

MEMORANDUM OF UNDERSTANDING

THIS AGREEMENT is made and executed between Caln Township, Pennsylvania (hereinafter, “the Township”), acting through its Board of Commissioners, and the Friends of the Spackman Davis Farm, a Pennsylvania nonprofit corporation, with offices at 103 Ayerwood Drive, Downingtown, PA 19335 (hereinafter, “FOSDF”) (each a “Party” and collectively the “Parties”).

WHEREAS, the Township is the owner of the properties located at 3401 Kings Highway, Downingtown, PA 19335, commonly known as the Spackman-Davis Farm (hereinafter, “the Farm”); and

WHEREAS, the Township desires to preserve, protect, and maintain property and land associated with the Farm; and

WHEREAS, the FOSDF desires to support ongoing preservation, fundraising, and maintenance of property and land associated with the Farm;

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties desire to enter this Agreement to outline the responsibilities of each Party for community and regional fundraising, education, and preservation of the Farm:

I. TERM

The term of this Agreement shall commence on January 1, 2026 and continue until December 31, 2027. This Agreement may be renewed for additional terms by mutual written agreement of the Parties.

II. DEFAULT

If either Party fails to keep, observe or perform any material term or provision of this Agreement, such failure should be considered a Default. If such Default shall continue for a period of thirty (30) days after written notice of breach is given, the non-breaching Party may, in addition to any other remedy available to it in law or equity, terminate this Agreement by providing written notice to the breaching Party. The termination shall be effective ten (10) days from the date of notice of termination.

III. GENERAL TERMS

- a) Property Access: The FOSDF shall be granted access to the Farm for the purpose of regular maintenance, improvements, and upkeep. Every effort shall be made to ensure proper communication regarding scheduled improvements is shared in advance to limit disruption or restrict planned improvements.
- b) Branding: The Township has the right to approve marketing material language to ensure responsible parties are recognized for completed and planned work. This includes but is not limited to the following: printed materials, social media announcements, website descriptions, mailers, historical markers, and flyers. In the event the Township requests modifications to marketing materials, every effort will be made to provide sufficient justification and a suitable modification. The FOSDF shall be granted the option to object to any requested changes at a public meeting of the Caln Township Board of Commissioners.

- c) Volunteers: In the event site improvements at the Farm require the support of non FOSDF board members, all volunteers at the Farm shall complete a waiver on a form supplied by the Township. Copies of all waivers shall be maintained by the FOSDF and provided to the Township.
- d) Township Equipment: Both the Township and the FOSDF have an invested interest in proper maintenance and upkeep at the Farm. In the event approved maintenance projects would benefit from the use of Township equipment and/or tools, the FOSDF will complete a work order request form (Exhibit A), no less than one week (7 days) in advance. The Township will make every effort to accommodate requests but reserves the right to modify the use of equipment due to work conflicts, emergencies, and weather events. Heavy equipment or tools that require specialized certifications and/or training must be operated by appropriate township staff. Whenever possible, requests for the use of township equipment and/or requests for staff support, shall be made during Township weekday business hours.
- e) Property Availability: The Township will make every effort to accommodate FOSDF's scheduling requests and use of the Farm. FOSDF shall notify the Township no less than one week (7 days) in advance of activities involving less than 25 participants. FOSDF shall obtain through the Township a Public Gather Permit for activities involving 25 or more participants. In the event a scheduling conflict should arise, the Township activity shall take priority.
- f) Insurance Coverage: Prior to any activities at the Farm requiring a Public Gathering Permit, the FOSDF will obtain and maintain commercial general liability insurance, issued by a reputable insurance company, insuring the Township, its elected and appointed officials, officers, employees, contractors and agents from liability to persons or property with limits of not less than \$1,000,000 and naming the Township, its officers and employees as additional insured parties. Such policies shall not be cancelable by the insurer without 10 days' prior written notice to the Township. Proof of coverage by the FOSDF shall be provided in advance of approved activities and a condition of issuance of required Township permits.

