

**Legistar # 180983**

**Authorization for Execution of Restrictive Covenant between the Cade Museum  
Foundation Inc. and the City of Gainesville (B)**



**RESTRICTIVE COVENANT**

(Grantee owns building, leases land.)

THIS RESTRICTIVE COVENANT is hereby entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by **City of Gainesville**, hereinafter referred to as "the Land Owner"; **Cade Museum Foundation, Inc.**, hereinafter referred to as "the Grantee;" and the State of Florida, Department of State, Division of Cultural Affairs, hereinafter referred to as the "Division".

WHEREAS, the Land Owner is the fee simple title holder of the land located at **811 S. Main Street, Gainesville, FL 32601**. A legal description of the subject property is attached as Exhibit A and is made a part of this covenant.

WHEREAS, the Grantee is the lessee of the land for **75 years**, but owns or will own the building(s) used or to be used as a cultural facility. "Facility" refers herein to the building(s) and associated land to be used as the "cultural facility," as defined herein.

WHEREAS, the Grantee has been approved to receive a Cultural Facilities Grant in the amount of **\$199,706**, to be administered by the Division and used only for the acquisition, renovation, and construction of the cultural facility as required by Section 265.701(1), Florida Statutes.

WHEREAS, the Division has authority under Section 265.701(4), Florida Statutes, to require the recordation of this restrictive covenant to ensure that the facility will be used as cultural facility, as defined herein, for at least ten (10) years following execution of the grant award agreement.

NOW THEREFORE, in partial consideration for the Cultural Facilities Grant and in accordance with Section 265.701(4), Florida Statutes, the Parties agree to the following:

- 1.) This restrictive covenant shall run with the title to the facility and the associated land, shall encumber them, and shall be binding upon the Grantee, the Land Owner, and their successors in interest for the period of (10) ten years following execution of the grant award agreement.
- 2.) The grant award shall only be expended for:

**Project Title: "Cade Museum: Temporary Exhibit Gallery" (18.c.cf.300.231)**



3.) For the required duration of this covenant, the Parties agree that the Grantee shall own all improvements to the facility and to the associated land, funded in whole or in part by grant funds

4.) The Division has the right to inspect the facility and the associated land at all reasonable times to determine whether the conditions of the agreement and this covenant are being complied with.

5.) The facility shall be maintained as a "cultural facility," defined as a building which shall be used primarily for the programming, production, presentation, exhibition or any combination of the above functions of any of the cultural disciplines, such as: music, dance, theatre, creative writing, literature, painting, sculpture, folks arts, photography, crafts, media arts, and historical and science museums."

6.) This restrictive covenant will be violated if the Grantee, the Land Owner, or their successors in interest do not use or cease to use the facility as a cultural facility, as defined herein, within ten (10) years following execution of the grant award agreement as required by Section 265.701(4), Florida Statutes. If the Grantee violates this restrictive covenant, it shall repay the grant funds to the Division pursuant to the amortization schedule set forth below:

a. If the violation occurs within five (5) years following the execution of the grant award agreement, 100% of the grant amount;

b. If the violation occurs more than five (5) but less than six (6) years following execution of the grant award agreement, 80% of the grant amount;

c. If the violation occurs more than six (6) but less than seven (7) years following execution of the grant award agreement, 65% of the grant amount;

d. If the violation occurs more than seven (7) but less than eight (8) years following execution of the grant award agreement, 50% of the grant amount;

e. If the violation occurs more than eight (8) but less than nine (9) years following execution of the grant award agreement, 35% of the grant amount; and

f. If the violation occurs more than nine (9) but less than ten (10) years following execution of the grant award agreement, 20% of the grant amount.

This obligation to repay the grant is not enforceable against the Land Owner (City of Gainesville), or the real property being improved by the grant.

7.) Any amount due from the Grantee as a result of a violation of this restrictive covenant shall be due in full within 90 days of the violation, or some other period of time as agreed upon by the Parties.



