

## LEASE AGREEMENT

This Lease Agreement, made and entered into this 26<sup>th</sup> day of April, 2012, by and between the **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government of the Commonwealth of Kentucky, 200 East Main Street, Lexington, Kentucky 40507 ("Lessor") and **Gary Newman** of 3561 Shamrock Lane, Lexington, Kentucky 40511 ("Lessee").

## RECITALS

**WHEREAS**, Section 21-32(c) of the Code of Ordinances of the Lexington-Fayette Urban County Government provides that houses, apartments and other living quarters managed by the Division of Parks and Recreation may be rented to individuals in accordance with written criteria approved by the commissioner of the Department of General Services with rental arrangements subject to the review and approval of the senior advisor for management; and

**WHEREAS**, one of the houses to be rented is located at 3561 Shamrock Lane; and

**WHEREAS**, the Lessor and the Lessee wish to enter into a lease agreement defining their rights and responsibilities relating to the use and occupancy of said rental property.

**WHEREAS**, Gary Newman is eligible to lease said property at 3561 Shamrock Lane.

**NOW THEREFORE**, in consideration of the premises and the further consideration hereinafter provided, the parties hereto agree as follows:

1. **Premises and Term:** The Lessor does hereby let, lease and demise unto Lessee and Lessee does hereby lease from Lessor the house at 3561 Shamrock Lane, including approximately one-quarter (1/4) acre surrounding the house, in Lexington, Kentucky as living quarters, (known as "Premises"). The term of the lease shall be for three (3) years beginning December 1, 2011, and Lessee shall have the right to occupy and possess the Premises during this term, or until the Lease is terminated as set out herein. Lessee shall use the Premises solely as a personal residence and for no other purpose, and shall be the only occupant unless there is written approval for each additional occupant from Lessor.

2. **Rent:** (a) Lessee covenants and agrees that as consideration for the use and occupancy of the Premises, Lessee shall provide services identified in Addendum 1 attached hereto and incorporated herein by reference for sixteen (16) hours per month and pay \$335.39 per month due to the Division of Parks and Recreation at 469 Parkway Drive, Rental Office, Lexington, Kentucky 40504 on the 1<sup>st</sup> day of each month commencing February 1, 2012. (b) Lessee shall pay a \$250 cleaning/damage deposit prior to occupancy. Any portion of the deposit not required to repair damage to the Premises at the end of occupancy shall be returned to the Lessee. In the event the Lessee leaves the premises and does not pay the last month's rent nor demand return of the deposit, after 30 days Lessor may apply the security deposit or any amount thereof remaining to the debt owing.

3. **Condition of Premises:** Lessee has inspected the Premises and all improvements, facilities and equipment thereon or has had an opportunity to do so

and agrees to accept the same, as is, without any agreements, representations, understandings or obligations on the part of the Lessor to perform any alterations, repairs or improvements except as set out elsewhere in this lease agreement. Prior to occupancy, Lessee and Lessor shall sign a listing of the extent of then-existing damage that shall not be attributed to Lessee pursuant to paragraphs 2 and 4 herein.

Lessee shall keep the Premises in a neat and clean condition, inside and out, free from any accumulation of trash, garbage, waste or debris. Lessee shall dispose of any accumulation of same in the manner required by the Code of Ordinances of Lexington-Fayette Urban County Government or other law. Lessee shall use no portion of the exterior areas for storage.

Lessee is responsible for grass and weed mowing and trimming, leaf removal, sidewalk shoveling and related activities necessary to the reasonable upkeep of the Premises as provided in Addendum 1 attached hereto.

Lessee may have guests; however, noise levels shall not violate Sections 14-70 through 14-80 of the Code of Ordinances, Lexington-Fayette Urban County Government.

Pets shall be permitted at the discretion of the Division Director.

**4. Repairs:** The Lessor through the Division of Parks and Recreation shall maintain the Premises in a fit and habitable condition and maintain the roof, foundation and structural portion of the Premises, as well as maintain all electrical, plumbing, heating, ventilating, and air conditioning systems in good and safe working order in accordance with the established budgets of the Lexington-Fayette Urban

County Government. All minor day-to-day maintenance shall be the responsibility of the Lessee. Lessee shall also have responsibilities for the rental house as listed on Addendum 1 attached hereto. Lessee shall promptly notify the Lessor in the event that any repairs or replacements are required on the Premises. Lessor shall repair or replace same in a timely manner as it deems necessary. Lessee shall indemnify Lessor and pay for any repairs, maintenance and replacement to the Premises caused in whole or in part as a result of Lessee's use of the Premises, ordinary wear and tear excepted.

Lessor shall not be liable for any damage occasioned by reason of failure to keep the Premises in repair pursuant to this section unless notice of the need for repairs has been given to the Lessor in writing and said repairs are not made within thirty days after such notice. In any event, the Lessor shall not be liable for any damage done or occasioned by or from the electrical, heating, air conditioning, or plumbing installation in the Premises of the Lessee which resulted from action or inaction on the part of the Lessee nor for any damage arising from acts of negligence of other occupants of the Premises nor the acts of any owners or occupants of adjoining or contiguous property.

