# **RESOLUTION NO. 23-05-42**

## FRANKFORT SQUARE PARK DISTRICT

# A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN THE LINCOLNWAY SPECIAL RECREATION ASSOCIATION, THE CRETE PARK DISTRICT, THE FRANKFORT PARK DISTRICT, THE FRANKFORT SQUARE PARK DISTRICT, THE MANHATTAN PARK DISTRICT, THE MOKENA COMMUNITY PARK DISTRICT, THE NEW LENOX COMMUNITY PARK DISTRICT, THE PEOTONE PARK DISTRICT, AND THE WILMINGTON ISLAND PARK DISTRICT FOR THE CONTINUATION OF THE ADDITIONAL CONTRIBUTION FOR CAPITAL PROJECTS TO THE LWSRA FACILITY

**WHEREAS**, the Frankfort Square Park District (the "Park District") is a unit of local government duly organized under the Illinois Constitution and laws of the State of Illinois; and

**WHEREAS**, the Park District derives its rights, power, and authority from the various sections of the Illinois Park District Code (70 ILCS 1205/1 *et seq*.) (the "Code"); and

WHEREAS, the Lincolnway Special Recreation Association (the "LWSRA") is a duly organized special recreation association organized and operating under the Constitution and laws of the State of Illinois; and

WHEREAS, the LWSRA is comprised of the Crete Park District, the Frankfort Park District, the Frankfort Square Park District, the Manhattan Park District, the Mokena Community Park District, New Lenox Community Park District, the Peotone Park District, and the Wilmington Island Park District (collectively, the "Member Districts"); and

WHEREAS, the Park District Board of Commissioners is authorized to enter into an Intergovernmental Agreement to combine, share, or jointly exercise their respective powers and authorities in any manner not otherwise prohibited by law pursuant to Article 7, Section 10 of the Illinois Constitution of 1970 and the Intergovernmental Cooperation Act (5 ILCS 220/1, et seq.); and

WHEREAS, the Park District Board of Commissioners believes that it is in the best interests of the Park District to enter into the Intergovernmental Agreement by and between the Lincolnway Special Recreation Association, the Crete Park District, the Frankfort Park District, the Frankfort Square Park District, the Manhattan Park District, the Mokena Community Park District, the New Lenox Community Park District, the Peotone Park District, and the Wilmington Island Park District for the continuation of the additional contribution for capital projects to the LWSRA facility.

**NOW, THEREFORE, BE IT RESOLVED** by the President and the Board of Park Commissioners of the Frankfort Square Park District, Will County, Illinois as follows: **SECTION ONE:** The foregoing recitals are incorporated herein and made a part of this Resolution.

**SECTION TWO:** The Intergovernmental Agreement by and between the Lincolnway Special Recreation Association, the Crete Park District, the Frankfort Park District, the Frankfort Square Park District, the Manhattan Park District, the Mokena Community Park District, the New Lenox Community Park District, the Peotone Park District, and the Wilmington Island Park District for the continuation of the additional contribution for capital projects to the LWSRA facility (attached hereto as Exhibit A) shall be and is hereby approved, and the President and Board Members of the Board of Park Commissioners are hereby authorized and directed to execute said Agreement in substantially the form attached hereto.

**SECTION THREE:** All policies, resolutions and prior agreements of the Park District which conflict with the provisions of this Resolution shall be and are hereby repealed to the extent of such conflict.

**SECTION FOUR:** This Resolution shall be in full force and effect from and after its passage as provided by law.

PASSED AND APPROVED this 18<sup>th</sup> day of May 2023.

