

**MEMORANDUM OF UNDERSTANDING BETWEEN THE UNIVERSITY OF  
THE SOUTH AND SEWANEE CIVIC ASSOCIATION**

This MEMORANDUM OF UNDERSTANDING (MOU) made this \_\_\_\_ day of \_\_\_\_\_, 2015 by and between the University of the South (University) and the Sewanee Civic Association (SCA).

University has provided improved/site ready land free of charge for the purpose of a community playground at Elliott Park in exchange for SCA's agreement to construct and oversee the playground for the safe and efficient use of the equipment by the public.

In consideration of the mutual promises set forth herein, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **TERM/TERMINATION**. This MOU is for a period of five (5) years beginning on the date noted above and may be renewed upon terms mutually agreeable to the parties. The parties may mutually agree to terminate this MOU at any time. Failure to comply with the terms of this MOU may result in termination of this MOU and closure of the playground.

2. **RESPONSIBILITIES OF THE PARTIES:**

A. SCA agrees to the following action items:

1. Inspect, periodically, grounds inside the playground boundary. Take immediate action on minor items or notify PPS for more extensive action.
2. Prominently display the rules and regulations for the playground.
3. Maintain a point of contact to field comments, questions, and complaints.
4. Provide, at SCA expense, upon request from PPS, appropriate material (e.g. engineered wood fiber) to refresh the playground surface. Make available to PPS for their application.
5. Complete a semi-annual walk-through with the Grounds Manager or designee.

6. Secure and maintain the safety certificate provided by the vendor/contractor.
7. Oversee, and participate in a community build the installation of the playground equipment and sign off on the work of SCA's selected contractor and installer.

B. University agrees to the following:

1. Prepare, in conjunction and coordination with Gametime/Copponex and/or a University contractor, walk-about and discussions, the playground site.
2. ADA access is a key ingredient. Include upgrades to the parking lot adjacent. More specifically, University shall, within one year, at its expense, provide access, including handicap access, from such parking lot.
3. Complete periodic walk-throughs with the SCA for the purpose of verifying adherence to maintenance routine and make any changes necessary to work plan for needed maintenance.
4. Per communication in late July, 2015, ensure the University complies with the commitment to keep the SCA whole should the University ever require the playground site for other purposes. That commitment embodies the intention to move the existing equipment (or replace it) to a site of University's choice at no cost to the SCA. Acknowledge that the playground equipment is SCA property, funded, in large part, by community members.
5. Sewanee Civic Association shall remain the owner of all playground fixtures and equipment during the term of this agreement, and shall have the right to remove them at the expiration of the term hereof, whether expiration occurs as the result of the expiration of the term hereof or by default.

3. **NOTICE OF DEFAULT.** Should either party fail to perform on any of the responsibilities of the parties listed in paragraph 2, written notice shall be given to non performing party and that party shall have 30 days to correct the problems. Corrective action shall be confirmed with walk through inspection at the end of 30 days. Should problems not be corrected in a mutually satisfactory manner, the playground will be closed and the MOU terminated. Notice of default shall be mailed or hand-delivered to:

University: Provost, University of the South, 735 University Avenue,  
Sewanee, Tennessee 37383

Sewanee Civic Association: President of SCA, P.O. Box 222, Sewanee,  
Tennessee 37375

4. **RELATIONSHIP.** Neither SCA nor any SCA member or volunteer will for any purpose be considered employees or agents of the University. SCA assumes full responsibility for the actions of SCA's members and volunteers and is solely responsible for their supervision and control. This MOU does not constitute a lease or establish a landlord-tenant relationship; nor does it convey any interest in real property.
5. **INDEMNIFICATION AND HOLD HARMLESS.** As a material part of the consideration to the University, SCA agrees to assume all risks of loss from any cause and waives all claims against the University. SCA further agrees to indemnify and hold harmless the University, its trustees, regents, officers, agents, insurers and employees, against all claims, suits, liabilities, costs, damages and expenses (including reasonable attorney's fees) arising out of or in connection with the playground except loss caused by the University's sole negligence.
6. **SEVERABILITY.** The invalidity, illegality, or unenforceability of any provision of this MOU shall not affect the validity, legality, or enforceability of any of the other provisions of this MOU which shall remain effective.
7. **APPLICABLE LAW.** This MOU and the rights and obligations of the parties hereunder shall be construed in accordance with the laws of the State of Tennessee.
8. **AUTHORITY.** The individual signing below on behalf of SCA hereby represents and warrants that she/he is duly authorized to execute this MOU on behalf of SCA and that this MOU is binding upon SCA in accordance with its terms.

THE UNIVERSITY OF THE SOUTH

SEWANEE CIVIC ASSOCIATION

BY: \_\_\_\_\_  
JOHN SWALLOW, PROVOST

BY: \_\_\_\_\_  
AUTHORIZED OFFICER