

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (the “Agreement”) between Blue Grass Community Foundation, Inc. (“BGCF”), a Kentucky 501(c)(3) nonprofit community foundation, and Lexington-Fayette Urban County Government (“LFUCG”), an urban county government of the Commonwealth of Kentucky created pursuant to KRS Chapter 67A, through its Division of Parks and Recreation (“Parks”), is entered into on this 11th day of December, 2023 (the “Effective Date”).

I. Scope and Purpose:

Parks is a division of LFUCG that oversees more than one hundred city parks throughout Lexington-Fayette County, Kentucky. Parks works to improve the quality of life in Lexington-Fayette County by developing public green spaces to attract participation from diverse segments of the population and drive support for the protection and preservation of the community’s natural resources.

The Fund for Greater Lexington (“FGL”) is a charitable fund of BGCF that provides funding to compelling projects, programs and organizations that focus on creating a vibrant, generous, engaging and inclusive Lexington.

The parties wish to engage in a strategic community building partnership utilizing charitable funding from the FGL to catalyze the development of a Kentucky Riverfront Park (“Kelley’s Landing”), to be located at 8949 Old Richmond Road, Lexington, KY 40515.

The purpose of this Agreement is to outline the terms, conditions and responsibilities of the parties with respect to FGL funding in an amount up to \$175,000.00 to support the development of a master plan with community engagement for Kelley’s Landing, as well as a marketing and public relations campaign related thereto (the “Project”).

The following milestones are anticipated for the Project: (1) Request for Proposal process complete by end of October 2023; (2) Advisory planning committee in place by end of November 2023; (3) Master plan developed by end of April 2024; (4) Communications related to the master plan and transitioning the advisory planning committee into a long-term fundraising, advocacy, and programming entity for Kelley’s Landing by end of May 2024.

II. Duration of Agreement:

The initial term of this Agreement shall commence on the Effective Date and be in effect through June 30, 2025. This Agreement may be renewed for two (2) successive one (1) year periods, unless one party provides the other party with written notice of its desire not to renew this Agreement at least sixty (60) days prior to the commencement of each such one-year period.

This Agreement may be terminated by either party by giving at least thirty (30) days written notice to the non-terminating party.

This Agreement may be amended or modified from time to time only by the mutual written agreement of the parties hereto. BGCF and FGL acknowledge that Parks may make such changes only upon approval of its legislative authority, the Lexington Fayette Urban County Council, and the signature of its Mayor, or their designee.

III. Roles and Responsibilities:

BGCF hereby agrees to:

- Grant up to \$175,000.00 from FGL to support the Project, with up to \$150,000.00 to support the development of a master plan with community engagement for Kelley's Landing, and up to \$25,000.00 for a marketing and public relations campaign related thereto.
- Assign a representative of FGL to oversee a Request for Proposal (RFP) process for the selection of a design consultant to facilitate the development of the Project, specifically through the creation of a master plan which includes extensive community engagement. BGCF will work with Parks in an effort to mirror the spirit of the guidelines Parks would be required to follow should they have engaged in a procurement process for the Project.
- Assign a representative, in cooperation with Parks, to form an advisory planning committee (the "Committee") to assist in selecting the design consultant for the Project. The committee will be comprised of representatives of Parks, BGCF, FGL, and experts deemed necessary and qualified to provide guidance and feedback on the development of the master plan; provided, however, that in the event of any uncertainty or disagreement in direction or responsibilities, BGCF shall have ultimate decision making authority with respect to work of the assigned representative and the design consultant.

Parks hereby agrees to:

- Assign a representative to the Committee and participate in all aspects of the Project.
- Provide reports to LFUCG's Urban County and administration.
- Commit to utilizing the master plan in the development of Kelley's Landing. Parks shall inform BGCF of any changes or differentiation from the master plan.

