

RESOLUTION NO. 2024-11

A RESOLUTION AUTHORIZING A LEASE AGREEMENT BETWEEN THE CITY AND THE BOARD OF GOVERNORS OF MISSOURI STATE UNIVERSITY FOR THE PURPOSE OF LEASING TO THE UNIVERSITY CERTAIN SPACE WITHIN THE WEST PLAINS CIVIC CENTER FOR OFFICE, STORAGE AND CERTAIN TYPES OF EVENTS

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST PLAINS, MISSOURI AS FOLLOWS:

Section 1: The City Council hereby authorizes a lease agreement between the City and the Board of Governors of Missouri State University. The lease agreement shall be substantially the same in form and content as that document attached hereto as Exhibit 1.

Section 2: The City Administrator is hereby authorized to execute the lease agreement on behalf of the City of West Plains.

Section 3: This Resolution shall be in full force and effect immediately following its passage and approval as provided by law.

PASSED AND APPROVED THIS ____ DAY OF _____, 20__.

CITY OF WEST PLAINS, MISSOURI

MAYOR MICHAEL TOPLIFF

ATTEST:

CITY CLERK KELLIE MAYERS

West Plains Civic Center

LEASE AGREEMENT

This Lease Agreement (“Agreement”) is entered into this first day of 1 July, 2024 by and between the City of West Plains and The West Plains Civic Center Board, hereinafter referred to as “Lessor”, and the Board of Governors of Missouri State University, hereinafter referred to as “Lessee.”

1. **Factual Recitals:** The City of West Plains owns and operates the West Plains Civic Center a popular facility for everything from concerts to circuses, stage shows to athletic events and conferences to conventions. Because of its ideal location, the West Plains Civic Center serves the cultural and entertainment needs of south central Missouri and north central Arkansas. The West Plains Civic Center is located at 110 Saint Louis Street, West Plains, Missouri, is easily accessible by major highways, and draws audiences from a survey area of 120,000 people in a 60-mile radius of West Plains.
2. **Lease:** Lessor agrees to lease office and storage space for the athletic teams on the second floor (consistent with the athletic office designations on the floor plan on the attached Appendix D) and use of event and meeting space as scheduled to the Lessee to be used for certain Missouri State University - West Plains functions.
3. **Commencement Date and Term:** This Agreement shall commence on July 1, 2024 and end on June 30, 2025.
4. **Payment:** In consideration of the leasing of said facility, Lessee shall pay Lessor the sum of One Hundred TwentySix Thousand One Hundred Sixty-Eight Dollars (\$126,168.00) for the year. The amount is to be paid in twelve monthly payments of Ten Thousand Five Hundred Forteen Dollars (\$10,514.00) with the first payment due and payable on the first of July, 2024 and each succeeding payment becoming due and payable on the first of day of each month through June 1st, 2025

Any further increases to this annual renewal contract will be set by the December CPI (Consumer Price Index) in the year of the current contract.

5. **Energy Conservation:** Both the Lessor and the Lessee agree to implement practices to conserve energy. A four-person task force, two people from each party, will be formed to create and/or update energy management guidelines. These guidelines should be followed by all parties and presented to the Civic Center Board yearly.
6. **Security:** Both the Lessor and the Lessee agree to use good faith efforts to implement practices to improve security. A four-person task force, two people from each party, will be formed to create and/or update security guidelines, giving due consideration to the financial conditions and limitations of the parties. These guidelines should be followed by all parties and presented to the Civic Center Board yearly.

Lessor shall furnish Lessee keys to access facility as it complies with the guidelines set forth by the security task force.

7. **Maintenance:** Lessor will be responsible for the maintenance of the entire facility. Office and storage space for the athletic teams on the second floor will be cleaned by the Lessee.

The Lessee shall not create any unsafe conditions on the second floor and shall timely advise the Lessor of any known maintenance needs or issues pertaining to the second floor, including any safety concerns.

8. **Facility Modifications and Alterations:** Lessee shall not construct, install, remove, modify, or repair any of the leased premises without prior approval of the City. The City shall not arbitrarily or capriciously withhold such approval but such approval is contingent upon approval by the City Administrator or his designee of plans and specifications for the proposed project as well as other operating conditions that the City Administrator considers necessary.