Ayes:	 	 	 
Nays:	 	 	
Absent:	 	 	 
Abstain:			

President, Board of Park Commissioners

ATTEST:

By:

Secretary Board of Park Commissioners FRANKFORT SQUARE PARK DISTRICT EXHIBIT A

# INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN THE LINCOLNWAY SPECIAL RECREATION ASSOCIATION, THE CRETE PARK DISTRICT, THE FRANKFORT PARK DISTRICT, THE FRANKFORT SQUARE PARK DISTRICT, THE MANHATTAN PARK DISTRICT, THE MOKENA COMMUNITY PARK DISTRICT, THE NEW LENOX COMMUNITY PARK DISTRICT, THE PEOTONE PARK DISTRICT, AND THE WILMINGTON ISLAND PARK DISTRICT FOR THE CONTINUATION OF THE ADDITIONAL CONTRIBUTION FOR CAPITAL PROJECTS TO THE LWSRA FACILITY

THIS AGREEMENT made and entered into this \_\_\_\_\_day of \_\_\_\_\_\_, 2023 between the Lincolnway Special Recreation Association (the "LWSRA") and the Crete Park District, the Frankfort Park District, the Frankfort Square Park District, the Manhattan Park District, the Mokena Community Park District, New Lenox Community Park District, the Peotone Park District, and the Wilmington Island Park District (collectively, the "Member Districts"), all of which may be collectively referred to herein as the "Parties" or each of whom may be referred to as "Party".

# WITNESSETH:

WHEREAS, the LWSRA is a joint recreation organization duly organized and authorized under Section 8-10b of the Park District Code (70 ILCS 1205/8-10b) (the "Code"); and

WHEREAS, the Member Districts are Illinois park districts duly organized and operating under the Constitution and laws of the State of Illinois; and

WHEREAS, Article VII, Section 10 of the 1970 State of Illinois Constitution authorizes units of local government such as the LWSRA and the Member Districts to contract or otherwise associated among themselves in any manner not prohibited by law or by ordinance; and

WHEREAS, the Parties derive their rights, power and authority from the various sections of the and all other applicable State and Federal laws; and

WHEREAS, the Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.*, as amended, provides that any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity or undertaking which any of the public agencies entering into the contract is authorized by law to perform; and

WHEREAS, Section 8-10b of the Code authorizes Member Districts to enter into joint agreements to provide recreational programs for the handicapped; and

WHEREAS, the Member Districts are all Illinois taxing bodies, which support LWSRA's activities through tax monies and are beneficiaries of this Agreement; and

WHEREAS, the Member Districts and LWSRA executed a Lease Agreement on November 8, 2011 (the "Lease Agreement"), a copy of which is incorporated herein as Exhibit A, for the property located at 1900 Heather Glen Drive, New Lennox, Illinois, for the purpose of constructing a facility for LWSRA; and

WHEREAS, the Member District agreed pursuant to the Lease to provide an additional contribution of .0025% (1/4) cent of the Member District's Annual levy to fund the construction of a facility and pay off debt incurred for the construction of the facility; and

WHEREAS, the President and Board of Directors of the LWSRA and the Member Districts find and hereby declare that it is in the best interests of the Parties to continue to contribute an additional .0025% (1/4) cent of the Member District's Annual levy for the purpose of funding Capital Projects that's costs are greater than \$5,000.00 to the facility in order to ensure its ongoing functionality; and

WHEREAS, the Parties desire to enter into this Agreement to define their rights, duties and obligations;

NOW, THEREFORE, pursuant to statutory authority and their powers of intergovernmental cooperation, and in consideration of the mutual promises and covenants and conditions hereinafter set forth, it is agreed by and between the parties hereto as follows:

1. <u>Incorporation of Recitals</u>. The recitals set forth above are hereby incorporated into this Agreement as if fully set forth herein.

2. <u>Term.</u> The Term of this Agreement shall be an initial period of five (5) years (the "Initial Term") effective January 1, 2024, unless earlier terminated pursuant to this Section. The Agreement may be terminated during the Initial Term a) upon dissolution of the LWSRA; or b) withdrawal of the Member District from LWSRA pursuant to the notice provisions contained in Articles of Agreement for the LWSRA dated July 1, 1976, as amended (the "Articles").

3. <u>Additional Contribution</u>. LWSRA's Member Districts have heretofore approved an amount to be contributed by each Member District of up to an additional .0025% (1/4 cent) of the Member District's Annual Levy for Special Recreation (the "Additional Contribution"). The Additional Contribution may be used for capital projects at the facility located at 1900 Heather Glen Drive, New Lennox, Illinois. The Additional Contribution shall be limited to a .0025% (1/4 cent) of EAV increase in the annual contribution made by each Member District over and above the annual contribution referred to in Section 11 of the Articles. All remaining funds received by LWSRA before May 31, 2023, pursuant to the Lease Agreement, shall carry over and may be used in the same manner as future Additional Contributions as prescribed in this provision.

