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Title of Document: MEMORANDUM OF UNDERSTANDING

Date of Document: April 24, 2017

Grantor: The Trustees of The Nelson Gallery Foundation, a charitable trust, created under a Declaration of Trust dated December 23, 1954

Grantor's Address: The Nelson Gallery Foundation
4525 Oak Street
Kansas City, MO 64111

Grantees: See Page 1.

Grantees' Address: See Page 1.

Legal Description: See Exhibit A attached hereto

Reference No. N/A

This cover page is attached solely for the purpose of complying with the requirements stated in §§ 59.310.2; 59.313.2 RSMo 2001 of the Missouri Recording Act. The information provided on this cover page shall not be construed as either modifying or supplementing the substantive provisions of the attached document. In the event of a conflict between the provisions of the attached document and the provisions of this cover page, the attached document shall prevail and control.

MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING (this "MOU") is made and entered into this ^{24th} day of April, 2017, by and between the Rockhill Homes Association, a Missouri Registered Neighborhood Organization ("Rockhill") having an address at 704 Emanuel Cleaver II Boulevard, Kansas City, MO 64110, Southmoreland Neighborhood Association, a Missouri Registered Neighborhood Organization ("Southmoreland") having an address at P.O. Box 10127, Kansas City, MO 64171 (Rockhill and Southmoreland are collectively referred to the "Grantees"), and The Trustees of The Nelson Gallery Foundation, a charitable trust, created under a Declaration of Trust dated December 23, 1954 (the "Museum"), (separately a "party" and jointly the "parties").

WHEREAS, the Museum is the owner of certain real property legally described on **Exhibit A** attached hereto and incorporated herein by reference (the "Museum Property").

WHEREAS, the Museum seeks to establish a Master Planned Development ("MPD") in order to provide a framework for the Museum's future development within the City of Kansas City, Missouri (the "City");

WHEREAS, in collaboration with the Grantees, the Museum has requested that the MPD be established upon certain terms and conditions which are depicted on **Exhibit B** attached hereto and incorporated herein by reference (the "MPD Plan Notes"); and

WHEREAS, desire to enter into this MOU in order to effectuate the MPD Plan Notes and provide the parties with a method of self-enforcement of the terms and conditions contained therein.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties do hereby agree as follows:

1. **MPD Plan Notes.** Subject to prior City approval of the MPD, the parties hereby acknowledge and accept the terms and conditions set forth in the MPD Plan Notes.
2. **Term.** This MOU shall commence upon the City's approval of the MPD and shall remain in force until such time as the MPD is terminated and shall have no further effect on the Museum Property.
3. **Modification of Agreement.** This MOU may not be amended, modified, terminated or waived orally, but only by a writing signed by the parties to this MOU.
4. **Entire Agreement.** This MOU is the entire agreement between the parties and may not be amended except by written agreement by both parties. No failure to enforce or require compliance with any provision of this MOU shall constitute an amendment to this MOU or preclude enforcement of that provision in the future.
5. **Severability.** In the event that any provision of this MOU is found by a court of competent jurisdiction to be unconstitutional or unlawful, the remaining provisions of this MOU shall be valid unless the court finds that the valid provisions of this MOU are so essentially and inseparably connected with and so dependent upon the invalid provision(s) that it cannot be presumed that the parties to this MOU could have included the valid provisions without the invalid provision(s); or unless the court finds that the valid provisions, standing alone, are incapable of being performed in accordance with the intentions of the parties.

6. **Governing Law.** This MOU shall be governed by the laws of the State of Missouri and shall be binding on the parties' successors, heirs and assigns.

7. **Counterparts.** This MOU may be executed in multiple counterparts, all of which together shall constitute the complete, original agreement.