Lessor shall have all rights pertaining to signage inside and outside of the facility and shall have the right to exercise the option for future contracts. With Civic Center Director approval, athletic sponsors may display promotional signage.

As an exception, Lessor shall allow Lessee to display athletic recognition banners, college bookstore banner, a media/scorer table with promotional advertisement and an athletic trophy case in the facility. Lessor's Board must approve location.

Lessee shall have the right to fundraise by selling vinyl banners to be hung in arena as outlined in Appendix E.

9. **Damages:** Lessee will be responsible for all costs and/or expenses from damage or defacement, either intentional or by neglect, of the leased area caused by the Lessee's employees, guests or invitees.
10. **Insurance:** Lessor will carry property, casualty, and extended coverage insurance on the facility for its full insurable value (less such deductible as the Lessor chooses), and in the event of loss by fire, windstorm or other insured cause, will cause the facility to be repaired or replaced. During the period of such repairs or replacement, payment shall be abated to the extent, and during the period, that the facility is not usable, or is not fully usable, for its intended purposes. If repairs or restoration is expected to take longer than forty-five (45) days from the date of the loss, Lessee may terminate this Agreement by giving the City written notice of its intention to do so. LESSOR WILL NOT CARRY ANY INSURANCE ON THE CONTENTS OF THE LEASED AREA, AND LESSEE IS ADVISED TO OBTAIN COVERAGE FOR LESSEE'S PROPERTY.

As a Missouri public institution of higher education, Lessee does not maintain general liability insurance, nor can it agree to indemnify and hold harmless an individual entity. Instead, the University relies on the State Legal Expense Fund, as set forth in Mo. Rev. Stat. § 105.711 and as administered by the Office of the Attorney General of the State of Missouri.

11. **Liability of Parties:**

Each party shall be responsible for its own acts and omissions and shall be liable for payment of that portion of any and all claims, liabilities, injuries, suits, and demands and expenses of all kinds that may result or arise out of any alleged malfeasance or neglect caused or alleged to have been caused by said party, its employees, agents, or subcontractors, in the performance or omission of any act or responsibility of said party under this Agreement. In the event that a claim is made against both parties, it is the intent of both parties to cooperate

in the defense of said claim and to cause their insurers to do likewise. Both parties shall, however, retain the right to take any and all actions they believe necessary to protect their own interests.

No provision of this Agreement shall constitute a waiver of either party's right to assert a defense based on the doctrines of sovereign immunity, official immunity, or any other immunity available under law.

12. **Right of Entry:** Lessor shall have the right to enter the leased area for routine inspection to ensure compliance with sections 5,6,7,8 and 9 of this Agreement, provided, however, that, except in the case of an emergency, the parties shall work together in good faith to coordinate the dates and times of such inspections to ensure that such inspections do not interrupt Lessee's business operations.

13. **Scheduling Shared Areas:** Lessee will provide a schedule of Missouri State University - West Plains events to Lessor, for the term of this Agreement, no later than the fifteenth day of April preceding the commencement date of the Agreement. Any objections to that schedule of events will be returned to the Lessee within ten (10) days. Conflicts in scheduling will be resolved through provisions in section 14. Lessee will notify Lessor of any schedule changes no less than one week prior to the event, or sooner when possible, to permit Lessor to offer the dates to other contractors. Schedule changes are subject to time and space availability.

Lessor will make every effort to allow daily practice times either in the arena or the exhibit hall. However, Lessor may need to contract for events at times which will utilize both spaces. Lessor can schedule events during athletic practices; however, Lessor will pursue events judiciously in recognition that athletic practices are vital to team performance. Lessor will make every effort to not schedule events during scheduled practice times on the day before a scheduled athletic event, such as basketball games and volleyball matches.

Lessor reserves one weekend per month for events in arena and exhibit hall or as agreed by both parties.

14. **Scheduling Conflicts:** The Civic Center Director and University/ Community Programs Director will review the schedule. It shall be their responsibility to resolve any conflicts between the scheduling of events. If unable to reach a consensus, the Civic Center Board will have final resolution authority. It is agreed that the party initiating the change in schedule will be responsible for reimbursement of any additional cost incurred to relocate the events.

