

LEASE FOR REAL PROPERTY

THIS LEASE for real property is made and entered into on the date of the last signatory below, by and between the City of Columbia, Missouri, a municipal corporation (hereinafter "Lessor"), and the Boone County Historical Society, a Missouri not-for-profit corporation (hereinafter "Lessee").

WITNESSETH:

WHEREAS, Lessor owns certain real property in Columbia, Boone County, Missouri, known as the Frank G. Nifong Memorial Park (hereinafter "the Park"), which is dedicated to be used for public park purposes (the Park); and

WHEREAS, Lessee has been instrumental in enhancing the recreational and historical aspects of the Park and has constructed and operated, at its own expense, a public historical museum, gallery, and visitor's center (hereinafter "the Facility") in the Park.

NOW, THEREFORE, in consideration of their mutual promises, covenants and performance of the terms and conditions of this Lease, the parties agree as follows.

1. Lessor leases to Lessee, and Lessee takes as Lessee, a portion of the Park located south and immediately adjacent to the boundary of the historic homestead of the Maplewood home, as shown on "**Attachment A**" which is attached to and made a part of this lease, and more specifically described as follows:

A tract of land in the south half of Section 29, Township 48 North, Range 12 West in the City of Columbia, Boone County, Missouri; said tract being part of the land shown by a survey in Book 383 at page 392 and described in warranty deed in Book 387 at page 31, both of the Boone County Records; said tract being further described as follows:

Starting at the quarter corner common to said Section 29 and to Section 32; thence with the section line, N. 89° -23' E., 826.5 feet to the southwesterly right of way line of U.S. Highway 63; thence along said right-of-way line in a northwesterly direction on a 1 degree- 6.87 minute curve to the right for an arc distance of 308.5 feet; 6.87 minute curve to the right for an arc distance of 308.5 feet; thence continuing with said right of way line on a 1 degree- 55.25 minute curve to the right for an arc distance of 466.9 feet to the POINT OF BEGINNING at an existing right-of-way marker; thence N.40°02'W., 146.3 feet; thence S.63° 31'W., 352.3 feet; thence continuing with said right-of-way marker; thence S.30°29'E., 435.1; feet; thence N.62°59'E., 360.0 feet to said right-of-way line;

thence with said right-of-way line in a northwesterly direction on a 1 degree-55.25 minute curve to the right for an arc distance of 288.5 feet to the POINT OF BEGINNING and containing 3.63 acres.

AND

A tract of land in the South ½ of Sec. 29, T 48 N, R 12 W, in Columbia, Boone County, Missouri, and being described as follows:

A tract of land located in the northwest quarter of the southwest quarter of the southeast quarter of Section 29, T48N, R12W, Columbia, Boone County, Missouri, being the east part of the 57.58 acre tract shown and described by a survey recorded in Book 383, page 392, and being in the east part of Tract #4 of the four-tract survey recorded in Book 388, Page 108, both of the Boone County records, and being more particularly described as follows:

Beginning at the northeast corner of the 3.63- acre tract described by an amendment to lease for real property per City of Columbia Ordinance No. 017679, Council Bill No. B 132-03, being on the west right-of-way line of Business Loop 63 and being N 21° -03'-50" E 861.82 feet from the south quarter corner of Section 29, T48N, R12W; thence S 63° -31'W, along the north line of said 3.63 acre tract, 80.00 feet; thence N 87° -34'E, along the fence line, 64.00 feet to the west right-of-way line of said Business Loop; thence S 40° -02'E, along said right-of-way line, 15.00 feet to the beginning and containing 0.046 acre (2007 square feet). Bearings are based on the south line of Section 29-48-12, being the south line of Tract #4, as shown by said four-tract survey recorded in Book 388, Page 108 of the Boone County records.

Said real property and the Facility and other improvements located thereon are sometimes collectively referred to as "the Premises."

2. During the term of this Lease, the rental for the Premises shall be Ten Dollars (\$10.00) per year, payable in advance, due on January 1.
3. The term of this Lease shall be for a period of twenty-five (25) years commencing upon execution by the parties and ending on the 31st day of December, 2040 (the "Initial Term"). This Lease will automatically renew for successive terms of one (1) year (the "Option Terms") unless either party gives written notice of termination to the other party at least 180 days prior to the end of the then current term.
4. Lessor warrants, covenants and agrees:

A. That Lessor has good title to the Park, including the Premises, subject to the condition that it be used for public park purposes.

B. That Lessor will put the Lessee in possession of the Premises and that Lessee, by paying the rent specified and observing and performing the several covenants, conditions and stipulations herein contained, may peaceably hold and enjoy the Premises during the term hereof subject to the right of termination by Lessor as herein provided.

