

## Woodland Art Fair Contract (2019)

This Memorandum of Agreement, made and entered into this \_\_\_ day of \_\_\_\_\_, 2019, 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, on August 17 and 18, 2019 and again in August 2020, with dates to be decided upon, in writing, by LAL and LFUCG.
  
- II. TERM.** This Agreement shall take effect upon execution and automatically terminate June 30, 2021.. Provided, however, that LAL’s duties and obligations established under subsections V(D), 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, based on current fiscal year funding;
    - 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 execution of the art fair, including sound equipment, barricades, traffic cones, 10x10 tents, tables, chairs, portable restrooms, picnic tables, and straw bales, based on availability and current fiscal year funding. If additional items are required, over what LFUCG can provide, it will be at the expense of the Fair;
    - 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 vendors, shuttle services from remote public parking areas, budget permitting and preferred parking for artists, 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 or the official name of both LAL and Lexington Parks and Recreation in equal scale and prominence. All use of the Lexington Parks and Recreation logo shall comply with CAO Policy 57: Branding, Graphic and Logo Standards, attached as Exhibit A. 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(D), *infra*.
- C. LAL and LFUCG shall have the right to solicit and contract with event sponsors, provided that LAL and LFUCG shall not enter any legally binding sponsorship agreement unless such agreements are first approved in writing by both LAL and LFUCG, which approval shall not be unreasonably withheld. Proceeds from such sponsorship fees shall be held by the entity which secured the sponsorship.
- D. By no later than sixty (60) 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. For the 2019 art fair, LAL will be responsible for reimbursement of \$10,000.00. Beginning with the 2020 art fair, and until the remainder of this agreement, LAL will be responsible for reimbursement of the full amount of expenses as detailed in LFUCG’s itemized statement. Reimbursement of LFUCG’s expenses is without limitation and may include personnel expenses computed as a pro rata portion of the LFUCG employee’s annual compensation. LFUCG will receive reimbursement for such expenses out of the Escrow Account established in Section (V)(E). LAL’s duty to reimburse LFUCG for expenses incurred in co-producing the art fair shall survive the termination of this agreement. If reimbursement payment is not received within 30 days of providing LAL with the itemized statement of expenses for the 2019 art fair, LFUCG reserves the right to require all proceeds received by LAL for the 2020 art fair, including but not limited to artist fees, booth rentals or sponsorship agreements, to be deposited into an Escrow Account, at an institution agreed upon by both parties in writing. AL will be entitled to the remaining balance of the Account after LFUCG is reimbursed for expenses as detailed in V(D).

LFUCG also reserves the right to pursue all other legal remedies available to them for non-compliance with this document.

## **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 \_\_\_\_\_.
- 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: \_\_\_\_\_  
Linda Groton, Mayor

By: \_\_\_\_\_  
\_\_\_\_\_, President

Date: \_\_\_\_\_

Date: \_\_\_\_\_