

## LEASE AGREEMENT

THIS AGREEMENT is entered into this \_\_\_\_ day of \_\_\_\_\_, 2017, by and between:

**LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT**, a Kentucky consolidated government, located at 527 West Jefferson Street, Louisville, Kentucky 40202, by and through the Louisville Parks and Recreation, hereinafter LESSOR;

and

**BOARD OF EDUCATION OF JEFFERSON COUNTY, KENTUCKY**, a body politic and corporate, located at 3332 Newburg Road, Louisville, Kentucky 40218, hereinafter LESSEE.

### WITNESSETH:

**WHEREAS**, LESSOR owns the California Community Center located at 1600 West Saint Catherine Street, Louisville, Kentucky 40210, (the "Center") sitting on eight lots identified by their Parcel ID as 037D00630000, 037D00640000, 037D00650000, 037D00660000, 037D00780000, 037D00790000, 037D00800000, and 037D00810000; and

**WHEREAS**, LESSEE wishes to use part of the Center for office space and for meetings with students and parents; and

**WHEREAS**, LESSOR wishes to allow LESSEE to do so, subject to the terms and conditions herein.

**NOW, THEREFORE**, for consideration, which consideration cannot be stated in money but is instead the overall goal of both parties to provide a benefit to increase the welfare of the youth of Jefferson County by encouraging contact between JCPS staff and its students and their parents/guardians, LESSOR and LESSEE agree as follows:

1. **INCORPORATION:**

The above recitals are true and correct and are incorporated herein, in their entirety, by this reference.

2. **LEASED PREMISES:**

The Leased Premises is limited to two rooms of the Center situated on the ground floor and designated as 13 and 14C, further designated as "Leased Premises" on the floor plan attached hereto as Exhibit A. The Leased Premises does not include any other portion of the Center. However, LESSEE's staff and visitors may access all the common areas within the Center such as hallways, entryways, restrooms, and any office or meeting space not leased or reserved to another party. Other rooms of the Center may be reserved for occasional use by LESSEE through the Center Supervisor or his/her staff.

3. **ACCESS:**

LESSEE shall be permitted access to the Leased Premises at all hours of the day, Monday through Sunday. A building key and security code will be furnished to the Chief Equity Officer of LESSEE. The Chief may entrust the code to LESSEE's employees. Additional keys may be furnished upon request. A \$100 deposit is required for each key provided by LESSOR to LESSEE. LESSEE may, at its own expense, install a lock on the doors of the rooms designated herein as the Leased Premises. A copy of the room key(s) shall be provided to the Center Supervisor for emergency access only.

4. **OCCUPANCY:**

- A. LESSEE shall use, occupy, and maintain the Leased Premises exclusively in accordance with the terms of this Lease. Moreover, at all times during the tenure of this Lease or any extension thereof, LESSEE shall conduct operations on the Leased Premises in a safe, prudent, orderly, lawful, and businesslike manner in full compliance with all laws, ordinances, and regulations which may be applicable to the Leased Premises or LESSEE's use thereof. Further, LESSEE shall not commit or suffer waste therein or allow any part thereof to become a nuisance;
- B. LESSOR agrees that, so long as LESSEE complies with the covenants and conditions herein contained, LESSEE shall quietly hold and occupy the Leased Premises during the term of this Lease; and
- C. Alcoholic beverages and tobacco products shall not be sold, consumed/utilized or permitted on or within the Leased Premises.

5. **IMPROVEMENTS AND MODIFICATIONS:**

At no time shall any improvement, deletion, alteration, addition, construction, renovation, removal, or destruction of the Center, including the elimination of trees or plant material, be made to or upon the Leased Premises by LESSEE without the prior, express, written consent of LESSOR. Any improvements to the Leased Premises made by LESSEE shall become the property of LESSOR upon termination of this Lease.