15. **Staffing Events:** Lessor will provide such staffing as Lessor requires, e.g., housekeeping, ushers, ticket-takers, ticket sellers, stagehands, security and EMT personnel for events at Lessee's expense. Lessor will actively supervise such staffing to ensure satisfactory performance standards are met. Lessor will determine minimum and maximum staffing requirements and provide wage rates with an estimated annual cost as shown in Appendix A.

Lessor shall furnish staff at Lessee's expense for Missouri State University events held in the Civic Center. Staffing requirements shall be as follows:

For each Grizzly basketball and volleyball game or tournament Lessor shall furnish one EMT; at least one security police and at least two but no more than four ticket takers and ushers; no more than two housekeepers and at least one but no more than four servers for the Grizzly Room.

For each theater event Lessor shall furnish EMT, security police, housekeepers, ticket sellers, ushers and/or ticket takers according to prior arrangement.

For catered events Lessor shall furnish at least one but no more than four housekeepers.

Lessor shall be responsible for determining what time staff is to report to work and what time they shall be dismissed. Lessor shall provide staff with guidelines covering responsibilities and conduct to be followed while on duty at the Civic Center. Requests by Lessee shall be made to the Civic Center Director.

Lessor shall furnish staff at Lessee expense for the cleaning up, setting up and tearing down of any equipment incidental to Lessee's use. Lessee may provide additional services and personnel as needed. When provided by Lessee, Lessee shall be responsible for cleaning up, setting up, and tearing down any equipment incidental to Lessee's use. To the extent Lessee's employees are injured while cleaning up, setting up and tearing down such equipment, Lessee maintains protection under the State Legal Expense Fund, RSMo. 105.711. (Appendix C)

Lessee will provide worksheets indicating the staff and equipment requirements no less than one week prior to events. A three-day notice is required for any additional event staffing request.

16. **Equipment Usage and Storage:** Lessee will be charged the rental fee for the usage of Civic Center equipment that is normally charged to other Lessees. The West Plains Civic Center Rental Worksheet which includes fees is attached. (Appendix A)

Lessor will be charged the rental fee for the usage of Lessee's equipment. Missouri State University - West Plains Rental Property - Per Day Charges Worksheet which includes fees is attached. (Appendix B)

Each party shall be responsible for the movement and maintenance of their own property, regardless of who has rented the equipment.

Lessee is required to properly store all athletic equipment after each practice, game and match.

17. **Concessions, Gate Receipts and Vendors:** Lessor shall retain the concession operations at all events; however, Lessee may sell Missouri State University-West Plains apparel and other non-food items at Missouri State University-West Plains athletic events.

Lessee will retain all gate receipts for Missouri State University-West Plains' activities. Lessor will provide ticketing service for the Lessee events that include a One Dollar (\$1.00) ticketing fee charged and retained by the City. The City will provide to the University payment of the gate receipts (total ticket price minus the ticketing fee) by the 10th of the next month after the event. The Lessor will be responsible for submitting sales tax owed to the State of Missouri for each gate receipt. A detailed accounting to be furnished to the Lessee with each payment of gate receipts to outline gate receipts by game and sales tax paid.

Lessor will coordinate with Lessee concerning requests by vendors, profit or non-profit for vending space in the public areas of the center during Lessee events.

Both parties understand that food brought into the facility must be from an approved caterer or approved by the Civic Center Executive Director. If caterer charges for food, a 10% catering fee is due to the Civic Center. If food is complimentary, no fee is due. This includes all functions at the facility, e.g., athletic events, camps, leagues. The exception is a catering policy for the University/ Community Programs Department.

18. **Grizzly:** Both parties understand that the Missouri State University-West Plains Grizzly Grizzly Club may purchase, bring in and serve prepackaged food to Grizzly club members in the blue room, provided such food is approved by the Civic Center Executive Director or Lessor Board of Directors, which approval shall not be unreasonably withheld. The club may not sell any food items, and if popcorn and carbonated soft drinks, juice or bottled water is used in the blue room, it must be purchased from Lessor. If the current beverage supplier agrees to donate product and credits the Civic Center for that amount of product, this is an acceptable exception to the preceding sentence. The club is responsible for ordering products and supplies necessary for the blue room.

