

THE STATE OF TEXAS                   §  
  §                   KNOW ALL MEN BY THESE PRESENTS:  
COUNTY OF FORT BEND               §

**OCCUPANCY AND OPERATION AGREEMENT BETWEEN FORT BEND COUNTY  
AND  
THE FORT BEND COUNTY MUSEUM ASSOCIATION, INC.**

THIS AGREEMENT made and entered into by and between FORT BEND COUNTY, TEXAS, a body corporate and politic under the laws of the State of Texas, hereinafter referred to as "County," and THE FORT BEND COUNTY MUSEUM ASSOCIATION, INC. Inc., hereinafter referred to as "Association," a Texas non-profit, tax-exempt corporation, acting herein by and through its duly authorized officers.

**W I T N E S S E T H:**

WHEREAS, Association is a non-profit, tax-exempt community corporation chartered in 1967, whose mission is to preserve and interpret Texas and Fort Bend County history; and

WHEREAS, County partnered with Association to preserve the historic Dew Plantation House located in Kitty Hollow Park, Missouri City, Texas, to provide a historic space for community activities and an interactive museum; and

WHEREAS, it is in the public interest and serves the general welfare of the community for County and Association to enter into an agreement for occupancy and operation of the Dew Plantation House.

NOW, THEREFORE, in consideration of the mutual covenants, agreements, and benefits to both parties herein named, it is agreed as follows:

**AGREEMENT**

**I. TERM AND TERMINATION**

- A. Subject to and upon the provisions hereinafter set forth, County does, by these presents, grant unto Association occupancy and operation of the Dew Plantation House located in Kitty Hollow Park, commencing upon approval of this Agreement by County and ending on September 30, 2012. This agreement shall renew automatically each October 1 for a term of twelve (12) months, until notice of termination has been provided to either party as provided herein.
- B. This Agreement may be terminated, with or without cause, prior to the expiration of any term herein, at the option of either County or Association, upon the giving of thirty (30) days written notice to the other party in the manner and form provided for herein.
- C. Upon the expiration or termination of the Term, for whatever cause, Association shall quietly and peaceably surrender to County possession of the Dew Plantation House in good order, condition and repair, except only for ordinary wear and tear.
  - 1. In the event Association fails to surrender possession as herein required, County may initiate any and all legal action as County may elect to dispossess Association and all of its property, and all persons or firms claiming by, through or under Association and any and all property, (without any liability for loss, theft, damage or destruction thereto) any such property left at the Dew Plantation House belonging to Association.

## II. MAINTENANCE & REPAIRS

- A. County shall be responsible for the maintenance and repair of the Dew House Plantation, including the maintenance and repair of the foundation, load bearing walls, exterior walls, sub-flooring and roof.
- B. County shall be responsible for the repair and maintenance of the Dew House Plantation's mechanical, utility and plumbing system.
- C. County shall be responsible for the repair and maintenance of any heating, ventilation and air-conditioning system or the outdoor lighting serving the Dew House Plantation.
- D. County shall be responsible for the care, maintenance and up-keep, including landscaping, parking lots and sidewalks.

## III. USE OF SPACE

- A. Association shall use the Dew House Plantation for the purpose of operating its programs, tours, meetings, etc. and programs of County and for no other activity or event which is not sponsored by Association or County or not otherwise permitted or sanctioned under its articles of incorporation, charter, by-laws, policies or which is not otherwise provided for under the laws, rules or regulations governing recipients of grants or financial assistance.
- B. Association shall at all times comply with any and all orders, regulations and policies, and amendments thereto, issued by County for the purpose of maintaining an orderly and compatible use of the Dew House Plantation by all parties involved.
- C. At all times Association will operate its programs at the Dew House Plantation in a manner that portrays County in a positive light and in a manner that upholds the lofty ideals and standards of County, as reasonably determined solely by County. Any admission fees assessed by Association for admittance to the Dew House Plantation shall be retained by Association. Association shall have no authority to rent any or a portion of the Dew House Plantation.
  - 1. At no time will Association operate its programs at the Dew House Plantation in a manner that would bring harm or disrepute to County, as reasonably determined solely by County, nor will Association allow and/or tolerate any such activity.
  - 2. Breach of this subsection shall be grounds for immediate termination of this Agreement.
- D. Association will operate the Dew House Plantation each Monday through Friday from 8:00 am to 5:00 pm, excluding County holidays and at times when County has rented the Dew House Plantation for a private event. Association may open and operate the Dew House Plantation on weekends and/or County holidays by providing notice to County of its intent hold extended hours of operation, and so long as such extended hours do not interfere with any of County's scheduled events.
- E. Association may accept charitable donations in the name of the DeWalt Heritage Center for the purpose of maintaining and restoring the Dew House Plantation.
- F. County will provide, at its sole cost and expense, tables and chairs for use at the Dew House Plantation and for use during rentals.

#### IV. ASSIGNMENT

- A. Association will not, in whole or in part, transfer, assign, all or any portion, abandon, or otherwise dispose of its rights under this Agreement, without the prior express written consent of County.