[Remainder of page intentionally left blank; signature pages and exhibit follows]

Signed and agreed to this 24th day of April 2017

The Nelson Gallery Foundation
a charitable trust, created under a Declaration of Trust dated
December 23, 1954

By: Shirley Bush Helzberg
Trustee or Chair
Shirley Bush Helzberg

STATE OF Missouri)

) ss:
COUNTY OF Jackson)

On this 24th day of April, 2017, before me, Mary F. Stone, a Notary Public in and for said state, personally appeared Shirley Bush Helzberg of The Nelson Gallery Foundation, a charitable trust, created under a Declaration of Trust dated December 23, 1954, known to me to be the person who executed the foregoing instrument in behalf of said charitable trust and acknowledged to me that he or she executed the same for the purposes therein stated.

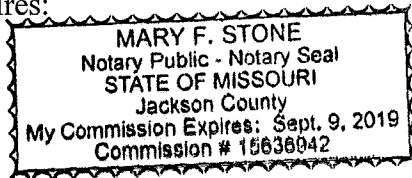
IN WITNESS WHEREOF, I have hereunto set my hand and affixed by notarial seal the day and year last above written.

Mary F. Stone

Notary Public

My Commission Expires:

9-9-19



Rockhill Homes Association
a Missouri Registered Neighborhood Organization

By: Galen D. Mussman
Galen MUSSMAN, President

STATE OF Missouri)

) ss:
COUNTY OF Jackson)

On this 24th day of April, 2017, before me, Mary F. Stone, a Notary Public in and for said state, personally appeared Galen D. Mussman of The Rockhill Homes Association, a Missouri registered neighborhood organization, known to me to be the person who executed the foregoing instrument in behalf of said organization and acknowledged to me that he or she executed the same for the purposes therein stated.

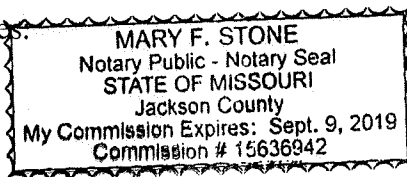
IN WITNESS WHEREOF, I have hereunto set my hand and affixed by notarial seal the day and year last above written.

Mary F. Stone

Notary Public

My Commission Expires:

9-9-19



Southmoreland Neighborhood Association
a Missouri Registered Neighborhood Organization

By: *Laura Burkhalter*
Laura Burkhalter President

STATE OF Missouri)

COUNTY OF Jackson) ss:

On this 24th day of April, 2017, before me, Mary F. Stone, a Notary Public in and for said state, personally appeared Laura Burkhalter of The Southmoreland Neighborhood Association, a Missouri registered neighborhood organization, known to me to be the person who executed the foregoing instrument in behalf of said organization and acknowledged to me that he or she executed the same for the purposes therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by notarial seal the day and year last above written.

Mary F. Stone

Notary Public

My Commission Expires:

9-9-19

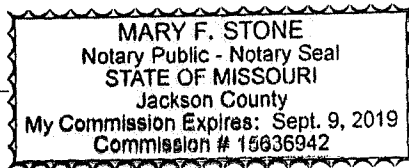


EXHIBIT A

Museum Property

400 E. 45th Street:

The West 151.47 feet of BLOCK 1, AMENDED PLAT OF ROCKHILL, a subdivision in Kansas City, Jackson County, Missouri, according to the recorded plat thereof.

414 E. 45th Street:

The East 75.52 feet of the West 226.99 feet of Block 1, AMENDED PLAT OF ROCKHILL, a subdivision in Kansas City, Jackson County, Missouri, according to the recorded plat thereof.

420 E. 45th Street:

The East 75.52 feet of the West 302.51 feet of BLOCK 1, AMENDED PLAT OF ROCKHILL, a subdivision in Kansas City, Jackson County, Missouri, according to the recorded plat thereof.

500 E. 45th Street:

The West 150 feet of the East 300 feet of BLOCK 1, AMENDED PLAT OF ROCKHILL, a subdivision in Kansas City, Jackson County, Missouri, according to the recorded plat thereof.

510 E. 45th Street:

The East 150 feet of Block One, AMENDED PLAT OF ROCKHILL, a subdivision in Kansas City, Jackson County, Missouri, according to the recorded plat thereof.

