by the public or by Lincoln University.

41. Liability and Insurance. Each party is responsible for its own acts and agrees to assume its own liability for those acts and consequences Both the Parks Commission and Lincoln University shall procure and maintain at least $1,000,000 public liability insurance during the term of this agreement and adopt and enforce reasonable rules regarding liability insurance for users. Lincoln University shall cover the Facility under its property insurance policy for full replacement value. If the University can identify the costs of doing so, they shall submit the invoice to the Parks Commission who shall be responsible for sixty percent (60%) of the cost of the coverage. In the case of a partial loss covered by insurance the proceeds shall be utilized to repair the Facility. In the case of a total loss covered by insurance, the insurance proceeds shall be divided sixty percent (60%) to the Parks Commission and forty percent (40%) to Lincoln University.

42. Facility Advisory Committee. There is established a six-member Facility Advisory Committee to provide non-binding advice to the parties on use and operation of the facility and provide an opportunity for input from the parties and other interested groups and individuals regarding facility management and operation. The Facility Advisory Committee shall meet at least twice each calendar year. Lincoln University shall appoint three members to the Facility Advisory Committee. The Parks Commission shall appoint three members to the Advisory Committee. The Parks Commission shall provide staff support and supplies to the meeting and coordinate scheduling.

43. Student Advisory Committee. Lincoln University may create a Lincoln Student Body Advisory Committee for the purpose of providing input to the Facility Advisory Committee as to what programs the student body would like to see in the facility.

44. Integration of recommendations. The Facility Advisory Committee shall advise Lincoln University and Parks Commission as to input received from the community and students of Lincoln University regarding the Facility. Lincoln University and Parks Commission shall give due consideration to all such suggestions and if reasonable integrate those suggestions into the programing of the facility.

45. Non-Competition. Both parties shall cooperate with each other to assure that the parties are not sponsoring or promoting activities and events which compete with activities or events sponsored or promoted by the other party.

Additional Terms

46. Just Compensation definition. Just compensation shall be determined utilizing the following definitions and formula:

    46.1 Each party shall each perform an appraisal by an ALTA certified appraiser to identify the current replacement value of the building and related improvements utilizing a cost approach appraisal. The "Replacement Value" of said property shall be the value of both appraisals divided in half.

    46.2 If Lincoln University is providing just compensation to the Parks Commission then the "Replacement Value" shall be multiplied by 60%. If the Parks Commission is providing just compensation to Lincoln University then the "Replacement Value" shall be multiplied by 40%.

    46.3 The "Replacement Value" after applying the formula set out in 45.1 and 45.2 shall be considered just compensation.

47. Annual Review. The parties shall schedule an annual meeting to review this agreement as well as discuss and propose any potential changes.

48. Indemnity. To the extent permitted by Missouri law and without waiving sovereign immunity, the parties shall indemnify, save and hold harmless each other for and against all claims, demand actions, causes of action, liability cost or expense caused by the negligence of such party, its employees, or agents.

49. Purchasing cooperation. In purchasing items or services the parties shall utilize the purchasing processes of whichever entity has the most advantageous processes. The parties understand that Lincoln University follows State Executive Order 05-30 which targets 10% MBE and 5% WBE on construction contracts met through use of prime contractors, subcontractors, joint ventures, or other arrangements that afford meaningful opportunity to M/WBE participation. The parties further understand that when utilizing state or federal funds the Parks Commission also has stated targets for disadvantaged business enterprises.

50. No other rights conferred. This Agreement is personal to the parties and neither the rights nor the obligations of either party may be assigned without the written consent of the other.

51. Complete Agreement. Agreement contains the parties' entire agreement and may not be varied except by an instrument in writing signed by the parties.

52. Venue. This Agreement shall be governed and construed under the laws of the State of Missouri.

53. Paragraph Headings. The paragraph headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision of this lease.

54. Non-Assignment. Neither party may assign or delegate any obligation or right under this agreement to another party unless specifically identified in this agreement or the other party has agreed to such assignment in writing.

55. Amendments. All amendments to this agreement must be made in writing by mutual agreement to the parties, and no oral amendments shall be in force or effect whatever.

56. Representation on Authority of Parties/Signatories. Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such party's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such party and enforceable in accordance with its terms.

57. Notices, Consents, and Approvals. Whenever any notice or payment is required by this Agreement to be made, given or transmitted to the parties hereto, such notice or payment shall be deemed to have been given if enclosed in an envelope with sufficient postage attached to insure deliver, and deposited in the United States mail, addressed to:

If to the Parks Commission:

Parks and Recreation Commission
Attn: Director of Parks and Recreation
427 Monroe
Jefferson City, MO 65101

If to the Board of Curators:

Curators of Lincoln University
Attn: President of Lincoln University
820 Chestnut
Jefferson City, Missouri 65101

IN WITNESS WHEREOF, the parties hereto have set their hands and seals:

Parks And Recreation Commission

President

ATTEST:

Executive Secretary

APPROVED AS TO FORM:

City Counselor

Lincoln University

Title: President, Board of Curators

ATTEST:

Title: Secretary, Board of Curators