4. <u>Notice</u>. Notices shall be deemed properly given hereunder if in writing and either hand delivered or sent by certified mail or by email transmission with the sending Party retaining confirmation of receipt, to the Executive Directors of the Parties at their respective addresses, or as either Party may otherwise direct in writing to the other Party from time to time.

5. <u>No Third Party Beneficiaries</u>. Notwithstanding any provision herein to the contrary, this Agreement is entered into solely for the benefit of the contracting Parties, and nothing in this Agreement is intended, either expressly or impliedly, to provide any right or benefit of any kind whatsoever to any person or entity who is not a Party to this Agreement or to acknowledge, establish or impose any legal duty to any third party. No claim as a third party beneficiary under this

Agreement by any person, firm or corporation shall be made or be valid against the Member Districts or LWSRA.

6. <u>No Assignment</u>. This Agreement may not be assigned, in whole or in part, by either Party without the prior written consent of the other Party.

7. <u>Counterparts</u>. This Agreement may be executed in two or more counterparts, each of which, shall, in such event, be deemed an original, but all of which together shall constitute one and the same instrument.

8. <u>Modification in Writing</u>. This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior or contemporaneous agreements and understandings whether oral or written of the Parties in connection therewith. No modification of this Agreement shall be effective unless made in writing, signed by all Parties, and approved by the respective governing boards.

9. <u>Approvals</u>. Each party has taken all actions and obtained all necessary approvals from its governing board(s) in order to enter into this Agreement.

10. <u>Governing Law</u>. This Agreement shall be governed by and interpreted and enforced pursuant to the laws of the State of Illinois.

11. <u>Severability</u>. If any provisions, covenants, agreements or portions of this Agreement or its application to any person, entity or property is held invalid, such invalidity shall not invalidate any other portion of this Agreement. The Parties intend to be bound to this agreement even in the event that a portion of the agreement is declared invalid, in accordance with law.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed by their respective officers pursuant to the express authorization of their respective boards, as of the date set forth below.

LINCOLNWAY SPECIAL RECREATION ASSOCIATION	ATTEST
By: President	Secretary
CRETE PARK DISTRICT By:	ATTEST
President	Secretary
FRANKFORT PARK DISTRICT By:	ATTEST
President	Secretary
FRANKFORT SQUARE PARK DISTRICT	ATTEST
By:	<u> </u>
President	Secretary
MANHATTAN PARK DISTRICT	ATTEST
By:	
President	Secretary
MOKENA COMMUNITY PARK DISTRICT	ATTEST
By:	
President	Secretary
NEW LENOX COMMUNITY PARK DISTRICT	ATTEST
Bv.	
By: President	Secretary
PEOTONE PARK DISTRICT	ATTEST
By:	
President	Secretary
WILMINGTON ISLAND PARK DISTRICT	ATTEST
By:	
President	Secretary

# <u>EXHIBIT A</u>

#### LEASE AGREEMENT

This Lease Agreement is made this <u>Sth</u> day of <u>November</u>, 2011 by and between the Lincolnway Special Recreation Association, an Illinois not-for-profit corporation ("LWSRA"), its Member Districts, and the New Lenox Community Park District.

### <u>WITNESSETH</u>

WHEREAS, the New Lenox Community Park District an Illinois Park District and a municipal corporation is the owner of property located at 1900 Heather Glen Drive, New Lenox, Illinois; and

WHEREAS, LWSRA desires to construct and occupy an approximately 24,835 square foot building to be constructed on the aforesaid property of the New Lenox Community Park District; and

WHEREAS, LWSRA's Member Districts have heretofore approved an amount to be contributed by each Member District of up to an additional .0025% (1/4 cent) of the Member District's Annual Levy for Special Recreation; and

WHEREAS, LWSRA's Member Districts are all Illinois taxing bodies, which support LWSRA's activities through tax monies and are beneficiaries of this Agreement; and