6. **FURNISHINGS AND EQUIPMENT:**

LESSEE shall provide and is responsible for all equipment, furniture, and supplies necessary for the operation of its permitted activities within the Leased Premises. All of LESSEE'S equipment, furniture, and remaining supplies shall be removed by LESSEE at the termination of this Lease, and all fixtures shall be the property of LESSOR.

7. **UTILITIES:**

LESSOR shall be solely responsible for maintenance and monthly service charges of all existing utility systems and lines on or in the Leased Premises, including but not limited to electric, sewer, water, and gas. Subject to the prior written approval of LESSOR, LESSEE may install additional electrical service lines, internet, and/or wired telephone service in or on the

Leased Premises, and LESSEE shall be solely responsible for all costs associated with the installation and maintenance of such additional utilities and all monthly service charges.

8. **REPAIRS AND MAINTENANCE:**

LESSOR shall be responsible for proper maintenance and repair of the Center, including roof, gutters, fixtures, HVAC (heating, ventilation, and air-conditioning) systems, outdoor lighting, fire detection and security equipment, and plumbing. Future capital repairs to the Center and building systems shall be subject to negotiation between LESSOR and LESSEE. LESSOR reserves the right to enter the Leased Premises for inspection at any reasonable time. LESSEE shall be responsible for timely notification to LESSOR of any building maintenance or repair issue requiring LESSOR's attention.

9. **SIGNS AND OTHER FIXTURES:**

LESSEE shall not attach, affix, or permit to be attached or affixed to or upon the Leased Premises any permanent or temporary flags, placards, signs, poles, wires, aerials, antennae, satellite dishes, or fixtures of any kind without the prior written consent of LESSOR.

10. **LEASE TERM AND RENEWAL:**

This Lease shall begin September 15, 2017 and shall end September 14, 2019. This Lease shall renew automatically on September 15, 2019 for a term of one year and will continue to renew automatically from year to year thereafter unless one party notifies the other of its intention to not renew at least thirty (30) days prior to any renewal date.

11. **TERMINATION:**

If LESSEE terminates this Lease without cause, all of LESSEE's personal property shall be removed from the Leased Premises by the date set for termination of the Lease or it shall become the property of the LESSOR. If the LESSOR terminates the Lease without cause, LESSOR shall reimburse LESSEE based on depreciated value for any improvements made to the Leased Premises by and at the expense of LESSEE that will remain on the Leased Premises after the termination of the Lease.

12. **SURRENDER:**

Upon expiration or cancellation of the Lease, LESSEE shall at once surrender possession of the Leased Premises to LESSOR along with all modifications, improvements, and fixtures in as good condition as received, ordinary wear and tear excepted. All of LESSEE's personal property shall be removed from the Leased Premises prior to the expiration or cancellation of the Lease or it shall become the property of the LESSOR.

13. **HOLDING OVER:**

In the event LESSEE remains in possession of the Leased Premises after the expiration of the term and any renewals thereof and without the execution of a new lease, LESSEE shall be

deemed to be occupying the Leased Premises as a tenant from month to month, subject to all conditions, provisions, and obligations of this Lease insofar as the same are applicable to a month to month tenancy.

14. **ASSIGNMENT:**

LESSEE shall not sublease the Leased Premises without the prior written consent of LESSOR, which consent may be withheld at the sole discretion of the LESSOR. Any contract which purports to extend the privileges of LESSEE without such prior written consent is invalid.

15. **DEFAULT:**

A. LESSOR may terminate this Lease and term upon the happening of any of the following events, and same are not remedied within thirty (30) days after notice thereof is given by the LESSOR to the LESSEE:

- i) the making by LESSEE of an assignment for the benefit of its creditors;
- ii) the levying of a writ of execution or attachment on or against the property of LESSEE;
- iii) in the event proceedings are instituted in a court of competent jurisdiction for the reorganization, liquidation, or involuntary dissolution of LESSEE, or for its adjudication as a bankrupt or insolvent, or the appointment of a receiver of the property of LESSEE, and said proceedings are not dismissed and any receiver, trustee, or liquidator appointed therein discharged within thirty (30) days after the institution of said proceedings;
- iv) the doing or permitting to be done by LESSEE of any act which creates a mechanics lien or claim against the land or building of which the Leased Premises are a part; and which mechanics lien or claim is not bonded or released within thirty (30) days;
- v) the abandonment or vacating by LESSEE of the Leased Premises or any part thereof before the end of the demised term; and,
- vi) the failure of LESSEE to perform any of its other covenants under this Lease.

