

R-49-2014

01-2014

**AGREEMENT FOR ALLOCATION OF FUNDING FOR GARDENSIDE  
RESTORATION AND ART MURAL PROJECT**

**THIS AGREEMENT**, made and entered into on the 13<sup>th</sup> day of February 2014, by and between the **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government of the Commonwealth of Kentucky, pursuant to KRS Chapter 67A (hereinafter "LFUCG"), and Art in Motion, Inc., a non-profit corporation created pursuant to KRS Chapter 273, with offices located in Lexington, Kentucky.

**WITNESSETH:**

**WHEREAS**, LFUCG has allocated funding for the Gardenside Restoration and Art Mural Project, as described below; and

**WHEREAS**, Art in Motion is coordinating the effort to restore the Gardenside sign and bus shelter and plans to hold a public contest to commission an art mural for the shelter ("the Project"); and

**WHEREAS**, Pierson Trapp Company and the Transit Authority of the Lexington-Fayette Urban County Government have entered into a Memorandum of Agreement with Art in Motion (attached hereto and incorporated herein as Appendix B, (hereinafter the "MOA")) under which they have agreed to contribute funds to the Project and, in addition, Pierson Trapp Company, as owner of the property on which the Gardenside sign and bus shelter is located, has agreed to insure and maintain the structure in its improved condition once the Project is complete; and

**WHEREAS**, Art in Motion has agreed to undertake the completion of the Project.

**NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES AND COVENANTS HEREIN EXPRESSED, LFUCG AND ART IN MOTION AGREE AS FOLLOWS:**

- (1) Art in Motion shall complete the Project, which shall include, at a minimum, the labor and materials listed on Exhibit "A" hereto, which is attached and incorporated by reference, by no later than Dec. 31, 2014.
- (2) In return for its agreement to complete the Project as described herein and in Appendix A, LFUCG agrees to pay Art in Motion an amount not to exceed \$33,500 (the "Funds"). Art in Motion understands and agrees that said amount will not necessarily cover the entire amount of expenditures necessary to complete the Project.
- (3) The payment to Art in Motion shall be disbursed upon completion of the process of obtaining final bids from contractors through a public bidding process in accordance with applicable local and state ordinances and regulations for each aspect of the Project and providing LFUCG satisfactory evidence thereof.

Books of accounts shall be kept by Art in Motion and entries shall be made therein of all money, goods, effects, debts, sales, purchases, receipts, payments, contributions of goods of services, and any other transactions related to the Project and made available to LFUCG upon request.

(5) Art in Motion shall provide equal opportunity in employment for all qualified persons, shall prohibit discrimination in employment because of race, color, creed, national origin, sex or age, sexual orientation or gender identity, or handicap, shall promote equal employment through a positive, continuing program of equal employment, and shall cause each of its subcontracting agencies to do so. This program of equal employment opportunity shall apply to every aspect of its employment policies and practices.

(6) Art in Motion shall adopt a written sexual harassment policy, which shall, at a minimum, contain a statement of current law; a list of prohibited behaviors; a complaint process; and a procedure which provides for a confidential investigation of all complaints. The policy shall be given to all employees and clients and shall be posted at all locations where Organization conducts business. The policy shall be submitted to the Department of Law for review within thirty (30) days of the execution of this Agreement.

7

(8) Art in Motion further agrees that the use of the Funds is specifically limited to the completion of the Project and will provide LFUCG documentation of such upon request.

(9) LFUCG shall in no way be responsible for the actions or inactions of Art in Motion, its employees, or agents in the performance of the Project. Art in Motion promises and agrees that it will indemnify, save, hold harmless and defend the Lexington-Fayette Urban County Government and its elected and appointed officials, employees, agents, volunteers, and successors in interest from any and all claims, demands, damages, or liability for personal injury, property damage, or loss of life or property, whatsoever, resulting from or in any way connected with the activities carried out pursuant to this Agreement and/or the Project.

(10) Art in Motion is solely responsible for obtaining adequate and appropriate insurance or other necessary coverage.

(11) Art in Motion's sole remedy for a breach of this Agreement by LFUCG shall be limited to the amount of the Funds.

(12) Art in Motion understands and agrees that the Funds are being provided by LFUCG, and not an individual or elected official, and shall make no representation otherwise.

(13) This Agreement may not be modified except by written agreement of LFUCG and Art in Motion. This Agreement shall not inure to the benefit of any other party.

(14) Art in Motion agrees to comply with all applicable local and state rules, ordinances and laws in implementation of the Project.

(15) If, through any cause, Art in Motion shall fail to fulfill in timely and proper manner its obligations under this Agreement, or if Art in Motion shall violate any of the covenants, agreements or stipulations of this Agreement, LFUCG shall thereupon have the right to terminate this Agreement by giving written notice to Art in Motion of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In that event, all finished or unfinished documents, receipts and reports prepared by Art in Motion shall, at the option of LFUCG, become its property and Art in Motion shall be entitled to receive just and equitable compensation for LFUCG's share of



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## APPENDIX A

### **Project Description:**

Art in Motion is spearheading a project to restore the 1950s-era bus stop and sign located on Alexandria Drive in front of the Gardenside Shopping Center. This project meets the important community need of revitalizing an older neighborhood and aging shopping center through public art, while highlighting an historic feature that has been overlooked for decades. A project like this can provide the spark that leads to other revitalization efforts in a neighborhood. As this project is located on a major thoroughfare and a historically important shopping center, citizens of the entire Gardenside area will benefit.

The Gardenside Restoration and Art Mural project includes the following specific labor and materials:

1. cleaning the brick sign column and remove peeling paint where the brick portion of the shelter has been painted
2. Repairing, cleaning and/or repainting the concrete portion of the shelter
3. Replacing the current bench with seating of modern design that will complement the mid-century modern architecture and prevent lying down on the bench.
4. Restoring the stainless steel lettering and repairing the vintage stainless steel light fixture on top of the sign column.
5. Replacing all broken neon lights (high energy consuming) behind lettering and light fixture with low wattage LED light fixtures.
6. Holding a public design contest in partnership with LexArts to commission a glass and ceramic mosaic art mural for the inside back wall of the shelter.