

Memorandum of Agreement

Between The Steamboat Era Museum and the Town of Irvington, Virginia

Deed of Lease / Landlord Improvements to Include a Town Office / Rent & Security

Date: December 17, 2023

Introduction and Intent:

This Memorandum of Agreement (MOA) documents the terms of agreement between The Steamboat Era Museum, a Virginia nonstock corporation with a principal office address of 156 King Carter Dr. # 132, Irvington, VA, 22480 (the "Museum"), and the Town of Irvington, Virginia, a municipal corporation of the Commonwealth of Virginia (the "Town") (the Museum and the Town each a "Party" and collectively the "Parties"), as it relates to the renovation of the existing property and facility owned by the Museum located in Irvington, Virginia (the "Property") to include the creation of a new office space for the Town (the "Offices").

The Offices and other renovated spaces and systems on the Property (the "Project") will be designed and constructed according to the requirements provided by the Town, and agreed to by the Museum, will be owned by the Museum, and will be subject to a leasehold interest and deed of trust held by the Town. Prior to commencement of construction, the Parties will enter a long-term lease with the Museum for office space.

Scope of Project:

The Town requires a facility to be used as a Town Office. The Museum is willing to make improvements to the Property to accomplish the Project and the Town is willing to pay for the design and construction of the necessary landlord improvements and obtain a leasehold interest in the Property related to the Project. It is understood and agreed by the Parties that the Project will include (1) an office space and environment suitable for the exclusive use and occupation by Town staff; (2) an exclusive space for the storage of Town files; (3) a separate conference room, to be shared by the Town and the Museum (the "Conference Room"); and (4) shared access to existing restroom, lobby, and kitchen spaces on the Property. All office and conference spaces will be fitted with modern telecommunication and conferencing systems. The Parties understand and acknowledge that these requirements will be revised and refined as the design of the Project progresses as contemplated in this MOA, with the concurrence of both Parties.

Authority, Term, and Necessary Agreements:

This MOA shall be effective upon its final signature (the "Effective Date") evidencing ratification by a majority vote of approval by the Museum's Board of Directors (the "Board"), and a majority vote of approval by the Town's Council (the "Council"). Appropriation and funding for all phases of the Project must be approved by a two-thirds vote of the Council, as required by the Town Charter. This MOA shall be effective until the earlier occurrence of (1) execution of the Construction Contract (defined herein), (2) expiration of two years from the Effective Date, or (3) termination by either Party.

The contract with the architect (the "Architect") for design of the Project (the "Design Contract") must be approved by both the Board and the Council. The final design of the Project must be approved by both the Council and the Board prior to the solicitation of construction bids by the Museum. Prior to either Party executing a contract for the construction of the Project (the "Construction Contract"), the Parties shall execute a long-term lease in recordable form, with the exchange of any consideration or rent being contingent upon execution of a construction contract on terms satisfactory to both Parties. The Construction Contract with the contractor (the "Contractor") must be approved by both The Council and the Board, before being executed by the Museum. The costs of the Project outlined in the Construction Contract, including any necessary contingencies and additional funding allocated by the Council referred to herein as the "Construction Costs."

Termination:

The Town may, in its sole discretion, terminate this MOA at any time prior to approval of the Construction Contract by delivering written notice of termination to the Museum. Upon termination by the Town the Museum will not be required to repay any design or study funds expended by the Town. Likewise, the Town will not be obligated to reimburse any funds spent independently by the Museum, outside of the scope of the Project and this MOA.

Points of Contact:

Both the Town and the Museum will appoint a primary and backup points of contact for the Project, whoa will be authorized to act within their designated authority. Project management issues, change orders, design changes, payment requests, and other issues are to be coordinated through these points of contact for the Parties. Individual Board Directors, Town Staff, individual Town Council Members, Mayors, or other individuals do not have authority to make any changes to the Project, which must occur through the terms of this MOA, the Design Contract, and the Construction Contract. The Design Contract and the Construction Contract shall each allow the Town points of contact to work directly with the Architect and the Contractor, respectively; however, the Town will not speak on behalf of the Project owner, the Museum, and will keep the Museum points of contact apprised of all conversations.