LESSEE agrees that covenants and agreements made by LESSEE herein shall be deemed conditions as well as covenants.

B. Upon termination of this Lease as aforesaid, LESSOR may reenter the Leased Premises with process of law using such force as may be reasonably necessary, expel all persons and chattels therefrom, and thus repossess and enjoy the premises as LESSOR's former estate. LESSOR shall not be liable in damages or otherwise by reason of reentry or termination of this lease unless by a breach of peace.

- C. In the event of any breach hereunder by LESSEE and the passage of any cure period, LESSOR may immediately or at any time thereafter, without notice, cure such breach for the account and at the expense of LESSEE. If LESSOR at any time by reason of such uncured breach is compelled to pay or elects to pay any sum of money or do any act which requires the payment of any sum of money or is compelled to incur any expense, including reasonable attorney's fees, in instituting or prosecuting any action or proceeding to enforce LESSOR's rights hereunder, the sum or sums so reasonably paid by LESSOR, with interest thereon at the rate of six percent (6%) per annum from the date of payment thereof, shall be deemed due on the first day of the month following the payment of such respective sums or expenses.
- D. All rights and remedies of LESSOR herein enumerated shall be cumulative and none shall exclude any other right or remedy allowed by law, and said rights and remedies may be exercised and enforced concurrently and whenever and as often as occasion therefore arises. In case LESSOR shall file any action or proceeding for default of LESSEE hereunder, LESSOR shall be entitled to recover attorney's fees as well as all other costs and expenses allowable by law.

16. **LIENS:**

LESSEE shall keep the Leased Premises free from any liens or claims of lien arising out of work performed, materials furnished, or obligations incurred by or at the instance of LESSEE. In the event that any liens are filed arising out of work performed, materials furnished, or obligations incurred by or at the instance of LESSEE and LESSEE fails to bond, pay, or otherwise release such liens within thirty (30) days after LESSOR notifies LESSEE of the existence thereof, LESSOR may, without waiver of any other rights or remedies, bond, pay, or otherwise release such liens and any expenses incurred by LESSOR in connection therewith shall be paid by LESSEE to LESSOR upon demand.

17. **HOLD HARMLESS AND INDEMNIFICATION CLAUSE:**

LESSEE shall indemnify, hold harmless, and defend the Louisville/Jefferson County Metro Government, its elected and appointed officials, employees, agents and successors in interest from all claims, damages, losses and expenses including attorneys' fees, arising out of or resulting, directly or indirectly, from LESSEE's (or LESSEE's subcontractors, if any) performance or breach of the agreement provided that such claim, damage, loss, or expense is: (1) attributable to personal injury, bodily injury, sickness, death, or to injury to or destruction of property, including the loss of use resulting therefrom, or breach of contract, and (2) not caused by the negligent act or omission or willful misconduct of the Louisville/Jefferson County Metro Government or its elected and appointed officials and employees acting within the scope of their employment. This Hold Harmless and Indemnification Clause shall in no way be limited by any financial responsibility or insurance requirements and shall survive the termination of this agreement.

18. **VOLUNTEERS**

LESSEE shall be responsible for all volunteers at the Center performing any kind of work on behalf of LESSEE. LESSEE shall also cause each such volunteer to sign a liability waiver, attached as Exhibit C, and retain those waivers for the duration of the agreement.

19. **INSURANCE REQUIREMENTS:**

LESSEE shall meet the insurance requirements attached hereto as Exhibit B and fully incorporated herein.

