

**AGREEMENT RELATED
TO THE USE
OF
REAL PROPERTY**

THIS AGREEMENT related to the use of real property is made by and between the **Marshall County Fiscal Court, Marshall County, KY** of 1101 Main Street, Benton, KY 42025, by and through Kevin Neal, County Judge Executive ("Court") and the **Board of Trustees Marshall County Library** of 1150 Birch Street, Benton, KY 42025 ("Library").

RECITALS

WHEREAS, the Library owns real property known as the Old Marshall County Library located at 1001 Poplar Street, Benton, KY ("Premises"); and

WHEREAS, the Court would like to utilize the Premises to prepare and process mail-in ballots for the 2020 general election; and

WHEREAS, the Library is willing to allow the Court to use the Premises for that purpose, pursuant to the terms of this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreement set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties mutually agree as follows:

1. The Library hereby grants to the Court, its agents, employees, and other invitees, a temporary and revocable license for the term hereinafter set forth to enter upon and use the parking lot, building and improvements upon the Premises to prepare and process mail-in ballots for the 2020 general election. Nothing permanent will be installed or placed on the Premises. The license

granted to the Court will not extend to or include any portion of the Premises that is not expressly included in this Agreement.

2. The term of this Agreement will begin on September 8, 2020, at 6:00 a.m. and continue from day to day thereafter until November 30, 2020, at 6:00 p.m. ("Term") unless same be earlier revoked by the Library. If the Library wishes to revoke this license, it will give thirty (30) days written notice of the revocation to the Court.

3. The Court, its agents, servants, employees, and all claiming a right of use through the Court will use Library's property only to prepare and process mail-in ballots for the 2020 general election, and for no other purpose.

4. The Court shall pay all charges for services and utilities it uses on the Premises. If the Court fails to pay any utility or service provided to the Premises during the Term, the Library may pay the amount due itself and require the Court to reimburse the Library for the payment.

5. As a material inducement for the Library to enter into and deliver this Agreement, the Court hereby represents, warrants and agrees that:

(a) The Court will be solely responsible for the safety of all who gain access to the Premises by or through those rights granted to the Court under this Agreement, during the Term.

(b) The Court accepts the Premises "as is, where is" and the Library will not be held responsible for its condition now or at all other times during the term of this Agreement.

(c) Each party acts as an independent contractor and nothing contained herein or arising out of this Agreement shall be construed to imply or create a joint venture, partnership, agency or other relationship and no fiduciary relationship will arise by reason of any of the provisions of this Agreement.

(d) The Court will be solely responsible for its actions and those of its agents, employees and invitees when on or about the Premises, and the Court assumes the risk of any injury, illness, death, loss, expense or damage of sustained by any of these persons or entities.

(e) The Court agrees to release and to protect, defend and hold Library harmless from all claims, suits, injuries, death, losses, liabilities, loss or damage to property expense and damages of any kind that might be sustained by it, its employees or others claiming through it that arise out of or in connection to the Court's activities or operations on the Premises, even if caused in part by a condition of the Premises.

(f) The Court agrees that it will be solely responsible for the sanitizing, disinfecting, cleaning and otherwise treating the Premises upon commencement of the Term, during the Term, and upon completion of the Term for the COVID-19 virus or such other like or similar virus or bacteria.

(g) The Court agrees to maintain insurance coverage for all of its activities and operations on the Premises and it agrees that it will include the Library as an additional insured under any policy applicable to its activities that extend to its use of the Premises and each such policy shall contain a Waiver of Subrogation Clause in favor of the Library. The insurance to be provided by the Court shall be at a minimum the following:

(1) "All risk" property insurance covering any property the Court places on the Premises.

(2) Comprehensive General Liability insurance against claims for injuries, death or property damage occurring on or about the Premises and the conduct of any activities thereon by the Court in an amount of no less than \$500,000.00 for any one occurrence and with no less than \$1,000,000.00 excess liability coverage.

(h) All insurance coverage obtained by the Court that extend to and covers its activities on the Premises will include the Library as an additional insured. The insurance coverage maintained by the Court hereunder shall, as to the Court's activities, be considered primary insurance as to any such coverage maintained by the Library whose insurance will be considered excess coverage. The Court will provide the Library with evidence of the insurance extending to its activities on the Premises should the Library request same.

6. The obligations of the Court hereunder including without limitation its obligations concerning liability, indemnity, warranties, defense of the Library in connection with the Court's use of the Premises will survive the expiration or earlier termination of this Agreement.

7. If either party takes any steps to enforce or interpret this Agreement, the prevailing party shall be entitled to its reasonable attorneys' fees and costs in addition to any other relief to which it may be entitled.

8. This Agreement will be controlled, construed, and enforced in accordance with the laws of the Commonwealth of Kentucky.

9. This Agreement may only be changed or modified by a written agreement signed by both parties.

IN WITNESS WHEREOF, the parties have executed this Agreement on the ____ day of _____, 2020.

MARSHALL COUNTY FISCAL COURT
MARSHALL COUNTY, KY

BOARD OF TRUSTEE'S MARSHALL
COUNTY LIBRARY

BY: _____
KEVIN NEAL
County Judge Executive

BY: _____
CHAIRMAN