When Lessee's usage is for an athletic event, the Missouri State University-West Plains Grizzly Club shall have control and exclusive use of the south and east parking lots at the Civic Center, as in the areas contracted in the 2000-2001 year and any additional areas as agreed by both parties. Lessee agrees to provide parking permits to Grizzly club members. Lessee will be responsible for controlling access to the blue room. Lessor will be responsible to actively supervising staff that support inside blue room.

19. **Compliance:** The parties intend and agree that the provisions of this contract shall be governed by §70.210-320 R.S. Mo., and the officers identified herein are authorized and vested with the powers as set forth herein, consistent with the purpose of the joint venture as described herein.

The parties each agree that in the performance of this contract, each shall comply with the applicable laws and regulations, including (where applicable), Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq.; Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq.; Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681; The Americans with Disabilities Act 42 U.S.C. § 12101 et seq.; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794; the Civil Rights Acts of 1866 and 1871, 42 U.S.C. §§ 1981 and 1983; and Executive Order 11246. More specifically, the parties agree that in the performance of the contract they will not discriminate on the basis of race, color, national origin (including ancestry, or any other subcategory of national origin recognized by applicable law), religion, sex (including marital status, family status, pregnancy, sexual orientation, gender identity, gender expression, or any other subcategory of sex recognized by applicable law), age, disability, veteran status, genetic information, or any other basis protected by applicable law.

IN WITNESS WHEREOF, the parties have executed this contract as the duly authorized representative of their respective governing boards.

BOARD OF GOVERNORS,
MISSOURI STATE UNIVERSITY

Date

By _____
Chancellor, Missouri State University, WP

CITY OF WEST PLAINS

Date

By _____
Mayor

Attest:

City Clerk

Attachments:

- Appendix A - West Plains Civic Center Rental Worksheet and Standard Setup
- Appendix B - Missouri State University - West Plains Rental Property - Per Day Charges Worksheet
- Appendix C - State Legal Expense Fund, RSMo. 105.711
- Appendix D - Floor Plan
- Appendix E – Banner Fundraiser Agreement

Appendix A
West Plains Civic Center Rental Worksheet
(Rates Effective July 1, 2024)

Work Order # _____ Date: _____ Date(s) of Event: _____
Day(s) of Week _____

WPCC Rep. _____ Event Start Time: _____

Load in: _____ Name of Event: _____

Load out: _____ Co. Name _____

Contact: _____ Address: _____

Phone: _____

Deposit: _____ ages of kids for swimming _____
e-mail address _____ Number of Attendees: _____

<u>Room Name:</u>	<u>Commercial</u>	<u>Non-Profit</u>	<u>#days</u>	<u>Total</u>
Arena & Ex Hall	\$1700	\$900	_____	_____
Arena Move In/Out	\$400*	\$200*	_____	_____
Arena Floor Change	\$500**	\$500**	_____	_____
Dogwood 1	\$80	\$60	_____	_____
Dogwood 2	\$60	\$40	_____	_____
Dogwood 3	\$80	\$60	_____	_____
Dogwood 1 & 2	\$150	\$100	_____	_____
Dogwood 2 & 3	\$150	\$100	_____	_____
Dogwood 1 & 2 & 3	\$200	\$150	_____	_____
Exhibit Hall	\$500	\$350	_____	_____
Lobby (West)	\$75	\$50	_____	_____
Magnolia	\$250	\$175	_____	_____
Mezzanine	\$75	\$50	_____	_____
Redbud & Gohn	\$130	\$90	_____	_____
Theater	\$500	\$300	_____	_____
Theater Move In/Out	\$100*	\$50*	_____	_____
Standard Rooms				
Redbud _____ \$25/hour	\$15/hour (NP)	\$80/day	_____	_____
Gohn _____ \$25/hour	\$15/hour (NP)	\$80/day	_____	_____
Walnut _____ \$25/hour	\$15/hour (NP)	\$100/day	_____	_____
Grounds				
East/South Parking Lot	\$200	\$125	_____	_____
East Lawn	\$200	\$125	_____	_____

*Per day during business hours

**No arena floor charge for MSU, except end of basketball season to August 1 rate is \$250 per change.

K-12 School Rental Rate is 40% of Commercial Rate for A/Exhall/TH other rooms Non-Profit Fee

NOTE: Rental of meeting rooms and theater includes tables, chairs and table skirting as required.

