

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT (hereinafter the “MOA”) is made and entered into as of the ____ day of October, 2016, by and between the **BLUE GRASS COMMUNITY FOUNDATION**, a Kentucky non-profit corporation located at 499 East High Street, Suite 112, Lexington, Kentucky 40507 (hereinafter “Foundation”) and the **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government of the Commonwealth of Kentucky pursuant to Chapter 67A of the Kentucky Revised Statutes, 200 East Main Street, Lexington, Kentucky 40507 (hereinafter “Lexington”).

W I T N E S S E T H:

WHEREAS, the Foundation is committed to develop and administer a private fundraising plan for Town Branch Commons Project (the “Project”); and

WHEREAS, Lexington finds that the Project and the services to be provided by the Foundation as further described in Exhibit “A”, which is attached hereto and incorporated herein by reference, fulfill a public purpose and is desirous of providing funding in the amount of \$180,000.00 in Fiscal Year 2017 (July 1, 2016 through June 30, 2017) to be utilized in connection with the Project; and

WHEREAS, the Foundation is agreeable to accepting the funding and ensuring that any requirements connected to the funding are followed.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the receipt and sufficiency of which are acknowledged, the parties hereby agree as follows:

1. That in exchange for Lexington providing the Foundation with One Hundred Eighty Thousand Dollars (\$180,000.00) in funding (the payment schedule for which shall be mutually agreed upon between the parties), the Foundation agrees as follows: (1) that all funds must be expended for the purposes of providing the services related to the Project, as further generally described in Exhibit “A”, which is attached hereto and which is incorporated herein by reference as if fully stated; (2) that if there is formal recognition of contributors to improvements to the Project, the Lexington-Fayette Urban County

Government will be recognized in like manner to similar contributors; and (3) that it will maintain sufficient documentation of the appropriate expenditure of the funds, which shall include, upon request, report of all of the expenditures made towards the services and Project, as well as a final report.

2. This MOA shall remain in effect until the Foundation has fully complied with the requirements of this MOA and the Project is completed, unless terminated by Lexington for nonperformance by giving sixty (60) days prior written notice (“Notice Period”) to the Foundation. The Foundation shall be able to cure any such nonperformance during the Notice Period to prevent any such termination.

3. Foundation shall perform (or ensure that) all duties and services included in the Work faithfully and satisfactorily at the time, place and for the duration prescribed herein. Foundation shall keep itself fully informed of all national and state laws and all municipal ordinances and regulations in any manner affecting the work or performance of this MOA, and shall at all times observe and comply with such laws, ordinances and regulations, whether or not such laws, ordinances or regulations are mentioned herein, and shall indemnify Lexington, its officers, agents and employees against any claim or liability arising from and based on Foundation’s violation of any such laws, ordinances or regulations. In the event of termination of this MOA by Lexington, Foundation shall be entitled to that portion of total compensation due under this MOA as the Work or services rendered bears to that required hereunder.

4. Each party agrees that it shall be responsible for any claims or damages that are based upon its respective performance of this MOA, or that are based upon the actions or inactions of its respective employees or agents.

5. The Foundation shall keep and make available to Lexington any records related to this MOA such as are necessary to support its performance of this MOA and consistent with the policies and procedures of the Foundation. Books of accounts shall be kept by the Foundation and entries shall be made therein of all money, goods, effects, debts, sales, purchases, receipts, payments and any other transactions of the Foundation related to this MOA and shall be made available to Lexington upon request.

6. The Foundation shall allow Lexington the necessary access to perform the services herein and to monitor Foundation's performance under this MOA.

7. In no event shall the parties be construed, held or become in any way for any purpose the employee or agency of the other party, or partners, associates or joint ventures in the conduct of their respective endeavors or otherwise.

8. The Foundation shall provide equal opportunity in employment for all qualified persons, shall prohibit discrimination in employment because of race, color, creed, national origin, sex, age, sexual orientation or gender identity, or handicap, shall promote equal employment through a positive, continuing program of equal employment, and shall cause any agency receiving funds provided pursuant to this MOA to do so. This program of equal employment opportunity shall apply to every aspect of its employment policies and practices.

9. Neither party may assign any of its rights and duties under this MOA without the prior written consent of the other party. Notwithstanding the foregoing, Lexington understands that the Work will ultimately be performed by persons or entities other than the Foundation.

10. This MOA does not create a contractual relationship with or right of action in favor of a third party against either the Foundation or Lexington.

11. If any term or provision of this MOA shall be found to be illegal or unenforceable, this MOA shall remain in full force and such term or provision shall be deemed stricken.

12. This MOA shall be governed in all respects by the laws of the Commonwealth of Kentucky and venue for all actions shall lie in Fayette County, Kentucky.

13. By mutual agreement, the parties to this MOA may, from time to time, make written changes to any provision hereof. Foundation acknowledges that Lexington may make such changes only upon approval of its legislative authority, the Lexington-Fayette Urban County Council, and the signature of its Mayor.

14. This MOA shall constitute the entire agreement between the parties and no representations, inducements, promises or agreements, oral or otherwise, which are not embodied herein

Exhibit A

About Blue Grass Community Foundation

Established in 1967, Blue Grass Community Foundation, an independent, 501(c)(3) nonprofit organization, is Kentucky's oldest community foundation, whose mission is to grow charitable giving and support activist philanthropy. With \$84 million in charitable assets, 69% of which are permanently endowed, and 500 charitable funds, the Community Foundation aspires to build a better Lexington and region by harnessing the collective impact of philanthropic investments through innovative grant making and strategic community leadership.