20. **RIGHT OF ENTRY:**

LESSOR retains the full right and authority to enter, inspect, and view the Leased Premises at all reasonable times, provided that at no time LESSOR conducts such activities so as to interfere with or otherwise frustrate LESSEE's use and occupancy.

21. **WAIVER OF TERMS, CONDITIONS, COVENANTS:**

The parties to this Lease agree that the LESSOR may waive the performance of any term, condition, or covenant contained herein, provided that such waiver shall not be construed or deemed a continuing waiver of the same or any subsequent conduct which may constitute a default of any provision.

22. **NOTICE:**

All notices required hereunder will be in writing and served by first-class mail or in person to the persons named below unless and until a change of such name or address is made pursuant to this Section. Any Notice shall be effective three (3) days after mailing. LESSOR shall notify LESSEE and LESSEE shall notify LESSOR immediately, in writing, of change in name or address of the persons named below.

To LESSEE:        Superintendent  
                      Board of Education of Jefferson County, Kentucky  
                      3332 Newburg Road  
                      Louisville, Kentucky 40218

To LESSOR:       Director  
                      Louisville Parks and Recreation  
                      P. O. Box 37280  
                      Louisville, KY 40233

23. **LESSOR'S CONSENT:**

Unless otherwise noted herein, wherever in this Lease the consent of LESSOR is required, such consent may be given by and through the Director of Louisville Parks and Recreation or his/her designee and shall not be unreasonably withheld or delayed.

24. **AUTHORITY:**

LESSOR and LESSEE, by execution of this Lease, do hereby warrant and represent to each other that they are duly organized and validly existing entities, are qualified to do business in the State of Kentucky, have full right, power, and authority to enter into this Lease, and that each person signing on behalf of LESSOR and LESSEE is authorized to do so.

25. **SUCCESSORS:**

This Lease shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors, and assigns.

26. **COUNTERPARTS:**

This Lease may be executed in counterparts, in which case each executed counterpart shall be deemed an original, and all executed counterparts shall constitute one and the same instrument.

27. **SEVERABILITY:**

If any court of competent jurisdiction holds any provision of this Lease invalid or unenforceable, such provision shall be modified to the extent required to make it enforceable, consistent with the spirit and intent of this Lease. If such a provision cannot be so modified, the provision shall be deemed separable from the remaining provisions of this Lease, which shall continue in full force and effect.

28. **ENTIRE UNDERSTANDING:**

This Lease represents the entire understanding and agreement between the parties relating to the subject matter set forth herein and supersedes any and all prior and contemporaneous oral or written negotiations and agreements relative thereto. No representation, promise, inducement, or statement of intention has been made by the parties that is not embodied in this Lease. This Lease cannot be amended, modified, or supplemented in any respect except by a subsequent written agreement duly executed by all of the parties hereto.

29. **NON-DISCRIMINATION IN EMPLOYMENT:**

The LESSEE shall not discriminate against any employee or applicant for employment or against any person seeking to utilize the facilities or services provided under the provisions of this Lease on the basis of race, creed, color, ancestry, national origin, or political affiliation. Such action shall include, but not be limited to, the following: employment, promotion, demotion, transfer, recruitment, training, rate of pay or other forms of compensation, and in the services provided to the public. Provisions of this section shall apply and be included in any construction contract entered into by and between the LESSEE and third party.

IN TESTIMONY WHEREOF, witness the signatures of the parties as of the day first written above.

