

MEMORANDUM OF UNDERSTANDING

I. PARTIES

A. The City of Concord, New Hampshire, a municipal corporation, with a principal place of business at 41 Green Street, Concord, New Hampshire (the “City”).

B. Concord Fire Fighters Association Local 1045, a not-for-profit corporation, with a principal place of business at 50 Bradley Street, Concord, New Hampshire 03301 (“Local 1045”).

C. The City and Local 1045 are collectively referred to as the Parties.

II. PURPOSE

This Memorandum of Understanding (“MOU” or “Agreement”) is between the City and Local 1045.

The purpose of this Agreement is to permit Local 1045 to remove the City’s “Fire Gong” (attached photograph as Exhibit A) from the City’s East Concord Community Center (formerly the East Concord Fire Station) in order to display the City’s Fire Gong at Local 1045’s Union Hall located at 50 Bradley Street, Concord, New Hampshire (“Union Hall”). The City shall retain ownership of the Fire Gong following its removal from the City’s East Concord Community Center.

III. TERMS AND CONDITIONS

A. Removal

1. Local 1045 shall enter into a contract, subject to the City’s review and approval, with a bonded and insured contractor to remove the Fire Gong from the East Concord Community Center and transfer it to Local 1045’s Union Hall. The contract shall include a provision for the contractor to fill the bolt holes which currently secure the Fire Gong with bolts to the East Concord Community Center.

2. Local 1045 shall coordinate the date for the removal of the Fire Gong with the City to have City personnel present at the East Concord Community Center at the time the Fire Gong is removed. The City shall inspect the East Concord Community Center upon removal of the Fire Gong to ensure that no damage has been done to the East Concord Community Center building or property.
3. Local 1045 shall be responsible to repair any damage to the East Concord Community Center building or property caused from the removal of the Fire Gong.

B. Ownership

The City shall continue to own the Fire Gong following its removal from the City's East Concord Community Center, throughout the duration of this Agreement, and until such time as the City makes an express offer to sell the Fire Gong to a third party.

C. Local 1045 Display of Fire Gong at Union Hall

1. Local 1045 shall display the Fire Gong at its Union Hall property.
2. The City shall have the right to inspect the Fire Gong at Union Hall with reasonable notice to Local 1045.
3. Local 1045 shall keep and maintain the Fire Gong in good condition.
4. Local 1045 shall secure the Fire Gong from theft and/or vandalism.
5. Local 1045 shall protect the Fire Gong from unreasonable use, such as climbing upon or other use which may damage the Fire Gong.
6. Local 1045 shall not remove the Fire Gong from its Union Hall without the express written consent from the City Manager.

D. Amendment

This Agreement may be amended upon written agreement by the City Manager and Local 1045.

E. Duration

1. This Agreement shall extend for five (5) years upon execution of the Agreement. Within ninety (90) days of the expiration of this Agreement, Local 1045 may submit written notice to

the City requesting that it extend the Agreement for an additional five (5) year term, which the City may extend at its sole discretion.

2. The City may terminate this Agreement at any time and for any reason. Upon termination, the City shall take possession of the Fire Gong.

F. Assignability

This Agreement cannot be directly or indirectly assigned, sold, transferred or encumbered by Local 1045 in whole or in part, without authorization in writing from the City Manager.

G. Insurance

It is agreed that during the term of this Agreement, Local 1045, at its sole cost and expense, shall carry and maintain the following types of insurance which shall name the City as “Additionally Insured”. The Insurance shall be as follows:

Certificate of Liability Insurance:

- General Liability Insurance in the Aggregate of One (1) Million Dollars.
- Each Occurrence of Injury One (1) Million Dollars.
- Medical Expense (any one person) Five (5) Thousand Dollars.

H. Indemnification

Local 1045 shall indemnify and hold harmless the City and its officials, agents and employees (collectively, the “Indemnified Parties”), from and against all loss, damage, expense, liability and other claims, including court costs and reasonable attorneys’ fees (collectively, “Liabilities”) resulting from this Agreement and from injury to or death of persons, and damage to or loss of property to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of Local 1045 (or its contractors, agents or employees) in connection with this Agreement provided, however, that nothing herein shall require Local 1045 to indemnify the Indemnified Parties for any Liabilities to the extent caused by or arising out of the

negligent acts or omissions of, or the willful misconduct of the City. Additionally, to the fullest extent permitted by law, no official, employee, agent or representative of the City shall be individually or personally liable for any obligation or liability of Local 1045.

I. Notices

Any notice or other communication required by this Agreement will be deemed to have been duly given, if deposited in the U.S. Mail, postage prepaid, and addressed to a Party at the address set forth above. Notice to the City, shall be directed to the City Manager, Notice to Local 1045 shall be to its President.

J. Severability

If any term or provision of this Agreement shall to any extent be determined to be void, invalid, or unenforceable, or should violate any law of the United States, this Agreement shall be considered divisible as to such provisions, both the enforceability or validity of the remainder of the Agreement shall not be affected.

K. Entire Agreement

This Agreement constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement. The Parties agree that any and all prior and contemporaneous communications, either written or oral, and all previous and contemporaneous agreements, if any, between the Parties with respect to the subject matter hereof are automatically canceled by the signing of this Agreement. The Parties acknowledge and agree that they are not relying upon any statement, representation, or communication of any kind not contained in this Agreement. No change, amendment, or modification of this Agreement shall be effective unless made in writing and signed by each Party.

L. Applicable Laws

This Agreement shall be enforceable in the Courts of Merrimack County, New Hampshire, to which both Parties submit for jurisdiction.

M. Amendments To This Agreement

City Council authority to enter into this agreement was granted on

_____.

IV. EXECUTION

Executed on this _____ day of _____, 2019.

**CONCORD FIRE FIGHTERS
ASSOCIATION LOCAL 1045**

CITY OF CONCORD

By: _____
Its President
Duly Authorized

By: _____
Its City Manager
Duly Authorized