

MEMORANDUM OF UNDERSTANDING

On this, the 21st day of April, 2016, the Lexington Fayette Urban County Government ("LFUCG"), which has its principal office located at 200 East Main Street, Lexington, Kentucky 40507, and which is the owner of the Tates Creek Center Craft Building, located at 1400 Gainesway Drive, Lexington, Kentucky 40517 ("the premises") does hereby grant the Lexington History Museum, Inc. ("Museum") the right to use that portion of the premises identified in Exhibit A for storage purposes under the terms and conditions provided herein.

1. **Term & Termination.** The Museum may use the portion of the premises identified in Exhibit A for storage purposes beginning on April 1, 2016, and continuing thereafter until January 31, 2026, at which point the contract shall automatically terminate. Either party may terminate this contract early, for any reason, by providing the other party written notice of such at least forty-five (45) days prior to the proposed termination date. Any property belonging to the Museum that is left on the premises after the termination date shall become the property of LFUCG, unless LFUCG decides, in its discretion, to reject ownership of such, in which case the Museum shall be liable for all costs incurred by LFUCG in removing and disposing of the property.
2. **Release.** The Museum, for itself and its heirs, executors, administrators and assigns, hereby irrevocably and unconditionally releases and discharges LFUCG, its officials, employees, agents and representatives from any and all complaints, claims, actions, causes of action, suits, debts, charges, liabilities, obligations, promises, agreements, damages and expenses, including attorney's fees or any other expense of litigation arising out of its use of the premises. The Museum further agrees that all property belonging to it that is stored on the premises shall be left on the premises at its own risk. LFUCG shall not be liable for loss, destruction, theft or damage to any property stored on the premises. LFUCG makes no representations or warranties, express or implied, as to the condition of the property.
3. **Insurance.** The Museum shall maintain a general liability insurance policy that covers its property stored on the premises so long as it has any property stored on the premises. Prior to storing any of its property on the premises, the Museum shall provide LFUCG's designated agent with a certificate of general liability insurance written through a company with an A.M. Best rating of "A" or better with the minimum amount of \$1,000,000.00 per occurrence, listing the Lexington-Fayette Urban County Government as an additional insured. A Declaration Page shall not be considered a valid substitute for a Certificate of Insurance. Should the Museum's property stored on the premises cease to be covered by an insurance policy satisfying the obligations herein at any time, for any reason, this contract shall immediately terminate.
4. **Indemnity.** The Museum shall indemnify, defend, and hold harmless LFUCG, its employees, and its agents for all claims, liabilities, losses, damages, expenses, accidents, and occurrences (including attorneys' fees) that may arise out of or in connection with its use of the Premises.
5. **Damage.** The Museum shall be liable for the cost of repairing any damage it may cause the premises by storing property on the premises or by moving property onto or off the premises. This obligation shall survive the termination of this contract.

6. Access. The Museum may access its property stored on the premises and move additional property onto the premises between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding days on which LFUCG is closed. If the Museum wishes to access the Premises at any other time, it may submit such requests to LFUCG via its designated agent. LFUCG may grant or deny such requests in its discretion; but it shall not unreasonably deny access.
7. Limitation. The Museum shall not store on the premises anything that might harm the premises or those using the premises, or that might otherwise interfere with the ability of others to use the premises, including without limitation hazardous materials. Should the Museum violate this clause at any time, for any reason, this contract shall immediately terminate.
8. All communications directed to LFUCG concerning this agreement shall be submitted to the following:

Lexington-Fayette Urban County Government
Attn: Brian Rogers, Deputy Director of Enterprise
469 Parkway Drive
Lexington, Kentucky 40504

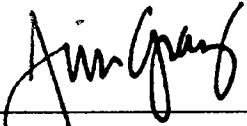
All communications directed to the Museum concerning this agreement shall be submitted to the following:

Lexington History Museum
Attn: Foster Ockerman, Jr.
835 Glendover Road
Lexington, Kentucky 40502

9. Interpretation & Enforcement.
 - a. The undersigned shall comply with all governmental laws, rules and regulations applicable to the use and occupancy of Urban County Government property.
 - b. No waiver of any condition of legal right shall be implied by the failure of either party to declare forfeiture, or for any other reason, and no waiver of condition or covenant shall be valid unless it be in writing signed by party so waiving. The waiver of a breach by either party of any condition shall not excuse, or be claimed to excuse, a future breach of the same condition or covenant or any other condition or covenant.
 - c. If any clause, sentence, paragraph or part of the Agreement shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Agreement, but be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered, and in all other aspects this Agreement shall continue in full force and effect. The Agreement, having been negotiated in good faith between the parties, shall not be construed against one party or the other.
 - d. It is understood and agreed that nothing herein shall be construed in any way to constitute a partnership between the parties.

- e. Nothing contained herein shall create any relationship, contractual or otherwise, or rights in favor of any third party.
- f. This Agreement contains the entire agreement of the parties with respect to the Museum's use of and rights to the Premises, and there are no other promises or conditions in any other agreement, either oral or written. The Agreement may be amended only in writing and only if such writing is signed by both parties. The parties agree that any amendment to the Agreement must be approved by the Lexington-Fayette Urban County Council.
- g. This Agreement will be governed by the laws of the Commonwealth of Kentucky and any action will be brought in a court of competent jurisdiction situated in Fayette County, Kentucky.

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

BY: 

Jim Gray, Mayor

LEXINGTON HISTORY MUSEUM, INC.

BY: 

James L. Dickinson, Board Chair, Board of Trustees

EXHIBIT A