The parties hereby agree to:

- Form the Committee, which shall be comprised of representatives of Parks, BGCF, FGL, and experts deemed necessary and qualified to provide guidance and feedback on the development of the master plan, which shall align with the "Your Parks, Our Future" Parks and Recreation System Master Plan. In the event of any uncertainty or disagreement in direction or responsibilities, BGCF shall have ultimate decision making authority with respect to the work of its assigned representative. The parties understand that the completed master plan will be the joint property of Parks and BGCF.
- Meet periodically, through the Committee, to review the progress of the design consultant's work and provide input into the process. The Committee will also provide feedback to BGCF in regard to performance of its assigned representative.
- Develop and promote an agreed upon marketing and public relations campaign through each party's appropriate and established platforms and distribution channels. Both Parties agree that no public communications shall be made about the Project without mutual review and approval

IV. Miscellaneous Provisions:

To the extent permitted by law, each party hereby agrees to indemnify defend and hold harmless each party, its directors, officers, employees, agents, affiliates and assigns from and against any and all losses, liability, damages, and expenses (including attorneys' fees and expenses) which may incur or be obligated to pay in any action, claim, or proceeding against them, for or by reason of any acts, whether of omission or commission, that may be committed or omitted in connection with this Agreement. The provisions of this paragraph and parties' obligations hereunder shall survive any expiration, termination, or rescission of this Agreement.

This Agreement shall not be deemed to create any relationship of agency, partnership or joint venture between the parties hereto. BGCF and FGL may not assign any of its rights and duties under this Agreement without prior written consent of LFUCG.

The parties shall be lawfully registered or authorized to do business in the Commonwealth of Kentucky and Lexington-Fayette County and shall at all times comply with any and all applicable federal, state, and local laws, ordinances, and regulations. The persons signing this Agreement on behalf of the parties are fully authorized to do so.

BGCF and FGL shall create, maintain, and preserve sufficient records of its expenditures to demonstrate compliance with the requirements of this Agreement, and shall provide such records to LFUCG promptly upon written request. Such records shall be maintained not less than five (5) years after the expiration or termination of this Agreement. BGCF and FGL understand and agree that this Agreement and any related documents may be subject to disclosure under the Kentucky Open Records Act and will comply with any reasonable request by LFUCG to provide assistance with such a request.

BGCF and FGL shall provide equal opportunity in employment for all qualified persons, and shall (a) prohibit discrimination in employment because of race, color, creed, national origin, sex, age, sexual orientation, gender identity, or handicap, (b) promote equal employment through a positive, continuing program of equal employment, and (c) cause any subcontractor or agency receiving funds provided pursuant to this Agreement to do so. This program of equal employment opportunity shall apply to every aspect of its employment policies and practices. BGCF and FGL agree to comply with LFUCG's Fairness Ordinance (Ordinance No. 201-99) and all sources of applicable law, including those specified in any Exhibit attached to this Agreement and incorporated herein by reference.

BGCF and FGL must adopt or have adopted a written sexual harassment policy, which shall, at a minimum, contain a statement of current law; a list of prohibited behaviors; a complaint process; and a procedure which provides for a confidential investigation of all complaints. The policy shall be given to all employees and clients and shall be posted at all locations where BGCF and FGL conduct business. The policy shall be made available to LFUCG upon request.

This Agreement shall be governed in all respects by the laws of the Commonwealth of Kentucky. Venue for all actions arising under this Agreement shall lie in the Circuit Court of Fayette County, Kentucky.

This Agreement shall constitute the entire agreement between the parties hereto, and no representations, inducements, promises, or agreements, oral or otherwise, which are not embodied

herein shall be effective for any purpose. This Agreement shall replace any previous agreement between the parties on the same subject matter.

Any notice required by this Agreement shall be delivered via hand delivery or certified mail, return receipt requested, to the following:

To BGCF: Blue Grass Community Foundation
499 East High Street, Suite 112
Lexington, KY 40507
Attn: Lisa Adkins, President/CEO

To Parks: Lexington Fayette Urban County Government
Division of Parks and Recreation
469 Parkway Drive
Lexington, KY 40504
Attn: Director, Parks and Recreation

[Signature page follows]