IV. RESPONSIBILITIES OF THE FOSDF

- a) FOSDF agrees to encourage fundraising efforts with monetary contributions received directed toward the ongoing preservation, maintenance, and upkeep of the Spackman-Davis Farmhouse and accessory structures located at the Farm.
- b) The FOSDF shall seek and receive approval from the Township Board of Commissioners for projects involving significant aesthetic or structural modifications of historic buildings, grounds, or contributing landscaping features associated with the Farm.
- c) The FOSDF shall notify and receive administrative approval from the Township Manager and/or relevant Township staff for de minimis projects that will not involve significant aesthetic or structural modifications of historic buildings, grounds, or contributing landscaping features associated with the Farm.
- d) A representative from the FOSDF shall provide the Board of Commissioners with a report on progress, plans, and events at the Farm, at a public meeting before the Board, at least quarterly, and shall communicate any changes or modifications to established plans and events to the Township Manager, as they should occur.
- e) The FOSDF shall apply and receive a Public Gathering Application Permit for all registered or advertised public gatherings at the Farm with over 25 participants. Public Gathering Permits must be submitted to the Township for processing no less than 60

- days before the selected event date.
- f) The FOSDF and the Township shall adhere to all applicable public sector bidding requirements for eligible projects at the Farm.
 - g) The FOSDF shall provide the Township with a list of priority projects and proposed events for the following calendar year by September 15th. Whenever possible, proposed project costs estimates should be included to help ensure proper budgeting.

V. RESPONSIBILITIES OF THE TOWNSHIP

- a) The Township agrees to support ongoing preservation, maintenance, and upkeep of the Spackman-Davis Farmhouse and accessory structures located at the Farm through administrative supervision, permitting guidance, public bidding assistance, and/or local match support.
- b) The Township shall make every effort to consider and respond to significant requests from the FOSDF in a timely manner by placing such requests on a public meeting agenda, when applicable.
- c) The Township shall make every effort to consider de minimis or administrative requests in a timely manner by ensuring verbal or written communication is provided quickly, and no longer than 21-days.
- d) The Township shall allow for no less than quarterly FOSDF reporting by ensuring placement for such a presentation is included on a public agenda of the Caln Township Board of Commissioners meeting.
- e) The Township shall process all Public Gathering Permits in a timely manner and provide written approval or denial of all permits no less than 30 days prior to the requested event date.
- f) The Township shall oversee public bidding process and requirements for all applicable approved projects at the Farm.

VI. ASSIGNMENT

The FOSDF or its individual members may not assign the rights granted in the Agreement without first obtaining written consent from the Township.

VII. ILLEGALITY

If any provision of this Agreement is found by any court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of this Agreement will not be affected thereby, and in lieu of any provision that is found to be illegal, invalid, or unenforceable, there will be added as part of this Agreement a provision as similar to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.

VIII. INDEMNIFICATION

The FOSDF shall indemnify and hold the Township and its respective agents, employees, elected or appointed officials, successors, and assigns, harmless from any liability, loss, costs, damages or expenses, including attorneys' fees, which the Township may suffer or incur as a result of any actions related to the activities performed or supervised by the FOSDF under this Agreement. If any such action is brought against the Township or its respective agents, employees, elected or

appointed officials, successors, or assigns, in connection with this Agreement, the FOSDF agrees to defend such action or proceedings at its own expense and to pay any judgment rendered therein. The Township, however, shall indemnify and hold harmless the FOSDF, its respective agents, employees, successors, and assigns from any liability, loss, costs, damages or expenses, including attorneys' fees, arising out of or resulting from the negligent act or misconduct of the Township, its employees, elected or appointed officials, contractors or other lawful representatives and agents, in connection with this Agreement.

IX. ENTIRE AGREEMENT

This Agreement contains all of the agreements between the parties regarding the FOSDF use of the Farm and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement shall not be amended or modified except by written instrument signed by both parties.

X. LAW GOVERNING AGREEMENT

This Agreement shall be governed by the laws of the Commonwealth of Pennsylvania and venue shall be in Chester County, Pennsylvania.

IN WITNESS WHEREOF, the Parties hereto, through their duly authorized representatives, have caused this Agreement to be executed as of the day and year first written above. The parties have read and understand the foregoing terms of this Agreement and do, by their respective signatures hereby agree to its terms.

(Remainder of page intentionally left blank)

FRIENDS OF THE SPACKMAN-DAVIS FARM

Signature

Printed Name and Title

Street Address

P.O. Box

City, State Zip

**CALN TOWNSHIP, BOARD OF
COMMISSIONERS**

Paul Mullin, President

Josh Young, Vice-President

Jane Kennedy, Commissioner

Lorrane Tindero, Commissioner

Mark Evans, Commissioner

ATTEST:

Don Vymazal, Township Manager