8.) If the entire amount due under the paragraph (6) is not repaid by the Grantee within the time allotted, the Parties agree that the Division may obtain a stipulated judgment against the Grantee for the amount due plus interest at the current legal rate, and record it in the public records of the county where the property is located. The Parties further agree that such a judgment shall be a stipulated judgment by virtue of full execution of this restrictive covenant; that it shall not require further approval of the Grantee to obtain; and that no trial or hearing shall be necessary to make such a stipulated judgment legally effective. Such a stipulated judgment, when recorded, shall be considered a valid lien upon the Grantee's interest in the facility, including improvements to the facility, funded in whole or in part by grant funds.

9.) As a condition to receipt of grant funds, the Grantee shall:

- a. Record this covenant in the public records with the Clerk of the Circuit Court of **Alachua** County, Florida;
- b. Pay all fees associated with its recording; and
- c. Provide certified copy of the recorded covenant to the Division and to the Land Owner.

10.) The Parties agree that the Division shall incur no tax liability as a result of this covenant.





IN WITNESS WHEREOF, the Grantee and the Land Owner hereby affirm that they have read this restrictive covenant; that they understand and agree to its terms; and that they hereby affix their signatures accordingly.

**WITNESSES:**

*Philip P. Waite, Jr.*  
GRANTEE SIGNATURE

*Philip P. Waite, Jr.*  
First Witness Signature

*Matthew Mainer*  
Second Witness Signature

904 South Main St.  
GRANTEE ADDRESS

Gainesville, FL 32601  
City State Zip

The State of Florida  
County of Alachua

I certify that on this date before me, an officer duly authorized in the state and county named above to take acknowledgments, that

Phoebe Cade Miles personally  
(Name)

appeared as President for Cade Museum Foundation  
(Position) (Name of Qualifying Entity)

known to me to be or proved to my satisfaction that he/she is the person described in and who executed the foregoing instrument.

**PARTIES:**

Phoebe Miles  
GRANTEE NAME (print)

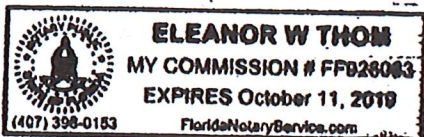
Philip P. Waite, Jr.  
First Witness Name (print)

Matthew Mainer  
Second Witness Name (print)



Type of Identification Produced personally known

Executed and sealed by me at Gainesville, Florida  
on February 20, 2019.



*[Handwritten signature]*

[SEAL]

Notary Public in and for

The State of Florida

My commission expires: October 11, 2019

LAND OWNER SIGNATURE

LAND OWNER NAME (Print)

First Witness Signature

First Witness Name (print)

Second Witness Signature

Second Witness Name (print)

LAND OWNER ADDRESS

City

State

Zip

**APPROVED AS TO FORM AND LEGALITY**  
By: [Signature] 3/4/19  
**Sean M. McDermott**  
**Assistant City Attorney II**  
**City of Gainesville, Florida**



The State of Florida  
County of \_\_\_\_\_

I certify that on this date before me, an officer duly authorized in the state and county named above to take acknowledgments, that

\_\_\_\_\_ personally  
(Name)

appeared as \_\_\_\_\_ for \_\_\_\_\_  
(Position) (Name of Qualifying Entity)

known to me to be or proved to my satisfaction that he/she is the person described in and who executed the foregoing instrument.

Type of Identification Produced \_\_\_\_\_

Executed and sealed by me at \_\_\_\_\_, Florida on \_\_\_\_\_

Notary Public in and for

The State of \_\_\_\_\_

My commission expires: \_\_\_\_\_

[SEAL]



For the Division of Cultural Affairs:

		R.A. Gray Building 500 S. Bronough Street Tallahassee, Florida 32399
Name	Title	

First Witness Signature	First Witness Name (Print)

Second Witness Signature	Second Witness Name (print)

The State of Florida County of \_\_\_\_\_

I certify that on this date before me, an officer duly authorized in the state and county named above to take acknowledgments, that

\_\_\_\_\_ personally  
(Name)

appeared as \_\_\_\_\_ for the Florida Department of State, Division of  
(Position)

Cultural Affairs known to me to be or proved to my satisfaction that he/she is the person described in and who executed the foregoing instrument.

Type of Identification Produced \_\_\_\_\_

Executed and sealed by me at \_\_\_\_\_, Florida on \_\_\_\_\_

Notary Public in and for  
The State of \_\_\_\_\_

My commission expires: \_\_\_\_\_

[SEAL]