4520 Kenwood Avenue:

The North 245.24 feet of the South 491 feet of Block 5, Amended Plat of Rockhill, in Kansas City, Jackson County, Missouri, according to the recorded plat thereof.

421 E. 45th Street:

Block Six, AMENDED PLAT OF ROCKHILL, a subdivision in and to Kansas City, Jackson County, Missouri, according to the recorded plat thereof.

EXHIBIT B

MPD Plan Notes

[See Attachment]

Nelson-Atkins Museum and Rockhill/Southmoreland Neighborhood Associations

Agreed MPD Plan Notes As of 4/8/17

The following notes are not inclusive of all notes outlined in the City Plan Commission (the "CPC") Staff Report, dated November 15, 2016, and provided by the Development Review Committee at the October 18, 2016, meeting. It represents those Master Planned Development (the "MPD") terms agreed to by the above stated parties.

- 1. PLAN AMENDMENTS.** All "Major Amendments", as defined in 88-516-06-A, and "Minor Amendments", as defined in 88-516-06-B, shall require the same approval process that includes public notice requirements, public hearing, CPC recommendation, and City of Kansas City, Missouri (the "City") city council (the "City Council") approval.
- 2. PHASE I (the "45th STREET PROPERTIES") FOUR HISTORIC RESIDENCES.** (400, 414, 420, and 500 East 45th Street).
 - a. Permitted Uses.** The permitted use for the 45th Street Properties is museum administrative/professional office (for definitional purposes, professional use should relate to the Nelson-Atkins Museum of Art's (the "Museum") oversight and include employees, volunteers, and other individuals assisting in the operation of the Museum and its programming and no other use (other than single family residence) shall be permitted; provided however, adaptive reuse of the property generally referred to as the Feingold residence ("Feingold") shall be permitted as long as the exterior of the building is preserved. No building or addition on the north of the Feingold home will be allowed. Any adaptive reuse must complement the architectural integrity of Feingold and be consistent with the surrounding area. It is the intent of the Museum to use the 45th Street Properties for such purposes and, upon a determination that such need shall cease, return them to residential status. Within three years of the MPD approval the Museum will annually provide the below mentioned Stewardship Committee a then current understanding of the Museum's intent to continue or cease such use. At such time as the Museum determines that the property is no longer necessary for the aforementioned permitted use, the zoning shall revert back to R-5. If the Museum ever sells any of the 45th Street Properties, the Museum intends to take necessary steps, consistent with this agreement, to preserve the 45th Street Properties as historically significant single family residences consistent with the Rockhill Historic District, which may include deed restrictions. If such sale goes through a public process or modified public process, certain bidding requirements must be agreed upon between the Museum and Rockhill Homes Association ("Rockhill") and the Southmoreland Neighborhood Association ("Southmoreland") (Rockhill and Southmoreland are collectively referred to herein as the "Associations"). At minimum, the process must require that the bidding party present as part of their proposal their architectural and rehabilitation plans and confirm their intent to maintain the integrity of such property as a

historically significant single family residence consistent with the Rockhill Historic District.