Arena or Exhibit Hall staging, floor chairs and other equipment and support services are not part of rental rate.

Set-Up-Style

Theater – chairs with skirted head table

Banquet – 5 ft. or 8 ft. tables with chairs

Classroom – 8 ft. tables with chairs, skirted head table and skirted food tables

<u>EQUIPMENT:</u>	Qty.		Total
Booths w/drapes	_____	\$ 17.50	_____
Cassette/CD Player	_____	\$ 10.00	_____
Chairs	_____	\$ 0.50	_____
Easel	_____	\$ 2.50	_____
Elec. Hook-up	_____	\$ 10.00 day	_____
Erasable Board	_____	\$ 10.00	_____
Flip Chart	_____	\$ 5.00	_____
Media/Projector Cart	_____	\$ 2.50	_____
Microphone, Lapel or Wireless	_____	\$ 5.00	_____
Pipe & Drape	_____	\$ 1.50 ft.	_____
Pipe w/o Drape	_____	\$ 1.00 ft.	_____
Podium w/Sound	_____	\$ 5.00	_____
Podium w/o Sound	_____	\$ 2.50	_____
Portable, Sound System	_____	\$ 25.00	_____
Projector	_____	\$ 25.00	_____
Projector Screen 5'	_____	\$ 5.00	_____
Projector Screen 12'	_____	\$ 200.00 (\$100 2 nd day)	_____
Staging	_____	\$ 10.00 section	_____
Table 8' Long w/chairs	_____	\$ 5.00	_____
Table 8' Long w/o chairs	_____	\$ 3.00	_____
Table 8' Long, skirted	_____	\$ 4.00	_____
Table 5' Round w/chairs	_____	\$ 5.00	_____
Table 5' Round w/o chairs	_____	\$ 3.00	_____
Table 5' Round skirted	_____	\$ 4.00	_____
65' Flat Screen with webcam	_____	\$ 25.00	_____
<u>STAFFING:</u>			
Management on Duty	_____	\$ 17.50/hr	_____
EMT	_____	\$ 45.00/hr	_____
Housekeeping	_____	\$ 17.50/hr	_____
Police	_____	\$ 35.00/hr	_____
Stagehands/Security in house	_____	\$ 17.50/hr	_____
Ticket Sellers	_____	\$ 17.50/hr	_____
Ticket Takers/Ushers/Door Guards	_____	\$ 17.50/hr	_____
<u>SERVICES:</u>			
Box Office vs. 3% or which is Greater	_____	\$100.00	_____
Operations Fee for Ticketed Events	_____	\$1.00 per ticket	_____
Credit Card Fees	_____	4% of Gross Sales	_____
Novelties Sales	_____	20% of Gross Sales	_____
Photocopies	_____	\$0.20 each	_____
Food Truck/RV Electrical Hookup	_____	\$35.00per day	_____
<u>FOOD SERVICES:</u>			
Catering Fee	_____	10% of Gross	_____
Coffee	_____	\$30/\$42 with cups	_____
Food Handling Fees	_____	\$15.00/hr	_____
Ice per barrel	_____	\$ 5.00	_____
20 oz. Soda in ice in cooler	_____	\$ 1.34 bottle	_____
Water 20 oz.	_____	\$ 0.25 bottle	_____
Popcorn	_____	\$ 1.00 per cup	_____
			Total _____

Notes:

- 1.
- 2.
- 3.
- 4.

Marquee _____

Copy to: Jim Eryn Scheduled

Appendix A (cont.)