C. That Lessee may manage, operate and use the Premises, provided that Lessee must comply with all applicable laws, building codes, ordinances and restrictions.

5. Lessee warrants, covenants and agrees:

A. To pay the rent at the time and in the manner provided.

B. To use the Premises only for managing, maintaining, and operating the Facility and other improvements that have been approved by the Lessor on the Premises. To maintain the Facility and other improvements in good repair and condition at all times. To take good care of all the property and keep it secured, in good order and free from filth, danger of fire or explosion and any nuisance. To maintain and manicure the grounds, gardens, lawns, landscapes and care and sustain all other features of the grounds.

C. That Lessee will obtain Lessor's written approval of other improvements and construction plans and costs prior to entering into any contracts for construction of any further improvements to the Premises, unless otherwise approved by the City Council. Lessee will be solely responsible for all such construction costs and will keep the Premises free of all liens and encumbrances of any kind, including but not limited to mechanics liens.

D. That Lessee will operate the Facility and all other improvements on the Premises during the entire term of the Lease:

- (1) In compliance with Title VI of the Civil Rights Act of 1964 (P.I. 88-352; 42 USC 2000d) so that no person shall, on the basis of race, color or national origin be excluded from participating in, be denied the benefits of, be denied employment by, or be otherwise subjected to discrimination in the use or operation of the Premises. (Lessee understands that the preceding sentence is interpreted to provide that when federal funds are extended to any part of a system (e.g., purchase and development of the Park), the entire system, including those parts not receiving federal assistance, is subject to the obligations and prohibition imposed by Title VI of the 1964 Civil Rights Act and the provision of the Code of Federal

Regulations, Title 43, Part 17 and any regulations promulgated pursuant thereto.)

- (2) Without discriminating against any person on the basis of residence, except to the extent that reasonable differences in admission or other fees may be maintained on the basis of residence.

E. To comply with the policies and procedures set forth in the *Land and Water Conservation Manual*. Said manual is hereby incorporated into and made a part of this agreement as if fully set forth herein.

F. Lessee shall maintain, during the term of this lease, General Liability insurance that covers the leased premises, "including, but not limited to, parking facilities, sidewalks, ramps and stairs, which provide access to the leased facility." The Commercial General Liability policy with limits of \$1,000,000 minimum per occurrence and \$3,000,000 general aggregate shall include contractual liability, personal injury liability, and property damage to rented or leased property. Lessee shall provide Lessor with a current certificate of insurance evidencing the existence of such coverage.

G. To obtain and carry fire and extended coverage insurance upon the Facility in an amount not less than the replaceable value thereof, with Lessee and Lessor both named as insureds. Lessee shall provide Lessor with a current certificate of insurance evidencing the existence of such coverage.

H. To assume all risk and liability, and to indemnify and save harmless Lessor and its officers, agents, and employees from and against any and all loss of or damage to property belonging to Lessor or to third parties, or injuries to or death of any person or persons, and shall defend, indemnify and save harmless, Lessor, its officers, agents and employees from any and all claims, damages, suits, costs, expense, liability, actions or proceedings of any and all nature whatsoever in any way resulting from or arising out of, directly or indirectly, its operations and functions under this lease, or its use or occupancy of any portion of the premises, including acts of omission or commission of employees, representatives, or agents of Lessee.

I. To not sublet or assign any portion of the Premises without the written consent of Lessor in Lessor's sole discretion.

J. To permit Lessor to enter the Premises at any reasonable time for the purpose of inspecting the same to determine the condition of the Facility or the Premises or the type of activities being conducted by Lessee.

K. That if any default shall be made in the payment of rent, or any part thereof, at the time provided or within ten (10) days thereafter, or if, after sixty

(60) days written notice setting forth the default, Lessee shall continue to be in default in the performance or observance of any covenant, agreement or condition herein contained, or if Lessee shall be dispossessed or shall abandon or vacate the Premises, or shall become bankrupt or shall make a general assignment for the benefit of creditors, then Lessor shall have the right to re-enter and take possession of the Premises and Lessee will peaceably surrender possession thereof to Lessor upon written demand, and all rights and interests of Lessee hereunder shall cease and terminate.

