

Sponsored by: Mayor Holt and City Council

**RESOLUTION**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FLORENCE, ALABAMA** as follows:

**Section 1.** The attached Agreement between the City of Florence and the CHILDREN'S MUSEUM OF THE SHOALS, INC., serves a public purpose and confers a direct benefit of a reasonably general character to a significant part of the public in the City of Florence, Alabama.

**Section 2.** The attached Agreement between the City of Florence and the CHILDREN'S MUSEUM OF THE SHOALS, INC., is hereby approved, ratified, and confirmed.

**BE IT FURTHER RESOLVED** that the proper officials of the City are authorized to execute the said contract.

**ADOPTED** this the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

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**CITY COUNCIL**

**APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
**MAYOR**

**ADOPTED & APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
**CITY CLERK**

**STATE OF ALABAMA**

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**COUNTY OF LAUDERDALE**

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**C O N T R A C T**

**THIS AGREEMENT**, entered into by and between the CITY OF FLORENCE, a municipal corporation, hereinafter called "City," and the Children's Museum of the Shoals, Inc., an Alabama non-profit corporation, hereinafter called "Children's Museum," witnesseth;

**WHEREAS**, Section 11-47-16 of the Code of Alabama 1975, as amended, authorizes the City to establish, operate, maintain, or contract with others to operate and maintain public cultural facilities consisting of museums, art galleries, art centers, music halls, and related facilities; and

**WHEREAS**, providing these types of cultural and educational facilities for children is of the utmost importance to the City and its citizens; and

**WHEREAS**, the Children's Museum has the necessary expertise to operate and maintain a cultural and educational museum for children and to provide cultural and learning opportunities throughout the community; and

**WHEREAS**, the City and the Children's Museum entered into the Memorandum of Understanding attached to this contract as Exhibit "A" and incorporated herein by reference pursuant to which the Children's Museum agreed to expend any and all funds received from the City only for public purposes as defined in said Memorandum of Understanding.

**NOW, THEREFORE**, the parties hereto, for and in consideration of the premises, do hereby mutually promise and agree as follows:

1. The City hereby appropriates the sum of \$10,000.00 to the Children's Museum to operate and maintain a cultural and education museum for children.
2. In consideration of the \$10,000.00 appropriation, the Children's Museum will operate and maintain a cultural and educational museum for children in the City of Florence for a period of one (1) year from the date of this contract.

Children's Museum shall provide to the City of Florence a quarterly financial report within fifteen (15) days of the end of each quarter. Such report shall describe the financial condition of the organization, how Florence citizens were served, and how funds paid pursuant to the contract were spent. These reports should be submitted to the City Treasurer, P.O. Box 98, Florence, AL 35631-0098. Failure to provide these reports could result in the loss of future contracts. The City or its authorized representative shall be allowed to inspect financial records and service records of Children's Museum upon request of the City.

***IN WITNESS WHEREOF***, the City of Florence has caused its name to be affixed hereunto, by its duly authorized officer, and the Executive Director of Children's Museum has also set his/her hand hereunto this the \_\_\_\_ day of \_\_\_\_\_, 2018.

**CITY OF FLORENCE, ALABAMA**  
a municipal corporation

By: \_\_\_\_\_  
Its Mayor

**ATTEST:**

\_\_\_\_\_  
**CITY CLERK**

**CHILDREN'S MUSEUM OF THE SHOALS, INC.**

By: \_\_\_\_\_  
Its Executive Director

**ATTEST:**

\_\_\_\_\_

# EXHIBIT (A)

000502

## Memorandum of Understanding

### Recitals:

This Memorandum of Understanding (the "Agreement"), made and entered into as of August 1<sup>st</sup>, 2000, by and among the Children's Museum of the Shoals, Inc., an Alabama nonprofit corporation (the "Museum"), and the City of Florence, Alabama (the "City"), sometimes referred to collectively as (the "Parties").