The Community Foundation has a staff of dedicated professionals, including 3 attorneys, 2 CPAs and specialist in fund development, donor stewardship, board governance, nonprofit management, communication and community engagement. Blue Grass Community Foundation is nationally certified by Council of Foundations.

Town Branch Commons

In FY 2016, Blue Grass Community Foundation ("BGCF") was asked by LFUCG to begin work towards two specific goals related to Town Branch Commons ("TBC"), as outlined in the Strategic Master Plan prepared by Dan Jones/21st Century Parks: (1) pursue private funding for the portion of the project related to the proposed parkland to be developed in the Manchester Street Parking Lot and for improvements to existing parks along the TBC corridor; (2) incubate an organization to operate and maintain future TBC, and specifically, the proposed parkland to be developed in the Manchester Street Parking Lot.

A Fund has been created at the Foundation to accept private donations (the "Fund"). The Fund is a component of Blue Grass Community Foundation and is overseen by a board of advisors and governed by the Blue Grass Community Foundation Board of Directors. It is anticipated that throughout FY17 and throughout the major gift portion of the fundraising efforts, the Fund will stay nested under BGCF's 501(c)(3) umbrella to allow its board of advisors to utilize BGCF's expertise and staff. The Fund will ultimately be replaced by a not-for-profit or similar entity.

FY17 Activities

- Continue to staff the Town Branch Commons Task Force to develop a detailed and more specific Development Agreement in furtherance of the Project (includes representatives from Town Branch Commons Fund Board of Advisors, Lexington Center Corporation, LFUCG, the DDA, VisitLEX, and the Downtown Management District), as referred to in the MOU dated August 2016
- Develop a fundraising plan, budget and timeline based on the results of the Fundraising Opportunity Assessment Report (which is attached hereto and incorporated herein by reference as if fully state) for philanthropic leadership of Town Branch Commons
- Identify philanthropic role models and recruit Board of Advisors members through intentional prospect qualification and management

Exhibit A

About Blue Grass Community Foundation

Established in 1967, Blue Grass Community Foundation, an independent, 501(c)(3) nonprofit organization, is Kentucky's oldest community foundation, whose mission is to grow charitable giving and support activist philanthropy. With \$84 million in charitable assets, 69% of which are permanently endowed, and 500 charitable funds, the Community Foundation aspires to build a better Lexington and region by harnessing the collective impact of philanthropic investments through innovative grant making and strategic community leadership.

The Community Foundation has a staff of dedicated professionals, including 3 attorneys, 2 CPAs and specialist in fund development, donor stewardship, board governance, nonprofit management, communication and community engagement. Blue Grass Community Foundation is nationally certified by Council of Foundations.

Town Branch Commons

In FY 2016, Blue Grass Community Foundation ("BGCF") was asked by LFUCG to begin work towards two specific goals related to Town Branch Commons ("TBC"), as outlined in the Strategic Master Plan prepared by Dan Jones/21st Century Parks: (1) pursue private funding for the portion of the project related to the proposed parkland to be developed in the Manchester Street Parking Lot and for improvements to existing parks along the TBC corridor; (2) incubate an organization to operate and maintain future TBC, and specifically, the proposed parkland to be developed in the Manchester Street Parking Lot.

A Fund has been created at the Foundation to accept private donations (the "Fund"). The Fund is a component of Blue Grass Community Foundation and is overseen by a board of advisors and governed by the Blue Grass Community Foundation Board of Directors. It is anticipated that throughout FY17 and throughout the major gift portion of the fundraising efforts, the Fund will stay nested under BGCF's 501(c)(3) umbrella to allow its board of advisors to utilize BGCF's expertise and staff. The Fund will ultimately be replaced by a not-for-profit or similar entity.

FY17 Activities

- Continue to staff the Town Branch Commons Task Force to develop a detailed and more specific Development Agreement in furtherance of the Project (includes representatives from Town Branch Commons Fund Board of Advisors, Lexington Center Corporation, LFUCG, the DDA, VisitLEX, and the Downtown Management District), as referred to in the MOU dated August 2016
- Develop a fundraising plan, budget and timeline based on the results of the Fundraising Opportunity Assessment Report (which is attached hereto and incorporated herein by reference as if fully state) for philanthropic leadership of Town Branch Commons
- Identify philanthropic role models and recruit Board of Advisors members through intentional prospect qualification and management
- Capture 100% giving participation for all Board of Advisor members
- Develop Board of Advisor benchmarks to include peer solicitation and other fund development goals

- Train and manage Board of Advisors
- Conduct regular donor prospect review and strategy meetings, focusing attention of high affinity prospects
- Facilitate one-on-one meetings with Board of Advisors members to begin cultivation of non-Board prospects in the top 50 donor
- Generate gift proposals and complete administration of gifts
- Build a system for on-going stewardship of all donors, involving communications, events and personal attention
- Create a platform to recognize significant philanthropic gifts (i.e. giving society and naming opportunities)
- Serve as a liaison between LFUCG and Board of Advisors
- Develop website and on-going campaign communication needs and campaign materials
- Participate in the development of design standards for the Project and schematic design of Town Branch Park
- Assist LFUCG, as needed, in the design and execution of the trail portion of the Project, as defined in the MOU dated August 2016.

NOTE: Many of the deliverables identified above will begin, but will not conclude, in FY17

Estimated Expenditure of Funds:

Total Fee FY17: \$180,000, which includes the following:

BGCF Staff - \$85,000

Allison Lankford (approximately 16 hrs./wk.)

Lisa Adkins (approximately 2 hrs./wk.)

Other BGCF Staff (advancement and legal, finance, stewardship - as needed)

Administrative/Overhead - \$7,200

Outside Fundraising Consultant - \$65,000

Learning and Training Opportunities - \$12,800

Design/Collateral/Website - \$10,000