WHEREAS, the New Lenox Community Park District and LWSRA may enter into a lease pursuant to 70 ILCS 1205/10-7a; and

WHEREAS, the New Lenox Community Park District desires to lease the land to LWSRA for the purposes of constructing a facility for administering and operating educational, recreation and leisure services for the disabled; and

WHEREAS, the parties further desire to enter into a written lease defining their rights, duties and liabilities;

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NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth herein, it is agreed by the parties hereto as follows:

**RECITALS INCORPOR.ATED IN LEASE AGREEMENT.** 

The foregoing recitals of fact are incorporated by reference as if fully set forth herein.

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# CONDITIONS PRECEDENT.

The parties recognize that the building, which is part of the subject matter of this Lease has not yet been constructed. The remaining subject matter of this Lease is the land, which is presently owned by the New Lenox Community Park District. As express conditions precedent to this Lease becoming effective, the New Lenox Community Park District agrees to use its best efforts, in conjunction with the Member Districts, to (a) assist in submitting an application for a 2010 Illinois Park and Recreation Facility Construction "PARC" Grant to be used for the construction of said building; (b) take any and all other steps, prior to actual construction, as may be reasonably necessary to effectuate construction of the building. In addition, this Lease is expressly conditioned upon the Department of Natural Resources approval of a Two Million Five Hundred Thousand and 00/100 Dollars (\$2,500,000.00) "PARC" Grant for the construction of a new facility. The parties at this time believe that the financing will be through receipt of a "PARC" Grant and the use of debt certificates issued by LWSRA for a total construction cost of \$4,136,601.83.

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# 3. FAILURE OF A CONDITION PRECEDENT.

The parties recognize that the New Lenox Community Park District will be required to assume certain expenses in preparation for the construction of the building and land to be leased to LWSRA and that those expenses will be incurred prior to the effective date of the Lease. LWSRA therefore promises and agrees, in consideration of the New Lenox Community Park District's performance of its pre-construction obligations, that LWSRA shall reimburse the New Lenox Community Park District for all of its pre-construction expenses within 60 days of receipt of an invoice from the New Lenox Community Park District. LWSRA and New Lenox Community Park District shall mutually agree in writing as to the scope and type of expenses which are appropriate to be incurred under this paragraph prior to the New Lenox Community Park District incurring any of the aforesaid expenses.

### 4. PREMISES TO BE LEASED.

The New Lenox Community Park District, in consideration of the rents to be paid and the covenants and agreements to be performed by LWSRA, does hereby lease to LWSRA the following described improved property (hereinafter referred to as the "Premises"):

The land located at 1900 Heather Glen Drive, New Lenox, Illinois, consisting of approximately 5.60 acres.

# USE

Said Premises may be used and occupied solely by LWSRA for the operation of its administrative offices and for recreation, education and leisure services.

### 6. <u>TERM</u>.

5.

This Lease Agreement shall become effective at the time that the LWSRA closes on the financing for the construction of the building and shall continue for a period of ninety-nine (99) years thereafter. At the expiration of this Lease Agreement, LWSRA shall have the option to lease the real estate for an additional ninety-nine (99) year period at the rate of Ten and 00/100 Dollars (\$10.00) per year, with the remaining terms to be the same as the current lease. LWSRA must give notice of its intent to exercise its option at least eighteen months prior to the current lease expiration date.

However, if LWSRA does not exercise the above option, or if, at any time during the term of this Lease Agreement, LWSRA dissolves either voluntarily or involuntarily, New Lenox Community Park District shall either:

A. Enter into a shared facility use agreement, with each Member District who is a participant in the Inter-governmental Agreement at its expiration, for the purpose of providing recreational programming for persons with disabilities that reside within the Member Districts, or

B. Contract with another Special Recreation Association ("SRA") to operate said facility for the benefit of the Member Districts, or

C. Restore the land to its original state prior to the entry of this Intergovernmental Agreement, or

D. Pay to each Member District who is a participant in the Intergovernmental Agreement at its expiration, a pro rata share of the building's then fair market value. The New Lenox Park District shall be allowed an agreed upon reasonable time in which to procure the necessary funding.

