

REORGANIZATION AGREEMENT

THIS REORGANIZATION AGREEMENT dated _____, 2017 is between the Lexington Downtown Development Authority, Inc., a Kentucky non-profit corporation (the "LDDA") and the DOWNTOWN LEXINGTON CORPORATION, a Kentucky non-profit corporation ("DLC").

WHEREAS, the LDDA and DLC have similar missions to, among other things, promote the development of the downtown Lexington, Kentucky area;

WHEREAS, other than as stated below, the LDDA and DLC have decided that it is in each of their respective best interests and consistent with their respective missions to consolidate much of the work that each of the organizations perform under a single operation; and

WHEREAS, the LDDA appointed by the Mayor and approved by the Lexington-Fayette Urban County Council will retain its bonding authority and all other authority it has under KRS 58.010 et. seq.

NOW THEREFORE, the parties agree as follows:

1. Reorganization. DLC, which will proceed under a new trade name of Downtown Lexington Partnership (hereafter referred to as the "Restructured Entity") shall be the primary organization to assume the mission duties and responsibilities of both the DLC and LDDA; provided that, all bonding authority and other authority granted to LDDA as an "authority" under the applicable Kentucky revised statutes ("KRS") will remain with the LDDA and nothing herein is intended to have the Restructured Entity operate in a manner which would interfere with LDDA's status under KRS 58.180 (the "LDDA Reserved Authority"). Furthermore, the Lexington-Fayette Urban County Government ("LFUCG") shall maintain control over LDDA as required by applicable law.

2. Board of Directors of Restructured Entity; Advisory Board. The parties agree that the board of directors of the Restructured Entity will consist of at least 11 members nominated and elected as set forth herein (the "Board"). The Board members will have three year terms that will be staggered (using initially 3, 4, and 5 year terms for the initial board of directors) with term limits of 2 terms with 1 year off before reelection of any individual person; provided that the Independent Director (as defined below) shall have a one year term. Unless otherwise agreed to by the Board, the Board will meet on a monthly basis. The Board members will be required to attend meetings regularly in accordance with the terms of the By-Laws with the By-Laws containing a provision that if a member of the Board misses more than 25% of the meetings of the Board during a calendar year or two consecutive meetings of the Board, that the Chair of the Board may in the Chair's discretion remove such person from the Board. The members of the Board shall be nominated and appointed as follows:

- i. Five (5) members will be nominated and appointed by the LDDA (the "LDDA Representatives");
- ii. Five (5) members will be elected by the members of the DLC's advisory board (the "DLC Representatives") and the existing DLC Representatives on the Board shall nominate the DLC Representatives for any open seat that is to be held by a DLC Representative; and
- iii. One (1) independent member who is not on the board of the LDDA or on the advisory board of the DLC that is nominated and elected by a majority of the DLC Representatives and LDDA Representatives voting together as a single class (the "Independent Director") and the term of the Independent Director shall be for one year.

Any replacement of a member of the Board that resigns or is removed shall be nominated and appointed as set forth in this Section 2 above.

The initial members of the Board shall be:

1. Steve Grossman, Chair
2. Paula Hanson
3. John Gohmann
4. Mary Beth Wright
5. Kevin Atkins
6. Lawrence Wetherby
7. Steve Kelly
8. Woodford Webb
9. Paul Johnston
10. Tom Harris
11. Jim Frazier

The Restructured Entity will appoint the members of the board of directors of the LDDA that will not be LDDA Representatives to the advisory board of the Restructured Entity.

3. Officers. The members of the Board will elect the following officer positions with a one (1) year term subject to re-appointment. The officers shall be a Chair, 1st Vice Chair (Chair elect), 2nd Vice Chair, Secretary, Treasurer and President (to be appointed by the Board with no specific term). The By-Laws will initially reflect that the 1st Vice Chair will be the Chair-elect and the 2nd Vice Chair will become the 1st Vice Chair in the following year.

4. President. The Board will be responsible for developing a job description, issuing a request for proposal as needed, negotiating, and hiring a full-time President for the Restructured Entity. The President will be responsible for developing and organizing the staffing and operations for all functional areas to carry out the mission of each organization in the most effective and efficient manner. Until such time as the President is hired, the Board may hire a transitional person to oversee all administrative

and management responsibilities as they relate to the reorganization of the DLC and LDDA. Any person hired in this transitional role will not be eligible for to become the Restructured Entity's initial President.

5. Funding Plan. The Restructured Entity will be responsible for managing all funding related to carrying out the current missions, duties, and responsibilities of the LDDA and the DLC (other than the LDDA's bonding authority or any other authority granted under KRS granted to LDDA as an "authority" as referenced above) while assuring that all standard accounting practices and applicable laws are followed as they relate to the management of funds, either designated or undesignated. The initial funding sources for the Restructured Entity shall include but not be limited to:

- Membership Revenue
- Event Revenue
- Grant Revenue
- Sponsorship Revenue
- LFUCG or other entity purchase of Service Agreements (if granted)

As it relates to any LFUCG funding, such funding requested by the DLC or LDDA for fiscal year 2018 from the LFUCG will be on behalf of the Restructured Entity and each of LDDA and DLC shall make all such funds available to the Restructured Entity (or for the payment of its costs) as may be reasonably requested by the Restructured Entity minus any amounts that either LDDA or DLC expend for its own costs prior to completion of this reorganization.

