

Woodland Art Fair Contract (2017)

This Memorandum of Agreement, made and entered into this 9th day of August, 2017, by and between the Lexington-Fayette Urban County Government, 200 East Main Street, Lexington, Kentucky 40507 ("LFUCG"), and the Lexington Art League, Inc., a non-profit Kentucky Corporation, with its principal office located at 209 Castlewood Drive, Lexington, Kentucky 40505 ("LAL"), witnesseth as follows:

- I. **PURPOSE.** LFUCG and LAL shall coordinate to host an art fair (hereinafter "art fair") in Woodland Park, located at 601 East High Street, Lexington, Kentucky 40502, from August 18-20, 2017.
- II. **TERM.** This Agreement shall take effect upon execution and automatically terminate June 30, 2018. Provided, however, that LAL's duties and obligations established under subsections V(E), VI(A), and VI(C) of the agreement shall survive the termination or expiration of the agreement.
- III. **DUTIES**
 - A. LFUCG shall be responsible for the following elements of producing the art fair:
 - a. Soliciting, organizing, and managing all food vendors that participate in the art fair;
 - b. Taking all reasonable steps necessary to ensure that the art fair receives all required governmental inspections and approvals;
 - c. Soliciting, organizing, and managing all live entertainment for the art fair;
 - d. Prescribing the physical layout of the art fair;
 - e. Preparing Woodland Park for the art fair, maintaining the grounds during the art fair, and cleaning and repairing the grounds after the art fair;
 - f. Providing all equipment necessary for the art fair, including sound equipment, barricades, traffic cones, 10x10 tents, tables, chairs, portable restrooms, picnic tables, and straw bales;
 - g. Ensuring that sufficient electrical systems are reasonably available at the art fair for artists, vendors, entertainers, staff, volunteers, sponsors, and guests; and
 - h. Providing designated parking areas for the public, shuttle services from remote public parking areas, and preferred parking for artists, vendors, entertainers, staff, volunteers, and sponsors.
 - B. LAL shall be responsible for the following elements of producing the art fair:
 - a. Soliciting and selecting artists to exhibit artwork in the art fair;
 - b. Coordinating the arrival, set up, operation, and post-art fair clean-up of artist exhibits;
 - c. Providing appropriate educational art-themed activities for children in attendance at the art fair;
 - d. Providing guest hospitality services for all attendees;
 - e. Providing hospitality services for all Artists participating in the Art Fair;
 - f. Soliciting and managing volunteers to assist with the set-up, operation, and tear-down of the art fair; and
 - g. Providing artist awards and selecting artists to receive such awards.
- IV. **ADVERTISING.** All promotional materials shall identify the art fair as "The Woodland Art Fair," and shall identify "Lexington Parks and Recreation" and "Lexington

Art League” as co-producers of the art fair. All promotional materials shall bear the official logo of both LAL and Lexington Parks and Recreation, as provided by LFUCG, or the name of both LAL and Lexington Parks and Recreation in equal scale and prominence. LAL shall submit all marketing and advertising materials related to the art fair and intended for public release, along with their proposed release date, to LFUCG for approval as soon as reasonably practicable, but in no case later than fourteen (14) days before the proposed release date, which materials shall not be released to the public unless and until approved by LFUCG. LFUCG shall not unreasonably withhold its approval of any properly submitted materials.