#### V. UTILITIES

- A. All utilities shall be the responsibility of County.
- B. County shall be responsible for the costs of pest control, janitorial and custodial services for the Dew House Plantation

#### VI. INSURANCE

- A. County shall secure, and at all times during the term of this Agreement (including any extension thereof), carry and maintain, at its own expense, liability insurance providing for fire and general liability coverage as to all of its personal property located at the Dew House Plantation.
- B. Association shall be responsible for securing insurance for any personal property owned by Association placed at the Dew House Plantation.

#### VII. NONDISCRIMINATION POLICY

- A. Association shall comply with, and cause all who take advantage of its programs and offerings at the Center to comply with, Title VI of the Civil Rights Act of 1964, in that “no person shall, on the ground of race, color, or national origin, be excluded from participating in, be denied the benefits of, or be subjected to discrimination.”

#### VIII. NOTICE

- A. Any notice required or permitted hereunder to be given, shall be given by registered or certified United States Mail, return receipt requested, postage prepaid, addressed to:

To County:  
Fort Bend County  
301 Jackson, 7<sup>th</sup> Floor  
Richmond, Texas 77479  
Attn: County Judge

To Association:  
Fort Bend County Museum Association  
Candace Jones, Executive Director  
410 Jackson Street P.O. Drawer 460  
Richmond, TX 77406-0460  
281- 342-1256  
Fax: 281- 342-3782

To Fort Bend County:  
Parks Department  
Attn: Mike Davis, Parks Director  
301 Jackson Street  
Richmond, Texas 77469

IX. INDEMNIFICATION

- A. ASSOCIATION EXPRESSLY AGREES TO INDEMNIFY AND HOLD COUNTY, ITS AGENTS, EMPLOYEES AND OFFICERS (THE FOREGOING ARE COLLECTIVELY REFERRED TO HEREIN AS "COUNTY"), HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, LAWSUITS AND RELATED EXPENSES IN ANY MANNER WHATSOEVER, ARISING OUT OF THE USE OF THE LEASED PREMISES AND ALL EVENTS AND/OR ACTIVITIES OF ASSOCIATION, ITS OFFICERS, EMPLOYEES, REPRESENTATIVES, MEMBERS, AGENTS, GUESTS, INVITEES AND VOLUNTEERS INCIDENT TO THIS AGREEMENT.
- B. ASSOCIATION SHALL INDEMNIFY AND HOLD HARMLESS THE COUNTY FROM THE ALLEGED JOINT, CONCURRENT OR SOLE NEGLIGENCE, OR OTHER FAULT OF ASSOCIATION.
- C. ASSOCIATION WAIVES AND RELEASES ANY CAUSE OF ACTION OR RIGHT OF RECOVERY WHICH ASSOCIATION MAY HAVE AGAINST COUNTY FOR ANY LOSS OR DAMAGE TO ASSOCIATION'S PERSONAL PROPERTY LOCATED AT OR NEAR THE ASSIGNED OFFICE SPACE.

X. MISCELLANEOUS

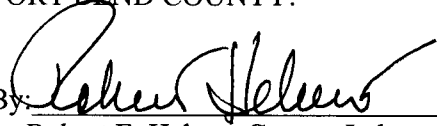
- A. Association will promptly and fully comply with all valid laws, ordinances, regulations or other requirements, now or hereafter in force, of all federal, state and/or local governmental bodies and agencies which have jurisdiction of any nature over the Dew House Plantation or Association's use thereof.
- B. County agrees that it will endeavor to inform Association as far in advance as possible of any rental event that would cause it to displace Association from use or occupancy of the Dew House Plantation.
- C. To the extent applicable and allowed by law, Association will participate in the record keeping system and/or requirements of the Dew House Plantation required by County or any grant requirement..
- D. Association shall not permit or allow any mechanic's lien, or liens, or any other type of lien to be placed upon the Dew House Plantation or upon improvements on the Dew House Plantation.
- E. This Agreement constitutes the entire Agreement of the parties on the subject matter hereof and may not be changed, modified, discharged or extended except by written instrument duly executed by the County, acting through its Commissioners Court, and Association.
- F. Association hereby agrees that no representations or grants or rights or privileges shall be binding upon County unless expressed in writing in this Agreement.
- G. This Agreement shall supersede any and all prior agreements between the parties hereto relating to the assigned office space and to the extent of any inconsistencies in the

provisions of this Agreement with the provisions of any said prior agreement, the provisions of this agreement shall control.

XI. EXECUTION

IN TESTIMONY AND WITNESS OF WHICH this Agreement has been executed as follows:

FORT BEND COUNTY:

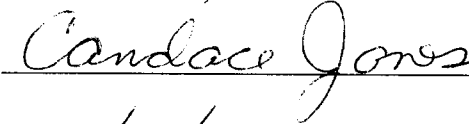
By:   
Robert E. Hebert, County Judge

*May 24, 2011*

ATTEST:

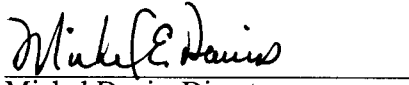
  
Dianne Wilson, County Clerk

FORT BEND COUNTY MUSEUM  
ASSOCIATION, INC.

By: 

Date: 5/11/11

Approved:

  
Michel Davis, Director  
County Parks Department

I\MER:Occupancy Agreement.Dew House. Museum Assn. 3721