### 7. <u>RENTAL</u>.

LWSRA and its Member Districts agree to pay to the New Lenox Community Park District annual rent in a sum equal to ten and 00/100 dollars (\$10.00). The New Lenox Community Park District shall remain responsible to LWSRA for the payment of its proportionate share of the cost of the building construction as a LWSRA member.

Upon the dissolution or termination of LWSRA, the annual rent payment shall be equal to an average amount for similar property in the New Lenox area and paid on a monthly basis, unless otherwise agreed upon by the Member Districts. The New Lenox Community Park District shall give any subsequent tenant 60 days written notice of the increase in the monthly rent.

### 8. <u>LIMITATION OF LIABILITY</u>.

Notwithstanding the provisions of Paragraph 7, the Member Districts contributions toward the construction debt payments shall be limited to a .0025% (¼ cent) of EAV increase in the annual contribution made by each Member District over and above the annual contribution referred to in Section 11, as amended, of the Articles of Agreement of the LINCOLNWAY SPECIAL RECREATION ASOCIATION effective July 1, 1976, as amended-, to defray the cost of the construction of a new facility.

### UTILITIES.

9.

LWSRA agrees to pay, when due, all charges for gas, electricity, water, sewer and any other utilities furnished to and used in or about the Premises during the term of the Lease, which shall be separately metered.

# 10. MAINTENANCE AND REPAIRS.

LWSRA shall be responsible, at its own expense, for maintenance of the exterior and interior of the building, including vandalism and all necessary repairs and improvements, including, but not limited to, the pipes, plumbing, electrical wiring, roof and other structural portions of the Premises (including any minor structural alterations and improvements made by LWSRA). LWSRA shall provide, at its own expense, janitorial services to the Premises and shall be responsible, at its own expense, for painting the interior of the Premises. LWSRA shall also be responsible for maintenance of its nonstructural leasehold improvements. If LWSRA fails to maintain the property and/facility according to the minimum building standards and code of the Village of New Lenox, Illinois, then New Lenox Community Park District may, with 15 days advance notice, perform or contract out the required service. The Park District shall be entitled to reimbursement of any costs and expenses associated with this paragraph.

#### 11.

#### TAXES AND ASSESSMENTS.

In the event that any real estate taxes or general or special assessments shall become due during the term of this Lease, or any extensions thereof, as a result of LWSRA's occupancy of the Premises under the terms of this Lease Agreement, LWSRA agrees to pay promptly for its share of said lawfully imposed taxes or assessments (i.e., if LWSRA is the sole tenant, it shall pay

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the entire amount due). LWSRA may judicially challenge, solely at its own expense, any loss of tax exempt status as currently accorded the Premises.

# 12. INSURANCE.

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LWSRA agrees to provide and maintain necessary fire and extended coverage insurance on the building, contents and all fixtures and equipment owned by LWSRA and located on the Premises. Each of the parties will carry and maintain public liability insurance insuring the New Lenox Community Park District and LWSRA as their interests may appear in amounts not less than: (1) ONE MILLION DOLLARS (\$1,000,000.00) combined single limit (CSL) for injury to or death of one or more persons in any one occurrence; and (2) FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) for damage to or destruction of any property of others. LWSRA shall also maintain workers' compensation insurance at its sole cost and expense. Such policies or duly executed certificates of insurance shall be promptly exchanged by the New Lenox Community Park District and LWSRA, and renewals thereof as required shall be delivered to either party at least thirty (30) days prior to the expiration of the respective policy terms. To the extent practicable, casualty insurance proceeds shall be used to repair or reconstruct any damage to the building and facilities.

LWSRA agrees to defend, indemnify and hold the NEW LENOX PARK DISTRICT harmless of, from and against any loss, claim, damage or liability, including reasonable attorneys' fees incurred or sustained at any time by the NEW LENOX PARK DISTRICT, arising from LWSRA use, maintenance, repair or improvement of the building, except those caused by the negligent acts or omissions of the New Lenox Park District. Conditions and events existing on the Premises prior to the date of this Agreement are expressly excluded from the terms of this paragraph, except to the extent those preexisting conditions are expanded or worsened by LWSRA or its agents on or after the effective date of this lease agreement.