- b. **Plans.** Phase I (45th Street Properties) shall require MPD final plan approval from the CPC and said plan shall include a site plan, landscape plan, signage plan, and lighting plan.
- c. **Phasing.** Renovation of the 45th Street Properties will occur over an extended period of time. The renovation for offices, creation of new Museum gallery space in the Museum Block (as defined herein), and the renovation of the next residence will occur one after the other. The necessary renovation work will be undertaken in phases with Feingold being restored and utilized first. Thereafter, the buildings located at 414 and 420 East 45th Street will be renovated based on need and budget. The 414 E. 45th Street residence will be the last renovated. The Museum will revise existing eviction notices and new dates will be given providing for tenancy until at least December 31, 2018. On or before March 31, 2018, the Museum shall notify all tenants whether the aforementioned notice will be effectuated. If the tenancy shall last beyond December 31, 2018, the Museum will provide not less than six months' notice of any termination.
- d. **Parking.** A parking plan shall be submitted as part of the final plan approval for Phases I and II. MPD G001 depicts the existing parking spaces that are to remain for each location at the 45th Street properties and said parking shall not be expanded. Visitors, deliveries, and construction workers should access the properties from 45th Street. The employees, construction workers and deliveries will utilize existing parking in the driveways of the 45th Street Properties to limit pedestrian traffic in those locations. The remainder of employee parking shall be in the Museum's existing garage; provided however, the parking lot located on the Kirkwood Property (as defined herein) may be used in accordance with Section 3.d. herein.
- e. **(45th Street and Rockhill Road Parking Lot).** The MPD is not requesting any development of the 45th Street and Rockhill Road parking lot (commonly referred to as 510 E. 45th Street) at this time. Any variance from the aforementioned would require the MPD to go through the Major and Minor Amendment approval process and shall require approval of an MPD final plan from the CPC and City Council. The permitted potential building is three stories with a basement, up to but not exceeding 12,500 square feet per floor, with a total of 50,000 square feet and the height will not exceed the adjacent residence at 500 East 45th Street subject to approval of the Stewardship Committee and City requirements. Any potential building shall only be used for museum administrative/professional offices. The exterior of the building shall complement and be compatible with the Rockhill Historic District, and the adjacent Southmoreland Historic District in accordance with the Kansas City Landmarks Commission Urban Design Guidelines and Standards adopted by Ordinance and Midtown/Plaza Area Plan "Guiding Principles With Area-Wide Recommendations" (p. 23-26) utilizing the Secretary of the Interior Standards.

- f. **MPD Final Plan.** The Museum shall secure approval of an MPD final plan for Phase I from the CPC prior to certificates of occupancy for administrative office uses of any of the buildings in Phase I, except for the residence located at 400 East 45th Street (the “Bishop’s Property”) which is already being used as museum offices. The Museum shall secure approval of an MPD final plan for Phase III from the CPC prior to certificates of occupancy for administrative office uses of any of building in Phase III.

3. PHASE II (Kirkwood Property)

- a. **Permitted Uses.** The Museum intends to sell the residence located at 4520 Kenwood (the “Kirkwood Residence”) which shall include a residential yard approximately three-fourths (3/4) of one acre in size and the MPD should reflect this subdivision. If the sale of the Kirkwood Residence goes through a public process or modified public process certain bidding requirements must be agreed upon between the Museum and the Associations. At minimum, the process must require that the bidding party present as part of their proposal their architectural and rehabilitation plans and confirm their intent to maintain the integrity of the Kirkwood Residence as a historically significant single family residence consistent with the Rockhill Historic District. Any party purchasing the Kirkwood Residence must confirm the intention and all subsequent owners shall be subject to this restriction. The Kirkwood Residence will be subject to deed restrictions to that effect. The permitted use for the remaining grounds of the Kirkwood Property shall only be a sculpture park, garden, or park with walkway paths and accompanying amenities (the “Sculpture Park”) and the existing parking lot shall remain subject to 3.d. below At such time as the Museum determines that the Kirkwood Property is no longer needed for the Sculpture Park, Phase II of the approved MPD shall have no further effect on the Kirkwood Property and the regulations of the R-6 zoning district shall govern those portions of the Kirkwood Property.
- b. **Kirkwood Property Changes.** The Museum will commence the process for removal of the existing tennis courts and fence, as well as provide landscaping (consistent with the surrounding area) for the location of the former tennis courts, within nine (9) months from the date of MPD approval by the City Council and complete within a time period as reasonably soon as practicable from the date of commencement. The parking lot will be subject to the plans in paragraph 3.d herein.
- c. **Plans.** Phase II shall require MPD final plan approval from the CPC and shall include a detailed site plan and landscape plan for the removal of the existing tennis courts and fence.
 - 1) A separate and more detailed site plan, landscape plan, signage plan, lighting plan, and traffic study shall be required prior to implementation of the Sculpture Park.