6. Employees. All current employees of the DLC and the LDDA will be offered similar positions in the consolidated entity, except for the current President and COO of LDDA who will be provided an opportunity to apply for the new President position of the Restructured Entity, subject to cancellation of any severance agreement he may have with LDDA if he is hired as the President of the Restructured Entity. The LDDA shall cause its COO to be available during his employment with the LDDA and during his severance term to provide consulting transitional services to the Restructured Entity.

7. Downtown Lexington Corporation Foundation. It is anticipated that the Downtown Lexington Corporation Foundation, Inc. shall continue to function as it does currently. Its bylaws shall be amended to provide that the Board will be the Board of Directors of the Foundation.

8. LDDA Reserved Authority. To the extent that any matter arises that falls within the LDDA Reserved Authority (such as the issuance of a bond), the parties agree that the LDDA shall allow the Board a reasonable period of time to review such matter and make a non-binding recommendation to the LDDA on such matter. Notwithstanding the foregoing, the LDDA shall retain all decision making authority with respect to any matter falling within the LDDA Reserved Authority; provided that, the

LDDA shall consider in good faith any recommendation from the Board with respect to any matter that is within the LDDA Reserved Authority.

9. Implementation. Each party shall take all reasonable action that is required to implement the terms of this agreement, including, without limitation, the DLC modifying its organizational documents to reflect the terms of this agreement and to cause the appointment of the existing members of the LDDA board of directors to the board of directors for the Restructured Entity. The parties shall use commercially reasonable efforts to complete the reorganization summarized in this agreement by no later than August 31, 2017.

10. Termination. The LDDA or the DLC may terminate this agreement and withdraw from this reorganization as follows:

- a. The DLC may terminate this agreement and withdraw from the reorganization upon the vote of a majority of the DLC Representatives voting as a separate class; and
- b. The LDDA may terminate this agreement and withdraw from the reorganization upon the vote of a majority of the LDDA Representatives voting as a separate class.

Upon the occurrence of any termination vote as set forth above, DLC and LDDA shall fully cooperate with each other and cause their respective representatives on the Board to fully cooperate with each other concerning the termination of this agreement and the required modifications to the organizational documents of the Restructured Entity to implement the termination of the reorganization that has occurred pursuant to the terms of this agreement, including, without limitation, that the LDDA will no longer have the authority to appoint and elect any members of the Board, any other modifications to the organizational documents of the Restructured Entity that are reasonably acceptable to the DLC Representatives, LDDA Representatives will promptly resign from the Board and such other actions as may be mutually agreed upon by the parties.

11. Miscellaneous.

- a. Headings. The headings in this agreement are for convenience of reference only and do not limit or otherwise affect any of the terms or provisions of this agreement.
- b. Governing Law. The laws of the Commonwealth of Kentucky govern all matters arising out of this agreement and the rights and obligations of the parties under this agreement without consideration of Kentucky's conflicts of laws principles.
- c. Severability. If any provision of this agreement is held to be illegal, invalid or unenforceable, that provision will be fully severable, and this agreement will be construed and enforced as if the illegal, invalid or unenforceable provision never comprised a part of this agreement; and the remaining

provisions of this agreement will remain in full force and effect. Furthermore, in lieu of the illegal, invalid or unenforceable provision, there will be added automatically as part of this agreement a provision as similar in its terms to the illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.

- d. Entire Agreement. This agreement and all documents and agreements referred to in this agreement supersede all prior or contemporaneous understandings, agreements, negotiations and discussions, whether oral or written, between the parties concerning this subject matter and constitute the entire agreement between the parties with regard to this subject matter other than any organizational documents of the Restructured Entity. The parties have not relied upon any promises, representations, warranties, agreements, covenants or undertakings, other than those expressly set forth in this agreement.
- e. Assignment. Neither party shall assign, delegate, subcontract or otherwise transfer this agreement or any of its rights or obligations without the other party's prior written approval. Any attempt to do so without the other party's written approval will be void.
- f. Waiver. Waiver of the benefit of any provision of this agreement must be in writing and signed by the party against whom enforcement is sought to be effective. The waiver by any party of a breach of any provision of this agreement will not operate or be construed as a waiver of any subsequent breach. No action taken pursuant to this agreement will be deemed to constitute a waiver by that party of compliance by the other party with any of the covenants or other obligations contained in this agreement. A failure by a party to insist upon strict compliance with any term of this agreement, enforce any right or seek any remedy upon any breach of any other party will not affect, or constitute a waiver of, that party's right to insist upon strict compliance, enforce that right or seek that remedy with respect to that default or any prior, contemporaneous or subsequent default.
- g. Binding on Successors. This agreement applies to and binds the successors and permitted assigns of the parties.
- h. Amendments. No amendment of this agreement is valid unless in writing and the party against whom enforcement is sought signs it.
- i. Counterparts. This agreement may be executed in one or more counterparts, each of which will be deemed to be an original but all of which together will constitute one and the same instrument. Execution of this agreement via facsimile will be effective, and signatures received via facsimile will be binding upon the parties and effective as originals. The parties expressly acknowledge that, notwithstanding any statutory or

decisional law to the contrary, the printed product of a facsimile transmittal will be deemed to be “written” and a “writing” for all purposes of this agreement.

[Signature Page to Follow]

IN WITNESS WHEREOF, the parties to this Reorganization Agreement have caused their signatures, or the signatures of their duly authorized representatives, to be set forth below as of the date first written above.

LEXINGTON DOWNTOWN DEVELOPMENT
AUTHORITY, INC.

By: _____

Name: _____

Title: _____

DOWNTOWN LEXINGTON CORPORATION

By: _____

Name: _____

Title: _____