### 13. ALTERATIONS BY LWSRA

LWSRA shall have the right to install any equipment or other improvements needed for the conducting of its business, including, but not limited to, the erection of partitions, bins, equipment and shelving, which items shall remain the property of LWSRA and which LWSRA may, at its option, remove from the Premises during or at the expiration of this Lease. LWSRA shall be responsible for and make all repairs resulting from the damage or defacement of the Premises by the removal of its property during or at the termination of this Lease. LWSRA may make structural alterations (i.e., moving or adding walls, lowering ceilings, etc.) to the Premises. Any future additions to the building shall require the approval of the New Lenox Community Park District. Said approval shall not be unreasonably withheld.

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### GOVERNMENTAL REGULATIONS.

LWSRA at its sole cost and expense shall comply with all requirements of state, federal and local governmental authorities with respect to its use of the Premises as well as the requirements of any licensed and regulated utility company in the State of Illinois. LWSRA shall promptly obtain and maintain at its cost and expense at all times any required licenses, certificates or variations of the zoning laws. LWSRA shall correct any violations of any federal, state or applicable local rules, statutes, regulations or ordinances within 30 days or such reasonable extension of time as is mutually agreed upon.

#### 15.

### SUBLET AND ASSIGNMENT.

LWSRA shall not sublet the Premises or any part thereof during the term of this Lease or any extension. This Lease is not assignable by either party without the express written consent of the

other party obtained, which consent shall not be unreasonably withheld. New Lenox Community Park District agrees that LWSRA may, from time to time, allow the temporary use of a portion of the Premises by another individual or organization upon any terms and conditions which LWSRA deems necessary.

### 16. <u>REPAIR AFTER CASUALTY.</u>

Both parties will not be relieved of their obligations under this Lease during any period in which the Premises are damaged by fire or other loss. In the event of casualty damage, LWSRA, at its sole cost, will repair such damage in a manner mutually acceptable to LWSRA and the New Lenox Community Park District.

# 17. <u>NOTICE.</u>

Any notice or consent required to be given by or on behalf of either party to the other shall be in writing, shall be given by mailing such notice or consent by registered or certified mail, addressed to the other party at the address herein below specified, or at such other address as may be specified from time to time in writing by either party:

TO LESSEE:

Lincoln Way Special Recreation Association

TO LESSOR:

New Lenox Community Park District

# MODIFICATIONS.

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18.

The entire agreement between the parties is contained in this Lease Agreement. No modification or amendment of this Lease Agreement shall be of any force or effect unless it shall be in writing and signed by all parties hereto.

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# 19. SUCCESSORS AND ASSIGNS.

The rights and obligations of this Lease are binding upon the parties hereto and their respective successors.

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### 20. <u>REASONABLE CONSENT</u>

Wherever this Lease Agreement provides for or otherwise requires the consent of either party to any action or forbearance to act by the other Party, it is agreed that the said consent shall not be unreasonably withheld.

### 21. COUNTERPARTS

This Lease Agreement may be executed in two or more counterparts, each of which shall, in such event, be deemed an original, but all of which together shall constitute one and the same instrument.

# 22. <u>DEFAULT</u>

In the event of default, by either party, the defaulting party shall have thirty days (30) in which to cure the default. The defaulting party shall pay all reasonable attorneys' fees and costs incurred by the other in enforcing the terms and provisions of this Agreement, including defending any proceeding to

which LWSRA or NEW LENOX PARK DISTRICT is made a party defendant as a result of the acts or omissions of the other party.

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IN WITNESS WHEREOF, the parties have executed this Lease Agreement by the authorized officers as of the day and year first above written.

## LINCOLNWAY SPECIAL RECREATION ASSOCIATION

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BY: PRESIDENT

### NEW LENOX COMMUNITY PARK DISTRICT

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BY: PRESIDENT

IN WITNESS WHEREOF, each Member District has caused this LEASE AGREEMENT to be executed by their President and attested to by its Secretary pursuant to resolution of the Board of Park Commissioners of the Member Districts.

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