Lessee may repair or replace items on the Premises that would normally be the responsibility of the Lessor if prior written approval is obtained from the Director, Division of Parks and Recreation.

**5. Right of Access:** Lessor and its authorized agents shall have the right at all reasonable times, upon reasonable notice to Lessee, to enter into and upon the Premises for the purpose of inspecting, maintaining and repairing the Premises.

**6. Utilities:** The Lessor is responsible for providing utility service pursuant to the agreed upon terms attached hereto as Addendum 2 and incorporated herein depending on whether premises are separately metered. The Lessee shall not install any equipment which will exceed or overload the capacity of any utility service installed by the Lessor and if any equipment installed by the Lessee requires additional utility capacity, such capacity shall be installed at Lessee's expense in accordance with the plans and specifications to be approved in writing by the Lessor.

**7. Assignment and Subletting:** Lessee shall not (i) assign, mortgage, pledge, hypothecate, encumber or permit any lien to attach to or otherwise transfer this lease agreement or any interest hereunder by operation of law or otherwise, (ii) sublet the Premises or any part thereof, or (iii) permit the use of the Premises by any persons other than the Lessee.

**8. Destruction of Premises:** If the Premises should be destroyed or damaged by fire or other casualty covered by the Lessor's policy of fire and extended coverage insurance, the Lessor shall, with due diligence, make repairs or restoration at its expense provided, however, that should damage to the extent of 50% or more of the value thereof occur, then Lessor may at its option cancel this lease agreement instead of making the necessary repairs or restoration.

**9. Eminent Domain:** In the event the Premises or any portion thereof shall at any time after the execution of this lease agreement be taken for public or quasi-public use or condemned under eminent domain the Lessee shall not be entitled to claim or have paid any compensation or damages whatsoever or on account of any

loss, entry, damage, or taking of any right, interest or estate of the Lessee and Lessee hereby relinquishes to the Lessor any rights to any such damages. The Lessor shall be entitled to claim and have paid to it for the use and benefit of the Lessor all compensation and/or damages for and/or on account of and/or arising out of such taking and/or condemnation without deduction from the amount thereof for or on account of any right, title, interest or estate of the Lessee in or to said Premises. Should all of the Premises be taken by eminent domain, then this lease agreement shall be deemed terminated and the Lessee shall be entitled to no damages or any consideration by reason of such taking.

**10. Personal Property:** All personal property owned by Lessee, or otherwise, which may be upon said Premises during the term of this lease agreement shall be at the sole risk and responsibility of Lessee. It is recommended that Lessee maintain a policy of insurance to cover loss or damage to personal property during the entire period of occupancy. Any coverage shall fully waive rights of subrogation against Lessor.

**11. Insurance:** Lessee shall indemnify, save and hold harmless the Lessor, including the Division of Water and Air Quality, from and against all claims and losses that occur on the premises. Lessee further agrees to carry and pay for Renter's Liability Insurance in the amount of \$500,000, Combined Single Limits, including fire legal liability, with an insurance company authorized to do business in the Commonwealth of Kentucky, with a rating classification of no less than Excellent (A or A-) and a financial size category of no less than VIII, as defined by the most current Best's Key Rating

Guide. The policy shall name the Lexington-Fayette Urban County Government and Division of Parks and Recreation as additional insureds and shall be primary to any applicable insurance of Lessor. The insurance coverage shall fully waive rights of subrogation against Lessor. The certificate of insurance shall be provided to the Department of Law – Claims Management of the Lexington-Fayette Urban County Government at 200 East Main Street, 6<sup>th</sup> Floor, Lexington, Kentucky 40507. The Department of Law – Claims Management shall be responsible for monitoring the insurance provisions of this lease.

**12. Termination:** The Lessor, through the Director of the Division of Parks and Recreation, may terminate the lease and any right of possession, for any reason or no reason, upon thirty (30) days written notice. Lessor, through the Director of the Division of Parks and Recreation may immediately terminate the lease, and any right of possession, upon forty-eight (48) hours written notice if Lessee conducts any illegal activities on or about the Premises or does any intentional damage to the Premises.

**13. Default:** In the event Lessee shall fail to comply with any provisions of this Lease Agreement, Lessor may terminate the lease pursuant to paragraph 12 herein. Lessor need not give Lessee any right to cure the default prior to such termination. Lessee shall surrender possession as set out in paragraph 14 herein.