V. FINANCIAL TERMS

- A. LFUCG shall have the right to solicit and permit professional, licensed mobile food and beverage vendors to offer food and beverages for sale at the art fair. All proceeds from such permits shall be retained by LFUCG.
- B. LAL shall have the right and duty to charge and collect a reasonable fee from each artist participating in the Woodland Art Fair, the amount of which shall be approved by LFUCG in writing prior to imposition, which approval shall not be unreasonably withheld. All proceeds from such fee shall be held by LAL subject to subsection V(E), *infra*.
- C. LAL shall have the right to solicit and contract with event sponsors, provided that LAL shall not enter any legally binding sponsorship agreement unless such agreement is first approved in writing by LFUCG, which approval shall not be unreasonably withheld. All proceeds from such fee shall be held by LAL subject to subsection V(E), *infra*.
- D. By no later than thirty (30) days from the last day of the art fair, LAL shall submit to LFUCG an itemized statement of all expenses incurred in co-producing the art fair and all revenue received or owed it from or in connection with the art fair, including without limitation all revenue received or owed as artist fees, as required under subsection V(B), or under sponsorship agreements, as permitted in subsection V(C). LFUCG shall have thirty (30) days from receipt to review LAL’s statement and request any additional information it may deem necessary to verify the information contained therein, which additional information LAL shall provide in a timely manner.
- E. By no later than thirty (30) days from the last day of the art fair, LFUCG shall submit to LAL an itemized statement of expenses LFUCG incurred in co-producing the art fair, including without limitation personnel expenses computed as a pro rata portion of the LFUCG employee’s annual compensation. Along with its itemized statement of expenses, LFUCG shall submit a statement of all proceeds derived from permitting mobile food and beverage vendors to offer food and beverages for sale at the art fair. LAL shall have thirty (30) days from receipt to review LFUCG’s statements and request any additional information it may reasonably deem necessary to verify the information contained therein, which additional information LFUCG shall provide in a timely manner. Upon approval of the statements, or thirty (30) days from receipt if LAL neither approves the statement nor requests reasonable verifying information, or fourteen (14) days from the date on which LAL receives LFUCG’s reasonable verifying information if such information is requested, LAL shall remit to LFUCG a check for the full amount of LFUCG’s expenses incurred in co-producing the art fair less the proceeds derived from permitting mobile food and beverage vendors, as described in the statements submitted hereunder; provided, however, that LAL’s duty to reimburse LFUCG shall not exceed ten

thousand dollars (\$10,000.00). LAL's duty to reimburse LFUCG for expenses incurred in co-producing the art fair shall survive the termination of this agreement.

VI. INSURANCE & LIABILITY

- A. LAL assumes full responsibility and liability for any and all damages to LFUCG persons or property it, or its agents, employees, or officers may cause during any event on LFUCG property while this Agreement is in effect. This provision shall survive the termination of this Agreement.
- B. LAL shall provide LFUCG with a certificate of commercial general liability insurance written through a company with an A.M. Best rating of "A" or better with the minimum amount of \$1,000,000 per occurrence, listing the Lexington-Fayette Urban County Government as an "additional insured." NSA shall provide such certificate at least fourteen days before the first scheduled rental date, or LFUCG may terminate this Agreement immediately. A Declaration Page shall not be considered a valid substitute for a Certificate of Insurance.
- C. LAL shall defend, indemnify, and hold harmless LFUCG, its officers, agents, employees, and officials from and against any and all liability loss, expense (including reasonable attorney's fees) or claims for injury or damages arising out of or in connection with the performance of this Agreement. Nothing herein shall be interpreted as or deemed a waiver of any defense available to LFUCG, including sovereign immunity. This provision shall survive the termination of this Agreement.

VII. MISCELLANEOUS

- A. All communications related to this Agreement that are directed to LFUCG shall be communicated in writing to _____ . All communications related to this Agreement that are directed to LAL shall be communicated in writing to Stephanie Harris, E.D.
- B. This Agreement constitutes the entire agreement between parties. There are no covenants, agreements, promises, terms, provisions, conditions, undertakings, or understandings, oral or written, between the parties other than as set forth herein.
- C. The headings, captions, numbering system, etc., are inserted only as a matter of convenience and may under no circumstances be considered in interpreting the provisions of the Agreement.
- D. LAL shall not sublet, assign, or otherwise transfer any interests, duties, obligations, or rights acquired under this contract without prior, written approval from LFUCG.
- E. Time is of the essence in the performance of this agreement. In the computation of any period of time provided for in this Agreement or by law, any date falling on a Saturday, Sunday, or legal holiday shall be deemed to refer to the next day which is not a Saturday, Sunday, or legal holiday.
- F. If any provision hereof is for any reason unenforceable or inapplicable, the other provisions hereof will remain in full force and effect in the same manner as if such unenforceable or inapplicable provision had never been contained herein.
- G. This Agreement shall be construed under and in accordance with the laws of the Commonwealth of Kentucky. Any action arising, in whole or in part, from or in connection with this Agreement, shall be brought in Fayette County, Kentucky.
- H. This Agreement may only be modified by a writing signed by both parties.
- I. This Agreement, having been negotiated in good faith between the parties, shall not be construed against one party or the other.

- J. It is understood and agreed that nothing herein contained shall be construed in any way to constitute a partnership or joint venture between the parties.
- K. Nothing contained herein shall create any relationship, contractual or otherwise, with or any rights in favor of any third party.

LEXINGTON-FAYETTE URBAN
COUNTY GOVERNMENT

LEXINGTON ART LEAGUE,
INC

By: _____
Jim Gray, Mayor

By:  _____, President

Date: _____

Date: 8/9/17