

COOPERATIVE AGREEMENT
BETWEEN THE UNIVERSITY OF KANSAS (KU)
AND
WESTERN HISTORY ASSOCIATION (WHA)

PURPOSE: Relocate the Western History Association Directorate to KU, under the direction of Dr. Elaine Marie Nelson as Executive Director.

EFFECTIVE DATE: 01-July-2020

COMPLETION DATE: 30-June-2025

THE PARTIES' AGREEMENT

I. In exchange for the promises, obligations, and rights listed below, and for other good and valuable consideration, the parties agree as follows.

II. KU WILL SUPPORT THE WHA DIRECTORATE AT KU AS FOLLOWS:

- a. Accept the appointment of Dr. Elaine Nelson an incoming faculty member of the KU History Department in the College of Arts and Sciences, as Executive Director of WHA.
- b. Accommodate a 50% service expectation in Dr. Nelson's allocation of effort (teaching, research, and service) in her faculty tenure-track appointment at KU, such that Dr. Nelson is able to fulfill duties as Executive Director of WHA during the academic calendar year.
- c. Assign an administrator to advise and assist Dr. Nelson with KU institutional processes related to the transfer, set up, and operation of WHA Directorate at KU for the spring and summer of 2020.
- d. Employ a full time (1.0 FTE), 12-month administrative assistant to assist Dr. Nelson coordinate the major WHA activities such as the annual conference, website, publications, fundraising, financial management, staff supervision, and membership. WHA will reimburse KU for (1.0 FTE) salary and benefits. This cost sharing is described in the budget attached as Exhibit A- Budget, which is incorporated into and made part of this Agreement by this reference. The anticipated start date for the administrative position is July 1, 2020. The posting and hiring of this position should take place in April-May 2020 to allow proper staff transition and training. The WHA will assume and be solely responsible for any extra training costs that incur prior to July 1, 2020.

e. Employ one qualified graduate assistant to assist Dr. Nelson's work on the WHA Directorate activities. KU will pay the costs of one 12-month .50 fte graduate assistant position to cover stipend and benefits expenses, and will pay the student costs of tuition and fees. This cost sharing is described in Exhibit A- Budget.

f. Provide sufficient suitable office space within Wescoe Hall for the WHA office—one large office and a second smaller office if necessary to house staff members assigned to WHA activities (which includes the administrative position and the graduate assistant referred to in paragraphs (d) and (e) above).

g. Provide sufficient suitable storage space for WHA event equipment and supplies, which requires approximately 10x4 feet of space for conference supplies, projectors, screens, podiums, and other materials.

h. Provide suitable furnishings and necessary office supplies for the WHA office, which includes necessary technology (computers/monitors, telephone, internet access, and copy privileges) for office personnel. The WHA will provide for additional office supplies. This cost sharing is described in Exhibit A- Budget.

III. WHA WILL SUPPORT THE WHA DIRECTORATE AT KU AS FOLLOWS:

a. Recognize and appoint Dr. Elaine Nelson as Executive Director of the WHA for the duration of this Agreement.

b. Provide financial support for the WHA Directorate under the parties' cost sharing arrangement, as specifically described in Exhibit A- Budget. This financial support includes payment for the personnel expenses for the 1.0 FTE full time, 12-month, administrative assistant employee.

Invoices will be submitted quarterly to:

Attn: Elaine Nelson
Western History Association
University of Kansas
1445 Jayhawk Blvd
3650 Wescoe Hall
Lawrence, KS 66045

All payments due will be made payable to the University of Kansas and mailed to:

University of Kansas
Strong Hall SSC
Attn: Robynn Barney
1450 Jayhawk Blvd, Room 50
Lawrence, KS 66045

c. Transfer the WHA Directorate records, equipment, and supplies necessary to conduct the WHA activities to KU by July 1, 2020. Transfer can begin as early as April 2020 in coordination with the KU History department.

d. Authorize and vest Dr. Nelson with full authority to carry out all the duties and responsibilities as the WHA Executive Director, including the receipt and disbursement of revenues, the discretion to organize, plan, and carry out the WHA's annual meeting and other activities, and to support Dr. Nelson's efforts to solicit, edit, and organize WHA material for publication and distribution.