Whereas, the Museum is a nonprofit organization established for the purpose of building and the operation of a children's museum emphasizing interactive education in science, art and technology;

Whereas, the City desires to make contributions of City funds to the Museum;

Whereas, in order for a municipality to make contributions of funds to a private entity, the Museum must meet certain criteria regarding the use of the contributed funds;

Whereas, the Museum has entered into a Contract to renovate the building it is leasing from the City so such structure can properly house a children's museum and the City would like to encourage and support the efforts needed to renovate the building; and

Now therefore, in consideration of the mutual promises and conditions contained herein, the Parties agree as follows:

### Agreements:

Section I. "Public Purpose" Test for Donations by Municipalities. Section 94 of the Constitution of Alabama 1901, as Amended by Amendment 112, prohibits a city from granting money or other things of value in aid of a private individual, corporation or association. In order for a municipality to avoid violating the prohibition, the donated funds must be appropriated for a "Public Purpose". The test for whether an appropriation's purpose is public is whether the appropriation has for its objective the promotion of public health, safety, morals, security, prosperity, contentment and the general welfare of the community.

Section II. Background of the Children's Museum of the Shoals, Inc. The Museum began with an outreach exhibit named STUFFEE in the fall of 1997. STUFFEE is a seven-foot tall, blue haired doll that is used to teach children about nutrition, digestion, circulation, breathing and other topics. STUFFEE's long green zipper can be opened to reveal soft sculpture reproduction of a trachea, esophagus, stomach, liver, pancreas, gall bladder, heart, lungs, kidneys, appendix and intestines - both small and large. STUFFEE has begun his fourth year visiting area schools. He has been in schools in Lauderdale, Colbert, Franklin, Lawrence and Morgan counties. The Museum designed and implemented hands-on children's activities at area festivals in 1997 through 2000.

Section III. "Public Purpose" and the Future Plans of the Museum. The Museum plans to continue participation in area festivals even after the completion of its permanent facility in the year 2001. Festival activities have been offered free of charge to the public. The cost of each activity has been underwritten by local corporate sponsors. Once the Museum is open to the public, admission will be charged to individuals and groups, including schools. Programs and lesson plans are currently being written that fall within state and federal national curriculum guidelines. Five outreach trunks for each of the planned exhibits are currently being developed and will be available to teachers to check out free of charge either before or after a Museum visit. In

addition, it is the position of the Museum that it will contribute to the area in numerous ways including, but not limited to, the following;

- i. supporting the work of classroom teachers and community agency leaders.
- ii. working with other institutions to present exhibits, materials and programs which encourage cross-visitation.
- iii. providing a strong attraction for out of town visitors.
- iv. inspiring new generations to attend museums, zoos, theatrical dance and musical events.
- v. serving as an entry point for families who have not traditionally used available cultural resources.

Section IV, Purpose and Governance of Donations. It is the purpose of this Agreement that the City and the Museum enter into an understanding regarding the use of any contributions made by the City to the Museum, either presently or in the future; and that said donations be used solely for a Public Purpose as stated in Sections I, II, and III above. The Museum accepts and understands that in the event any funds donated by the City are used for any purpose not reasonably falling within the broad guidelines in Sections I, II, and III above, the City may and will take any reasonable action provided under the Laws of the State of Alabama.

Section V. Contract to Renovate Building. The Museum has entered into a Contract to renovate the building it is leasing from the City so such structure can properly house a children's museum and the City would like to encourage and support the efforts needed to renovate the building. The Contract is with Butler Construction Company, L.L.C. and is on a cost plus basis not to exceed \$494,500 (see attached Exhibit A).

#### Section VI. Miscellaneous.

6.1 Severability. The invalidity or unenforceability of a particular provision of this Agreement shall not affect the other provisions hereof, and the Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.

6.2 Governing Law. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of Alabama.

6.3 Gender and Captions. All terms expressed herein shall be deemed to include the feminine and neuter genders and all references to the plural shall be deemed to include the singular and vice versa, all as proper construction shall dictate. The captions are intended for reference only and are not an integral part of this Agreement.

6.4 Amendments and Termination. This Agreement may be amended or terminated only by a written agreement signed by the City and the Museum.

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In witness whereof, the undersigned have executed this Agreement on the date first written above.

Wm B. Chang  
Children's Museum of the Shoals, Inc.  
By: Board President

Steve Pierce  
City of Florence, Alabama  
By: Steve Pierce, City Council President  
acting in the absence of  
Its Mayor, Eddie Frost

Steven W. Eason  
City of Florence, Alabama  
Attest: Steven W. Eason  
Its City Clerk