L. To comply with the terms of all applicable regulations and procedures implementing the following acts and amendments to such acts:

- (1) National Environmental Policy Act of 196 (SC P.L. 92-234)
- (2) Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646)
- (3) Flood Disaster Protection Act of 1973 (P.L. 92-234)
- (4) Architectural Barriers Act of 1968 (P.L. 90-480)
- (5) Historic Properties Preservation Act of 1966 (P.L. 89-665)

6. Lessor and Lessee mutually agree that in the event the Facility or any other building on the Premises is destroyed or damaged, Lessee shall be entitled to utilize all applicable insurance proceeds payable as a result of said damage or destruction to repair and restore the Facility or other building(s).
7. In the event Lessee shall dissolve, expire, or otherwise cease to exist, this Lease shall immediately terminate, and the Premises, with all improvements thereon, shall revert to Lessor.
8. This Lease shall not be amended except by written agreement signed by Lessor and Lessee. This Lease constitutes the entire Lease and understanding of the parties. This Lease supersedes any prior agreements or understandings between the parties whether written or oral.
9. Any notice required or permitted under this Lease shall be in writing and may be personally delivered or mailed, certified or registered mail, return receipt requested and postage prepaid, to the respective addresses of the parties as set out herein, or to such other addresses as either party may give to the other in writing. Any and all notices or other communications given under this Lease shall be effective when delivered personally or one day after the date mailed if sent certified or registered mail.

If to Lessee:

Boone County Historical Society
ATTN: Executive Director
3801 Ponderosa Drive
Columbia, MO 65201

If to Lessor:

City of Columbia, Missouri
ATTN: City Manager
701 E. Broadway
Columbia, MO 65201

10. This Lease shall be binding upon and inure to the benefit of the parties and their successors and permitted assigns. Each party represents to the other that its officer executing this document is duly authorized to do so.
11. Employment of Unauthorized Aliens Prohibited:
 - A. Lessee agrees to comply with Sec. 85.530 RSMo. in that Lessee shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the State of Missouri.
 - B. As a condition for the award of this Lease, Lessee shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. Lessee shall also sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services.
 - C. Lessee shall require each subcontractor to affirmatively state in its contract with Lessee that the subcontractor shall not knowingly employ, hire for employment or continue to employ an unauthorized alien to perform work within the State of Missouri. Lessee shall also require each subcontractor to provide Lessee with a sworn affidavit under the penalty of perjury attesting to the fact that the subcontractor's employees are lawfully present in the United States
12. No waiver of immunities. In no event shall the language of this Lease constitute or be construed as a waiver or limitation for either parties' rights or defenses with regard to each parties' applicable sovereign, governmental, or official immunities and protections as provided by federal and state constitution or law.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties have caused this Lease to be executed by their duly authorized officials and officers on the day and year written below.

**LESSOR:
CITY OF COLUMBIA, MISSOURI**

By: _____
Mike Matthes, City Manager

Date: _____

ATTEST:

By: _____
Sheela Amin, City Clerk

APPROVED AS TO FORM:

By: _____
Nancy Thompson, City Counselor

STATE OF MISSOURI)
) ss.
COUNTY OF BOONE)

On this _____ day of _____, 2017, before me appeared Mike Matthes, to me personally known, who, being by me duly sworn, did say that he is the City Manager of the City of Columbia, Missouri, and that the seal affixed to the foregoing instrument is the corporate seal of the City and that this instrument was signed and sealed on behalf of the City by authority of its City Council and the City Manager acknowledged this instrument to be the free act and deed of the City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in Columbia, Boone County, Missouri, the day and year first above written.

By: _____
Notary Public

My commission expires: _____

**LESSEE:
BOONE COUNTY HISTORICAL SOCIETY**

By: _____
Wilson Beckett, President

ATTEST:

By: _____
Marjorie Motley, Secretary

STATE OF MISSOURI)
) ss.
COUNTY OF BOONE)

On this ____ day of _____, 2017, before me appeared Wilson Beckett, to me personally known, who, being by me duly sworn, did say that he is the President of the Boone County Historical Society, a not-for-profit corporation of the State of Missouri, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and that said President acknowledged said instrument to be the free act and deed of the Corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in Columbia, Boone County, Missouri, the day and year first above written.

By: _____
Notary Public

My commission expires: _____

NIFONG HOUSE

NOTE: PROPERTY LINES AND LEASE BOUNDARIES ARE BASED ON CITY GIS DATA AND MUST BE FIELD VERIFIED BY A SURVEYOR.

2003 LEASE ADDITION

64.0'

15.0'

44.5'

80.0'

RIVER HORSE PAVILION

272.3' LEASE LINE

146.3' LEASE LINE

PARKING LOT

BCHS

EASLEY STORE

288.5' LEASE LINE ON ARC

PONDEROSA RD.

US HWY 63

435.1' LEASE LINE

RYLAND HOUSE

SHOTGUN HOUSE

CABIN

360.0' LEASE LINE

Nifong Park BCHS Lease Boundaries

City of Columbia, MO Parks & Recreation
7-23-17