**LOUISVILLE/JEFFERSON COUNTY  
METRO GOVERNMENT**  
a Kentucky consolidated local government

By:   
**YVETTE GENTRY, CHIEF OF  
COMMUNITY BUILDING**

Date: 9-18-17

**BOARD OF EDUCATION OF  
JEFFERSON COUNTY, KENTUCKY**  
a body politic and corporate

By: \_\_\_\_\_  
**DR. MARTIN POLLIO,  
ACTING SUPERINTENDENT**

Date: \_\_\_\_\_

**APPROVED AS TO FORM:**

**MICHAEL J. O'CONNELL**  
Jefferson County Attorney

By:   
**James T. Carey**  
Assistant Jefferson County Attorney  
531 Court Place, Suite 900  
Louisville, KY 40202  
(502) 574-1037

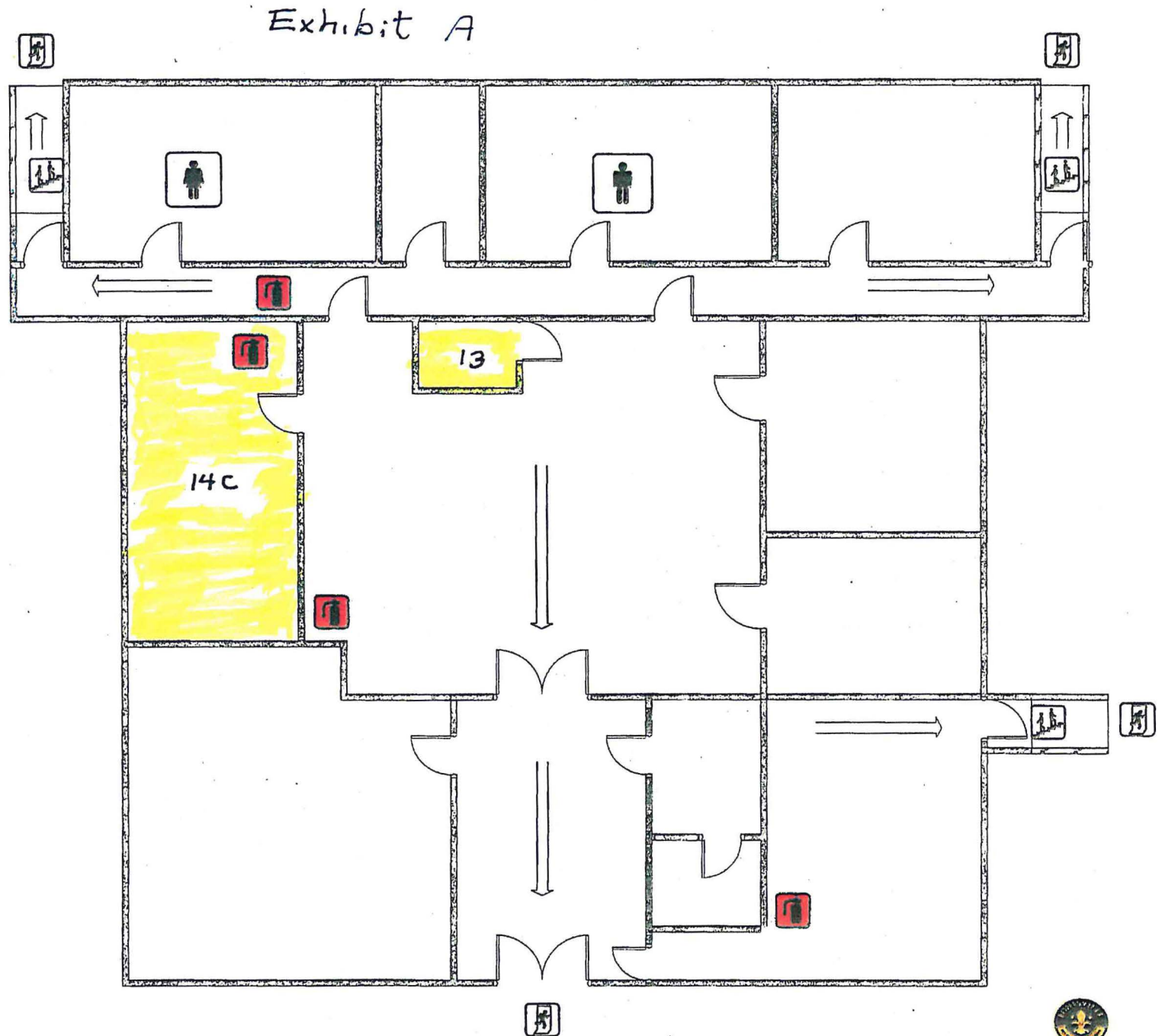


## Legend

- ⇒ Route of Egress
-  Fire Extinguisher
-  Womens RR
-  Mens RR
-  Stairs
-  Exit

## Evacuation

The designated safe meeting spot is 300' out of the community center and through the playground in the park.