ARENA AND EXHIBIT HALL STANDARD AREA SET-UPS

Maximum athletic event setup requirements

Use of the arena floor

Use of scoreboard and goals/nets

Table skirted and two chairs in east lobby

Tables skirted w/chairs as required for incidental use

Tables skirted for university sales with electrical support

Equipment provided for band setup- (as needed)

platforms, chairs, pipe and drape

Announcer table with 10 chairs

to include announcer microphone, connection of scoreboard control, shotclock control, and dunk monitor control units

Missouri State University - West Plains team chairs

Sound system for announcer and national anthem

Locker rooms, one per team, additional rooms as necessary for multiple team tournaments

Locker room for game officials

Use of exhibit hall for tournaments

Score-table and team chairs

Chairs for spectators

Hospitality area for visiting team and coaches when required

Six round tables skirted and four banquet tables skirted for Grizzly Booster Club room

***Floor should be dust mopped two hours prior to the game and during half-time.**

***Volleyball and basketball practice setup to include scoreboards with scoreboard and shot clock control unit.**

Appendix B

MISSOURI STATE UNIVERSITY-WEST PLAINS RENTAL PROPERTY – PER DAY CHARGES

Team Logo Chairs	\$25
Sportcourt	\$100
Basketball portable goal	\$25 per goal
Basketball affixed goals – East/West	\$25
Volleyball net/poles	\$25
Volleyball official stand	\$10
Projection Screen 10.6’x14’	\$ 200 (\$100 second day)
Projector – 7000 lumens	\$ 250

Appendix C



Jeremiah W. (Jay) Nixon
Governor

Doug Nelson
Acting Commissioner

State of Missouri
OFFICE OF ADMINISTRATION
Division of General Services
760 Truman Building, 301 West High Street
Post Office Box 809
Jefferson City, Missouri 65102
INTERNET: <http://www.ga.mo.gov/ga>

Mark S. Kaiser
Director of General Services

FAX (573) 751-7819

April 27, 2012

City of West Plains:

RE: Request for Proof of Insurance

This certifies that Missouri State University, its agencies, officials and employees are protected from causes of action under Missouri law and all other courts of competent jurisdiction to the extent as defined by the State Legal Expense Fund, Chapter 105.711 RSMo.

This fund is administered cooperatively by this office and the Office of Attorney General.