IV. OTHER TERMS AND CONDITIONS.

a. **Term.** This Agreement will expire on June 30, 2025 unless the parties negotiate and execute a new Agreement to take effect on July 1, 2025; provided however, the parties may terminate this Agreement before the term expires for any of the reasons described in Section IV (b).

b. **Termination.** The parties agree that this Agreement will terminate on any of the following conditions:

1. Either party, for any reason, may terminate this Agreement upon giving the other party a minimum of four months advanced written notice of that party's intent to terminate.

2. In the case where a party has failed materially to comply with a provision of this Agreement, the other party may give written notice of its intent to terminate this Agreement unless the breach is remedied within thirty (30) days of the written notice of the breach. If the breach is not remedied within that 30-day period, the party giving notice of the breach may terminate this Agreement.

3. Neither party shall be liable to the other party for any failure or delay in performance under this Agreement (excluding any obligations to make a payment pursuant to the terms of this Agreement) due to circumstances beyond its reasonable control including, without limitation, Acts of God, fire or other natural calamity, terrorist attack, utility failure, national emergency, epidemic, labor disruption, and official governmental or judicial action not the fault of the party failing or delaying in performance. In the event of such force majeure event, WHA or KU, as the case may be, shall use commercially reasonable efforts to cure such cause and to resume performance.

4. In the event Dr. Nelson's employment at KU is terminated for any reason whatsoever or Dr. Nelson ceases to be the WHA Executive Director and the parties cannot agree on a replacement for a new WHA Executive Director at KU, then this Agreement may be terminated by either party by providing sixty (60) days written notice of termination to the other party.

5. In the event of termination or expiration of this Agreement, WHA shall promptly pay KU for any outstanding costs incurred up to and including the effective date of termination or expiration. KU will provide all reasonable and

necessary assistance to WHA to allow for a functional transition to another hosting institution.

c. **Invoices; Revised Budget.** WHA will remit full payment within 30-days of receiving quarterly invoices from KU. The parties agree that Exhibit A - Budget may be subject to revision from time to time to adjust for actual costs. Upon mutual approval, any revised Exhibit A- Budget will be deemed incorporated into this Agreement without the need for a separate written amendment to this Agreement.

d. **Transition Assistance.** If Dr. Nelson is no longer employed by KU for any reason whatsoever or no longer holds the WHA Executive Directorship for any reason prior to expiration of this Agreement, the WHA and KU will appoint a KU Professor as the Interim Executive Director during the transition period. The parties agree and understand that any continuation of the WHA Directorate at KU is contingent upon a KU professor holding that appointment.

e. **Indemnity.** KU is an agency of the State of Kansas and as such is covered by the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.). KU agrees to be responsible for its own negligence and the negligence of its employees to the extent of the terms, conditions, and liability limitations under the Act. KU further agrees that WHA shall not be liable for damages resulting from the negligent or wrongful acts or omissions by KU or its employees, including Dr. Nelson when she is acting within the scope and course of her responsibilities on behalf of the State of Kansas. WHA shall indemnify, defend, and hold harmless the University of Kansas, the Kansas Board of Regents, and affiliates, and their officers, employees, and agents from any and all claims, suits, liabilities, losses, damages and expenses (including court costs and reasonable attorney's fees) arising from or out of any negligent or wrongful act or omission of WHA, including any negligent or wrongful performance of the activities and duties of the Executive Director of the WHA.

f. **Relationship Between the Parties.** No provision of this Agreement is intended, or shall be construed, to create an agency relationship between the parties. Neither party shall be authorized to act as a legal representative or agent of the other, or to legally bind or make representations or warranties on behalf of the other, for any purposes whatsoever. Moreover, this Agreement does not establish a partnership or a joint venture, and neither party will refer to itself as the agent or representative of the other.