## **EXHIBIT B**

### **INSURANCE REQUIREMENTS**

Prior to occupying the Leased Premises under this Lease, unless LESSEE chooses the self-insurance option described below in this Exhibit B, LESSEE shall obtain at its own cost and expense the following types of insurance through insurance companies licensed in the State of Kentucky. Insurance written by non-admitted carriers will also be considered acceptable, in accordance with Kentucky Insurance Law (KRS 304.10-040). Workers' Compensation written through qualified group self-insurance programs in accordance with Kentucky Revised Statutes (KRS 342.350) will also be acceptable. LESSEE shall not commence work under this Lease until all insurance required under the Lease has been obtained and until copies of policies or certificates thereof are submitted to Louisville/Jefferson County Metro Government's Purchasing Division and approved by the Louisville/Jefferson County Metro Government's Risk Management Division. The LESSEE shall not allow any sub-contractors to commence work until the insurance required of such subcontractors has been obtained and copies of Certificates of Insurance retained by LESSEE evidencing proof of coverages.

Without limiting LESSEE's indemnification requirements, it is agreed that LESSEE shall maintain in force at all times during the performance of this agreement the following policy or policies of insurance covering its operations, and require subcontractors, if subcontracting is authorized, to procure and maintain these same policies until final acceptance of the work by the Louisville/Jefferson County Metro Government (hereinafter referred to as "Metro"). Metro may require LESSEE to supply proof of subcontractors insurance via Certificates of Insurance, or at Metro's option, actual copies of policies.

A. The following clause shall be added to the LESSEE's (and approved subcontractors') Commercial General Liability Policies:

1. "The Louisville/Jefferson County Metro Government, its elected and appointed officials, employees, agents and successors are added as an "Additional Insured" as respects operations of the Named Insured performed relative to the contract."

B. The insurance to be procured and maintained and minimum Limits of Liability shall be as follows, unless different limits are specified by addendum to the agreement (and such minimum limits shall not limit access to the full amount of insurance available (whether through primary, excess or umbrella policies) on the LESSEE's or subcontractor's policy(ies), if that/those policy(ies) provide for Limits above the minimum):

1. COMMERCIAL GENERAL LIABILITY, via the Occurrence Form, primary, non-contributory, with a \$1,000,000 Combined Single Limit for any one Occurrence and

\$2,000,000 aggregate for Bodily Injury, Personal Injury, Property Damage, and Products/Completed Operations including:

- a. Premises - Operations Coverage
- b. Products and Completed Operations
- c. Contractual Liability
- d. Broad Form Property Damage
- e. Independent Contractors Protective Liability
- f. Personal Injury

2. WORKERS' COMPENSATION (if applicable) insuring the employers' obligations under Kentucky Revised Statutes Chapter 342 at Statutory Limits, and EMPLOYERS' LIABILITY - \$100,000 Each Accident/\$500,000 Disease - Policy Limit/\$100,000 Disease - Each Employee.

#### **ACCEPTABILITY OF INSURERS**

Insurance is to be placed with Insurance Companies with an A. M. Best Rating of no less than "A-VI", unless proper financial information relating to the Company is submitted to and approved by Metro's Risk Management Division.

#### **MISCELLANEOUS**

A. LESSEE shall procure and maintain insurance policies as described herein and for which the Louisville/Jefferson County Metro Government's Purchasing Division shall be furnished Certificates of Insurance upon the execution of the Contract. The Certificates shall include the name and address of the person executing the Certificate of Insurance as well as the person's signature. If policies expire before the completion of the Contract, renewal Certificates of Insurance shall be furnished to Metro at least fifteen (15) days prior to the expiration of any policy(s).