- 2) The Sculpture Park plan shall graphically depict the extent of the sculpture gardens, including detailed information for the renovation of the existing surface parking lot in accordance with paragraph 3.d herein, security, art locations, pathways, lighting, irrigation, signage, parking, retention of mature trees, new grass, trees, shrubs, and decorative security fencing. The design plan will provide adequate screening and buffering.
 - 3) A signage plan that defines the placement and measurement of all signage.
 - 4) The lighting plan, with photometric study, shall be submitted per City standards. All outdoor lighting must be reflected away from residences and streets.
 - 5) The height of the existing Kirkwood Residence or 35 feet, whichever is greater, unless otherwise consented by the Stewardship Committee, shall serve as the maximum height allowed for any new sculptures in the Sculpture Park.
 - 6) The Museum will work with the neighbors as they develop the plan for the Sculpture Park which must be sensitive to the adjoining single family residences and incorporate landscaping consistent with the surrounding area and decorative fencing that allows visibility to/from the park.
- d. **Parking.** The parking lot area will be landscaped and bermed to reduce pavement visibility and increase aesthetic integration into the Sculpture Park. The parking lot will be returned to park-like status with permeable paving consistent with the grounds. The parking lot will be used by Museum staff only for days of high demand for visitor parking, which shall include the following six (6) Major Festivals held by the Museum, the Jewel Ball, and the last day of (3) Major Exhibits per year. The parking lot shall be completely removed by December 31, 2020.
- e. **MPD Final Plans.** The Museum shall secure approval of a MPD final plan for Phase II from the CPC prior to permits for any work in Phase II except for the work described in Section 3.b.
4. **421 E. 45th STREET (MUSEUM BLOCK).** The Museum will place a priority on the expansion of the Museum Block, which will not be subject to the other Sections of this Agreement. The permitted use for the Museum Block shall be museum, library, cultural exhibit, museum shop, restaurant, education activities, and parking. No other uses shall be permitted. Potential future development shall only occur as noted below:
- a. Museum Block South East Corner;
 - b. Museum Block Westside of Property;
 - c. Museum Block North West Corner of Property; and
 - d. Museum Block South West Corner of Property.

5. **FUTURE PHASES.** Consolidate Phases III and IV into one phase as a future phase with a narrative description of the intent of the phase and stating that such phase shall require approval of all “Major Amendments” as defined in 88-516-06-A and “Minor Amendments” as defined in 88-516-06-B from the City Council following CPC recommendation including public hearings at both.

6. **ALTERNATE PHYSICAL SITE CONSIDERATIONS.** The Museum is committed to evaluate east/west connections as part of any amendment or phase approval. Said connection is described in “Envisioning a Cultural District” as expansion of the district to the east to include Bruce R. Watkins Cultural Center as a participating institution.

7. **HISTORIC PRESERVATION.**

a. The 45th Street Properties are identified as significant contributors within the “Rockhill Historic District” which is identified on the “National Register of Historic Places,” the “State Registry of Historic Places,” and the “Kansas City Register of Historic Places.” All of the properties were owned by William Rockhill Nelson, were zoned residential by Mr. Nelson, and were built under the protection of the Rockhill Homes Association Plan. This MPD plan also lies adjacent to the “Southmoreland Historic District” and is a significant contributor to the architectural identity and character of the Midtown/Plaza area. The 2016 Midtown/Plaza Plan states “It is this collective value of the urban design character that this plan seeks to protect and to reinforce as the Plaza continues to grow and evolve.” The 2012 Cultural Heritage Plan states: “The preservation of this historic character is critical to the long- term viability and ambiance of the Midtown/Plaza area.”

b. The Museum’s use of the 45th Street Properties will support their long-term preservation. No original interior or load bearing walls will be removed. These properties will be protected from “demolition-by-neglect” and rehabilitated, provided however, the adaptive reuse of Feingold shall be permitted so long as the exterior of the building is preserved. Taking into account code compliance, including compliance with the Americans with Disabilities Act, the 45th Street Properties will be protected and any exterior rehabilitation shall be conducted in accordance with well-established preservation standards that apply to properties recognized as historically significant, which shall include, to the extent permitted by the guidelines/standards required in Section 9 and Section 11 herein, the Secretary of the Interior’s Standards for the Treatment of Historic Properties, the Kansas City Landmarks Commission Urban Design Guidelines and Standards adopted by Ordinance, and Midtown/Plaza Area Plan “Guiding Principles with Area-Wide Recommendations” (p. 23-26). The exteriors of the 45th Street Properties will be maintained in their current historic appearance with provisions for ADA/FLS compliance subject to approval in consultation with the Stewardship Committee.