g. **Dispute Resolution.** The parties shall strive to settle amicably, in good faith, and with due diligence any dispute arising from or relating to this Agreement. The parties agree if such attempts to resolve a dispute are unsuccessful, then any party may avail itself of the courts of competent jurisdiction in the State of Kansas.

h. **No Third Party Beneficiaries.** This Agreement is entered into solely for the respective benefit of the parties and their permitted successors and assigns, and nothing in this Agreement will be construed as giving any right, remedy, or claim under this Agreement to an entity or individual other than the Parties to this Agreement.

i. **Law and Venue.** This Agreement shall be governed by the laws of the State of Kansas without regard for conflicts of law. Venue for any legal proceeding relating to this Agreement shall be in the appropriate court in and for Douglas County, Kansas.

j. **Notice.** Unless otherwise provided herein, any notices or other communications required or permitted by this Agreement to be delivered to the WHA or KU shall be in writing and will be considered delivered when personally delivered in the United States mail, first-class, postage prepaid, addressed to the WHA or KU at the address set forth below:

WHA:
Western History Association
Attn: Elaine Nelson
University of Kansas
1445 Jayhawk Blvd
3650 Wescoe Hall
Lawrence, KS 66045

With a copy to:
College of Arts and Sciences
Ellison Hall
633 Elm Avenue
Norman, OK 73019-3118
Attn: David Wrobel, Western History Association

KU:
College of Liberal Arts & Sciences
Strong Hall, 1450 Jayhawk Blvd. Ste 224
Lawrence, KS 66045
Attn: Mark Reynolds, Director of Finance & Planning

With a copy to:
University of Kansas
Office of General Counsel
Strong Hall, 1450 Jayhawk Blvd. 245
Lawrence, KS 66045
Attn: General Counsel

k. **Entire Agreement.** This Agreement constitutes the entire agreement between WHA and KU with respect to the subject matter contained herein, and it expressly supersedes all prior oral and written understandings between the parties. .

l. **Amendment.** The parties agree that this Agreement may be amended only in writing signed by both parties.

m. **Assignment and Binding Effect.** Neither party may assign this Agreement, in whole or in part, without the prior written consent of the other party. Subject to the

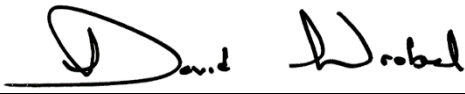
preceding sentence, this Agreement will be binding upon, and inure to the benefit of the parties' respective successors and assigns.

n. **Counterparts.** This Agreement may be executed in separate counterparts, each of which will be an original and all of which together will constitute one and the same agreement binding each of the parties.

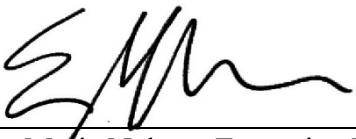
The parties have executed this Agreement to be effective as of the date and year first written above.

SO AGREED:

For Western History Association



David Wrobel, President, Western History Association
March 18, 2020
Date



Elaine Marie Nelson, Executive Director, Western History Association
March 18, 2020
Date

For University of Kansas



Barbara Bichelmeyer, Provost and Executive Vice Chancellor
April 6, 2020
Date

For KU College of Arts and Sciences



John Colombo, Interim Dean
April 3, 2020
Date

Exhibit A

BUDGET

KU and Western History Society Cost Sharing

KU Expenses

5.5% Admin Overhead	2,376
.50 fte Grad Assistant S&F (12 mth)	24,434
.50 fte Grad Assistant Tuition/Fees	<u>7,000</u>
Total Expenses	33,810

WHA Expense:

1.0 fte Admin Assistant Salary & Fringe:

Salary	32,000
Fringe @ 35%	<u>11,200</u>
Total	43,200

WHA expense is estimated. KU will invoice WHA quarterly to recover actual costs.