Amendment:

This MOA may be amended, modified, or superseded by updated versions, with the concurrence of the Council and the Board.

Supplemental Requirements of the Museum:

The Museum may include additional renovation requirements, unrelated or supplemental to the Project, in the Design Contract and/or the Construction Contract. These must be bid as separate options by the designer or contractors, and must be funded by the Museum at its sole cost. If additional requirements

are requested by the Museum in the Design Contract or the Construction Contract, the cost associated with such items shall be billed separately to the Museum by the Architect or the Contractor.

Operations, Maintenance and Upkeep:

All structural elements of the Project will remain the property of the Museum. The Museum will be responsible for the maintenance, functionality, operation, appearance, and upkeep of the entire Property and its building and systems, as per the 2018 Virginia Maintenance Code.

The cost of janitorial and cleaning services for the Offices, restroom, lobby, kitchen, and other shared spaces will be paid for by the Town. Cleaning of the Museum's offices and gallery spaces, not used by the Town, will be the responsibility of the Museum. Utilities, including electrical and water will also be split on a ratio to be determined in the deed of lease, or separately metered.

The Museum will be solely responsible for the maintenance of the septic system for the Property, unless a separate agreement is made to make the restrooms "public" outside the use of the Town for the Offices and Town meetings. The Town agrees to limit access to the restrooms to only the associated use of the Offices and the Conference Room. The Town shall not hold the restrooms on the Property open to the public for public concerts, festivals, or markets, unless other arrangements are made in writing.

As a landlord, the Museum will have access to locked spaces within the Town's leasehold interests on an emergency-only basis. The Town will provide a key to the Museum for this access, which will be kept by the Museum in a secure location. The Town will be provided a key, for emergency-only access, to all utility shut-offs, power panels, and other similar utilities not located within the Offices or shared spaces. Both the Town and the Museum will provide an emergency point of contact who can respond to building issues, as required.

The Council will appoint, and the Museum will accept, an individual to serve as a full member of the Facilities Committee of the Museum. This individual will not be a member of the Board, and may but need not be a Member of the Council.

The Town and the Museum will manage a joint calendar for use of the Conference Room and common spaces on the Property, which shall be scheduled according to the following order of priority:

1. Use by the Town that is governed by statute (*e.g.* meetings of Council, Planning Commission, etc.).
2. Meetings of the Board.
3. Use by staff and committees of the Town.
4. Other meetings and uses.

The Museum shall be allowed to rent the Conference Room and common spaces to outside parties to the extent that such rental does not interfere with the Town's leasehold interest or use of the Property. The Museum (or outside party) shall be responsible for cleaning the spaces, and repairing any damage. The Museum may retain all rental funds.

Furnishings:

Office furniture, equipment, and furnishings for the Offices will be provided by, and be property of the Town. Specification of these items will be a part of the Design Contract, and may be a part of the Construction Contract. Conference Room electronics, furnishings, systems, and furniture will be provided by the Museum and will be the property of the Museum. Any damage to the shared systems caused solely by the Town will be assessed to the Town for repair or reimbursement.

Funding for the Project:

The Town will pay for the costs related to the Design Contract, and which shall include any portions of the Property directly impacted by the Project. These design costs will not be reimbursed by the Museum. Funding for the landlord improvements necessary for completion of the Project and obligated by the Construction Contract will be provided by the Town to the Museum as advanced rent, subject to a security interest in the Property. The Museum consents to the Town obtaining an appraisal or other fair market evaluation for the Property to determine whether there is sufficient security in the Property to protect the Town's interest in the advance rent. Within thirty (30) days of the Effective Date, the Museum will disclose to the Town in writing all debts secured by the Property. The Museum will establish a bank account solely for the Project. The Town will have the right to audit all receipts and costs, with respect to the Project.