B. Upon execution of the Agreement, Certificates of Insurance as required above shall be furnished to:

Louisville/Jefferson County Metro Government  
Purchasing Division  
611 West Jefferson Street  
Louisville, KY 40202

C. Upon Renewal of insurance coverage (s), Certificates of Insurance evidencing renewal shall be furnished to:

Louisville/Jefferson County Metro Government  
Office of Management and Budget  
Risk Management Division  
611 West Jefferson Street  
Louisville, Kentucky 40202

D. **CANCELLATION OR MATERIAL CHANGE OF COVERAGE:** LESSEE shall notify Metro's Risk Management Division of any policy cancellation within two (2) business days of its receipt of same. Upon any material change (changes that reduce/restrict limit or terms and conditions to your insurance coverage) in coverage as required above, LESSEE shall notify Metro's Risk Management Division within two (2) business days. If LESSEE fails to notify Metro as required by this Lease, LESSEE agrees that such failure shall be a breach of this Lease. Metro reserves the right to require the insurance policy(s) required above to be specifically endorsed to provide notice of cancellation and/or material change of coverage in accordance with policy provisions. When requested by the Metro Government, a copy of the policy endorsement shall be provided to Metro's Risk Management Division.

E. Approval of the insurance by Metro shall not in any way relieve or decrease the liability of LESSEE hereunder. It is expressly understood that Metro does not in any way represent that the specified Limits of Liability or coverage or policy forms are sufficient or adequate to protect the interest or liabilities of LESSEE.

#### **SELF-INSURANCE OPTION**

As an alternative to providing third party insurance coverage against the risks and in the amounts specified above in this Exhibit B, LESSEE may provide, in LESSEE's sole discretion, equivalent coverage through LESSEE's established program of self-insurance (the "Self-Insurance Option"). If LESSEE chooses the Self-Insurance Option, LESSEE shall, prior to occupying the Leased Premises under this Lease, provide to LESSOR (i) written notice stating so and (ii) a certificate of such self-insurance coverage describing any reinsurance in effect under LESSEE's self-insurance program and certifying that such reinsurance, if any, in effect is adequate to provide coverages against the risks and in the amounts specified above in this Exhibit B.

## EXHIBIT C

### LOUISVILLE PARKS AND RECREATION

#### **Liability Waiver**

I agree to forever refrain from asserting against the Louisville/Jefferson County Metro Government, Louisville Parks and Recreation, or the agents or employees thereof, any claim, demand, action or suit of whatever kind of nature, either directly or indirectly, for injuries or damages to persons or property resulting from volunteer participation at the California Community Center.

I understand and agree that this Waiver may be used by the Louisville/Jefferson Metro Government or Louisville Parks and Recreation as a counterclaim to or defense in bar or abatement of any action of any kind whatsoever, brought, instituted, or taken by or on my behalf on account of claim or claims against the Louisville/Jefferson Metro Government or Louisville Parks and Recreation or the agents or employees thereof. I expressly stipulate and agree to indemnify and hold harmless the Louisville/Jefferson County Metro Government, Louisville Parks and Recreation, and the agents or employees thereof, against any loss, including costs and fees, on account of any action brought against them by me or any person acting on my behalf, or any third parties for the purpose of enforcing any claim for damages arising out of my volunteer participation at the California Community Center, or for any damages or injuries that may result from my use of any equipment brought to or used by me at the California Community Center, or damages or injuries arising out of transportation to and from the California Community Center or any activities related to California Community Center.

I understand and agree that any injuries sustained by me will not be covered by the Louisville/Jefferson County Metro Government or Louisville Parks and Recreation, and that adequate medical insurance to cover such injuries must be acquired and maintained by me.

I have read, understand and consent to the volunteer participation at the California Community Center. I have read this release and consent to its terms.

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Signature

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Date