c. The 45th Street Properties shall be maintained in a good physical and functional condition. The Kirkwood Residence shall be sold in its current condition. The

Museum shall provide information, as reasonably appropriate, to the structural soundness for the 45th Street Properties, to the Associations prior to approval of the MPD final plan for Phase I and II, and on an annual basis thereafter. In addition, the Museum shall provide an opportunity annually for open inspection of each of the buildings by the Stewardship Committee.

- d. All treatment plans and any proposed change to the 45th Street Properties shall be consistent with this agreement and approved in consultation with the Stewardship Committee.
- e. The MPD zoning, including applicable rights and obligations contained therein shall cease upon the sale of the 45th Street Properties.

8. STEWARDSHIP COMMITTEE. The Museum shall create with the Associations a committee (the "Stewardship Committee"), similar to the model used by Union Station. The purpose of the Stewardship Committee will be to continue the collaborative working partnership between the Museum and the Associations to further enhance and protect the cultural, architectural and historic nature of the area. The Stewardship Committee shall remain in existence as long as the 45th Street Properties are used for museum administrative/professional offices and there is a Sculpture Garden.

The Stewardship Committee shall exist to review the issues of historic preservation and neighborhood integration of the 45th Street Properties and the Sculpture Garden, not curatorial issues or sculpture selection.

The Stewardship Committee will consist of a representative of Rockhill, Southmoreland, and the president of Historic Kansas City, and three members selected by the Museum. The Stewardship Committee will be staffed by the Museum. A representative of the National Trust for Historic Preservation will also serve as a non-voting advisor to the Stewardship Committee.

The Stewardship Committee will meet at least three times per year for the first five years. After the first five years, the Stewardship Committee will meet at least two times per year.

The Museum Block is excluded from the Stewardship Committee oversight matters.

45th Street Properties: The Stewardship Committee will review and comment for approval on the historic preservation of the 45th Street Properties and any interior or exterior architectural changes and compliance with the standards contained in this agreement for such changes. In addition, the Stewardship Committee will review and comment on any additions or deletions to the exterior grounds of the 45th Street Properties. The Stewardship Committee shall review and comment for approval on any future development plan, excluding any development plan for the Museum Block, within forty-five (45) days of receipt.

Sculpture Park: The Stewardship Committee shall review and comment for approval of the detailed Sculpture Park plan with the contents described, but not limited to, those referenced in 3 C1 & 2 of this Agreement.

The Stewardship Committee can also review and comment on other issues that the Museum or the Associations might bring before it.

The Stewardship Committee will be governed in a manner consistent with the standards of good governance agreed upon by the Stewardship Committee. With respect to disputes, the Stewardship Committee shall adopt a protocol for alternate dispute resolution.

9. **MIDTOWN/PLAZA AREA PLAN GUIDELINES.** Guidelines for Districts and Neighborhoods, as defined in the Midtown/Plaza Area Plan, shall be incorporated into the MPD to guide future development.
10. **LOT AND BUILDING STANDARDS.** Lot and building standard notes revised to clearly state that the current building setbacks and height restrictions for the existing structures shall apply to any new structure.
11. **PARKS DEPARTMENT STANDARDS.** The MPD shall conform to the standards "The Boulevard and Parkway Standards 88-323-01" of the City's Zoning and Development Code, as amended, for the streets that are within the jurisdiction of the Parks Department.
12. **ENFORCEMENT.** It is the intention of the parties to this agreement consistent with the Memorandum of Understanding (MOU), that the MOU and this agreement will be recorded on the 45th Street Properties and the Kirkwood Property and enforceable by the parties hereto.