Securing the Debt:

(Note: This section will likely be updated in a future version of this MOA)

Assuming the Architect's design is satisfactory to the both the Museum and the Town, the Council and the Board will authorize release of the documents for bid by licensed construction firms. Once a bid is accepted, and prior to the Museum executing the Construction Contract, the Town and the Museum will enter into a deed of lease, with the advance payment of rent evidenced by an interest-free note issued by the Town equal to the Construction Costs of the Project, which shall be secured by a deed of trust on the Property. The current assumption is that the note will be paid off as credits for rent for the Town's occupation and use of the Offices and shared spaces on the Property over a number of years agreed-to by the Parties. These details, including rent costs and the payoff time, will be re-negotiated prior to execution of the Construction Contract, once the Construction Costs are known.

During the term of this MOA, should the Museum receive a bona fide good faith offer be received to purchase the Property or any portion thereof, the Museum shall promptly provide notice of the material terms of such offer to the Town and the Town will have 60 days to match the terms of the offer, and purchase the Property, or portion thereof. The deed of lease between the Parties shall include a right of first refusal on substantially similar terms and a right of redemption and option to purchase in the event of an event of default on secured debts having priority of the Town's deed of trust.

As a part of the future lending agreement negotiations, and revisions to this document, or the execution of the deed of lease, the Town may wish to include an additional 5 year rental option after completion of the initial repayment and rental period.

Permission from Interested Parties:

By ratifying this document, the Museum certifies that it has confirmed with its attorneys, insurance agents, current lenders, codes officials, and other relevant parties that there will be no objections to the Project, as proposed, as well as the addition of a lending agreement (such as a first or second mortgage or other suitable lending agreement) secured by the title of the Property. The Museum is responsible for determining how the Project, and subsequent lease arrangements, impact its non-profit status, and understanding the tax implications, if any, of receiving advance rent from the Town which provides an interest-free construction loan for the Project.

Project Design:

Detailed requirements shall be developed by the architect pursuant to the Design Contract, but generally should include a Town Office reception space that includes a Clerk's desk and file storage. If possible, three additional, smaller spaces, that can be configured as small offices or file / copy rooms should be provided. Direct access to a conference room, with a 10 person conference table and additional 10 observers is requested. This Conference space may be shared with the Museum, and may include Museum design requirements. All spaces should be wired with modern telecommunications / internet systems as well as modern teleconferencing equipment. The Museum and the Town will assist the Architect to develop more specific requirements, as required.

Insurance:

The Town will maintain renter's insurance, and include the Museum as a co-insured party. The Museum will maintain a replacement fire / disaster insurance policy for the entire structure, including the Project, equal to the appraised replacement values of all structures on the Property.

Successors and Assigns:

This MOA shall not be assigned by either Party without the other's written consent, which may be withheld at that Party's sole discretion. This MOA shall be binding on the Parties and their respective successors and assigns. It is the intent of the Parties that all future modifications, amendments, or agreements superseding this MOA be so binding.

Preliminary Schedule of Activities

Note: This schedule is preliminary, and will likely be altered to accommodate Museum or Town events, contractor availability, or other events or issues unknown at this time.

December 2023 – Signature and ratification of this Memorandum of Agreement by both the Museum Board of Directors and the Town Council; Confirmation by Museum of approval of project by interested / affected parties

January 2024 – Receipt of Architect proposal;

February 2024 – Approval of Funding for Design by the Irvington Town Council; Release of design funds by the Council

April 2024 – Completion of Design; Acceptance of Design by Museum and Town

May – July 2024 – Solicitation of Construction Bids, Design Revisions, Permit Approvals

August 2024 – Negotiation of deed of lease and security instruments including construction costs, reimbursement terms, and lease extension terms.

September 2024 – Acceptance of construction contract by both the Town Council and Museum Board of Directors. Issuance of Secured Lending Agreement on the Museum property, update and renegotiation of deed of lease and security instruments as it relates to the repayment terms, and recordation of same.

November 1 2024 – Construction Starts

June 2025 – Completion of Construction. Issuance of Occupancy Permit

July 2025 – Furnishings and Move-in

August 2025 – Opening of renovated facility

Signature below by the Mayor Town of Irvington, Virginia constitutes acceptance of these terms by a majority of the Town Council of Irvington, VA

Julie Harris, Mayor

Date

Signature below by the Chairman of the Board of Directors of the Steamboat Era Museum constitutes acceptance of these terms by a majority of the Steamboat Era Museum Board of Directors.

Keith Kehlbeck, Chair

Date