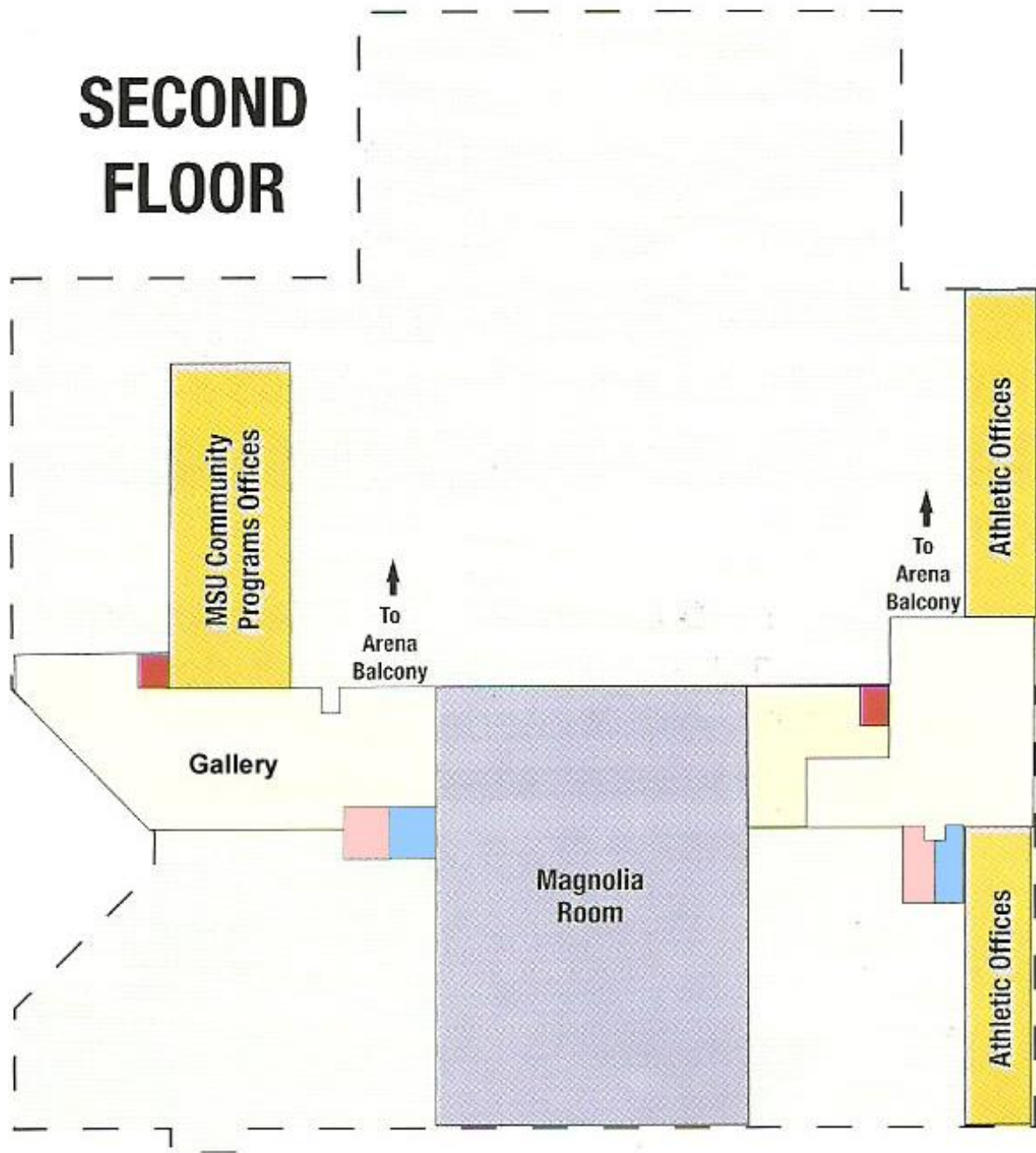
Any claim against the Missouri State University, its agencies, officials or employees should be made to this office.

Sincerely,

A handwritten signature in blue ink that reads "Rebecca L. Lane".

Rebecca L. Lane
Risk Management Specialist
Risk Management Section
573/751-4044
573/751-7819 fax

Appendix D



Appendix E

MSU-West Plains & West Plains Civic Center Banner Fundraiser Agreement

Missouri State University – West Plains (MSU-WP) will be solely responsible for fundraising for sponsors to be recognized by a vinyl banner displayed in the Civic Center pursuant to this Agreement. The purpose of this fundraising is to help offset the cost of the MSU-WP athletic program.

Banners will hang between the columns on the north side of the gym floor beginning in September of each year and will be taken down prior to the setup of MSU-WP commencement (“Display Period”). The banners will remain displayed at all events held in the West Plains Civic Center (WPCC) during the Display Period, unless otherwise agreed to by the parties.

- Banners will be 2’ tall by 6’ wide.
- Banners will be hung from left (west) to right (east) in alphabetical order unless otherwise agreed upon by the parties.
- Banners will be made from a vinyl/canvas material, unless otherwise agreed to by the parties.
- MSU-WP will offer sponsors three different levels of banner purchase. (No in-kind trade outs will be accepted.)
 - The banner directly below the Slam Dunk/3-point board, north end scoreboard, or south end scoreboard are \$750 each.
 - All other banners are sold for \$500.00
- Preliminary banner cost is approximately \$40 per banner.

The WPCC will be responsible for installation of the banners for display including attaching wires and banners, which are to be attached to on all four corners of the banner. If there are any modifications after the initial hanging, MSU-WP will make arrangements with WPCC.

Payment documentation of all banners will be provided to the WPCC from MSU-WP.

In consideration for WPCC’s installation of banners, MSU-WP will pay to WPCC within thirty (30) days from the end of each calendar year a sum reflecting fifteen percent (15%) of MSU-WP’s proceeds from the banner fundraiser. MSU-WP’s proceeds will be calculated by subtracting the cost of banners from the amounts received from banner purchases.

The Parties agree that either party for any reason may terminate this, Appendix E, without terminating the Agreement.