**14. Return of Possession:** At the termination of this lease agreement or Lessee's right of possession, Lessee shall surrender possession of the Premises in as good a condition and repair as Premises were at the beginning, ordinary wear and tear

excepted, and shall surrender all keys to the Lessor and advise Lessor as to the combination of any locks remaining in the Premises and shall remove all personal property. If Lessee fails to remove any items from the Premises as required hereunder, the Lessor may do so. All property removed from the Premises by the Lessor pursuant to any provision of this lease agreement or any law may be handled or stored by the Lessor at Lessee's expense payable upon demand and the Lessor shall in no event be responsible for the value, preservation or safe keeping thereof. All property not removed from the Premises or not removed from storage on the date Lessee's right of possession shall end or within fifteen days of the death of Lessee by his heirs or administrator shall, at the Lessor's option, be conclusively deemed to have been conveyed to the Lessor by Lessee as if by bill of sale without payment by the Lessor. Unless prohibited by applicable law, the Lessor shall have a lien against such property for the costs incurred in removing and storing the same.

**15. Amendments:** No amendments to this lease agreement shall be binding upon either party hereto until such amendment is reduced to writing and executed by both parties.

**16. Severability:** If any clause, provision or section of this lease agreement is ruled invalid or unenforceable by any court of competent jurisdiction, the invalidity or unenforceability of such clause, provision or section shall not affect any of the remaining clauses, provisions or sections hereof.

**17. Notices:** The agent of the Lessor, for purposes of this lease agreement, shall be the Director of the Division of Parks and Recreation, whose offices



are located at 469 Parkway Drive, Lexington, Kentucky 40504. All notices or consent required to be given by or on behalf of either party shall be in writing and shall be sufficiently given, and shall be deemed given, when delivered or mailed by certified mail, postage prepaid, return receipt requested, to the Lessor at the address set out in this paragraph and to the Lessee at the address first set out herein.

**18. Waiver:** No waiver of any condition or legal right or remedy shall be implied by failure of Lessor to declare a default and no waiver shall be valid unless it be in writing and signed by the party so waiving.

**IN WITNESS WHEREOF,** the parties hereto have caused this lease agreement to be executed as of the date first above written.

LESSOR: LEXINGTON-FAYETTE URBAN  
COUNTY GOVERNMENT

BY:   
JIM GRAY, MAYOR

LESSEE:

  
GARY NEWMAN



Lexington-Fayette Urban County Government  
DEPARTMENT OF GENERAL SERVICES

Jim Gray  
Mayor

Richard Moloney  
Chief Administrative Officer

**Jerry E. Hancock, Director**

ADDENDUM 1  
LEASE MEMORANDUM FOR  
3561 SHAMROCK ROAD AT MASTERSON STATION PARK  
TO COMMENCE DECEMBER 2011

This list includes the duties expected of the tenant of the subject property. It is expected that the hours worked would average these totals on a year round basis. Some seasonal variation is expected.

<b>Park Security Requirements:</b>	<b>total = 12 hours</b>
1. Check all facilities for security daily on weekends and holidays, investigate acts of vandalism, assist rental patrons and park visitors at shelters, barns and or open areas throughout the park.	
• Expected to take 1 hour per day	(4)
2. Respond to calls concerning fire alarm system for indoor arena, receive and direct calls for assistance from park patrons.	
• Expected to take 1 hour per month	(1)
3. Provide visual security for horse paddocks and tack barn area, located at the rear of the park on a daily basis after closing hours.	
• Expected to take ¼ hour per day	(7)
<b>Residence Maintenance Requirements</b>	<b>total = 4 hours</b>
1. Provide routine and special building maintenance on residence.	
• Expected to require 4 hours per month	(4)
Total number of hours monthly	= (16)

Market Rate for house = \$560

*-Less Labor Value Contribution*

	Civil Service Rate	Hours	Labor Value
Security Guard Rate	\$12.839	12	\$154.07
Skilled Trades Worker	\$17.636	4	\$ 70.54
		16	\$224.61

**Net Effective Rental Rate (\$560 - \$224.61) = \$335.39**



Lexington-Fayette Urban County Government  
DEPARTMENT OF GENERAL SERVICES

Jim Gray  
Mayor

Richard Moloney  
Chief Administrative Officer

**Jerry E. Hancock, Director**

ADDENDUM 2  
LEASE MEMORANDUM FOR  
MASTERTON STATION HOUSE #1  
TO COMMENCE DECEMBER 2011

UTILITY TERMS

1. The lessee shall pay to the Lexington-Fayette Urban County Government, the amount of \$130.00 each month for utility costs (\$35.00 for water and \$95.00 for gas) incurred at the property at 3561 Shamrock Lane, Lexington, KY. This amount is due to the Lexington Division of Parks and Recreation, 469 Parkway Drive, Lexington, KY 40504.
2. The lessee shall be responsible for all other utilities including, but not limited to, electric, phone service and television cable service.
3. This agreement is subject to change upon necessary and reasonable cause.

UTILITY COSTS

Water	\$ 35.00**
Gas	<u>\$ 95.00***</u>

Total Utilities \$130.00

\*\*Water costs based on the average Fayette County usage of 172 gallons per day at a rate of \$3.12 per 1000 gallons, plus meter and tax fees; provided by Kentucky American Water.

\*\*\*Home gas costs based on the average monthly bill in Fayette County for a 950 sq. ft. home (\$.095 per sq. ft.) provided by The Greater Lexington Chamber of Commerce.