

1 A RESOLUTION AUTHORIZING FULTON COUNTY, GEORGIA TO ACCEPT A
2 PERMANENT DONATION OF A PORTRAIT OF FORMER FIRST LADY OF THE
3 UNITED STATES, MICHELLE OBAMA FROM THE MCKINLEY "MACK" WILBOURN
4 LEGACY FOUNDATION TO BE DISPLAYED WITHIN FULTON COUNTY;
5 APPROVING THE ART DONATION AGREEMENT TO EFFECUATE THE DONATION;
6 AUTHORIZING THE CHAIRMAN TO EXECUTE THE ART DONATION AGREEMENT;
7 AUTHORIZING THE COUNTY ATTORNEY TO APPROVE THE ART DONATION
8 AGREEMENT AS TO FORM AND TO MAKE NECESSARY CHANGES THERETO
9 PRIOR TO EXECUTION; AND FOR OTHER PURPOSES.

10 WHEREAS, the Fulton County Board of Commissioners desires to enrich the
11 cultural life of Fulton County through the promotion of the visual, literary and performing
12 arts and the provision of support to Fulton County's artistic and cultural assets; and

13 WHEREAS, Mack Wilbourn of The McKinley Wilbourn Legacy Foundation is the
14 owner and president of Mack II, Inc., a quick service restaurant management company,
15 whose current franchises include Atlanta Bread & Bar, Baja Fresh Mexican, Famiglia
16 Pizza, Phillips Seafood, Popeyes, and We Juice It, which all are located in the Hartsfield-
17 Jackson Atlanta International Airport; and

18 WHEREAS, The McKinley Wilbourn Legacy Foundation is the owner of a portrait
19 of Michelle Obama, the former first lady of the United states and spouse of former
20 president of the United States, Barack Obama (serving from January 20, 2009 to January
21 20, 2017; and

22 WHEREAS, Michelle Obama is the first African American First Lady of the United
23 States; and

24 WHEREAS, The McKinley Wilbourn Legacy Foundation desires to donate the
25 portrait of Michelle Obama to Fulton County for public display within Fulton County
26 consistent with the donation agreement document attached hereto; and

1 **WHEREAS**, the Fulton County Board of Commissioners believes that acceptance
2 of this gift from The McKinley Wilbourn Legacy Foundation will serve to generate interest
3 in the arts in Fulton County and increase patronage and visitors to the locations in which
4 the portrait is publicly displayed; and

5 **WHEREAS**, pursuant to Fulton Code Section 1-117, the Board of Commissioners
6 has “exclusive jurisdiction and control over the following matters, to-wit: In directing and
7 controlling all the property of the county, as they may deem expedient, according to
8 law;[...] and to exercise such other powers as are granted by law, or are indispensable to
9 their jurisdiction over county matters and county finances.”

10 **NOW, THEREFORE, BE IT RESOLVED**, that the Board of Commissioners hereby
11 accepts the permanent donation of a portrait of former First Lady of the United States,
12 Michelle Obama from The McKinley “Mack” Wilbourn Legacy Foundation to be displayed
13 within Fulton County, Georgia.

14 **BE IT FURTHER RESOLVED**, that the Board of Commissioners hereby approves
15 the donation agreement with The McKinley “Mack” Wilbourn Legacy Foundation, in
16 substantially the same form attached hereto as Exhibit “A,” and incorporated herein by
17 reference.

18 **BE IT FURTHER RESOLVED**, that the Chairman is hereby authorized to execute
19 the donation agreement after review by the County Attorney.

20 **BE IT FURTHER RESOLVED**, that the County Attorney is hereby authorized to
21 approve the donation agreement and any other ancillary documents as to form and to

1 make modifications thereto that are necessary to protect the County's interests prior to
2 execution by the Chairman.

3 **BE IT FINALLY RESOLVED**, that this Resolution shall become effective upon its
4 adoption, and that all resolutions and parts of resolutions in conflict with this Resolution
5 are hereby repealed to the extent of the conflict.

6 **PASSED AND ADOPTED** by the Board of Commissioners of Fulton County,
7 Georgia, this 7th day of September 2022.

8
9 **FULTON COUNTY BOARD OF**
10 **COMMISSIONERS**

11 **SPONSORED BY:**

12
13
14
15 _____
16 Natalie Hall, Commissioner
17 District 4
18

19 **ATTEST:**
20
21
22

23 _____
24 Tonya R. Grier
25 Clerk to the Commission
26
27
28

29 **APPROVED AS TO FORM:**
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33 _____
34 Y. Soo Jo
35 County Attorney
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ARTWORK DONATION AGREEMENT

A. Parties of the Agreement

Donor:

County: **Fulton County, Georgia**

On behalf of

Fulton County Library System

The McKinley "Mack" Wilbourn
Legacy Foundation
Address: 3421 Dogwood Drive
Hapeville, GA 30354
Tele: 404-768-9978 ext. 108
Email: _____

Address: One Margaret Mitchell Square
Atlanta, Ga 30303
Tele: 404-759-9653
Email: _____

B. Exhibition, Venue, and Dates

Exhibition Title: Portrait of Former First Lady of the United States, Michelle Obama
Venue (location): To be determined by the County
Exhibition Date(s) Open to Open

C. Description and Listing of Artwork ("Work") Donated (See, **Attachment "A"**, which is expressly incorporated herein by reference). Fulton County shall have no obligation or liability hereunder for any piece of Work that has not been identified and described in Attachment A, or otherwise afforded insurance coverage by Fulton County.

THE PARTIES MAY AMEND ATTACHMENTT "A" FROM TIME-TO-TIME BY ADDING OR DELETING ANY PIECE OF WORK FROM ATTACHMENT "A". FOR NEW WORK TO BE ADDED TO ATTACHMENT "A", THE WORK MUST BE INSURED BY FULTON COUNTY UNDER ITS SELF-INSURANCE PLAN OR THE INSURANCE COVERAGE AFFORDED BY THE COUNTY (IF APPLICABLE). FOR ANY WORK TO BE REMOVED FROM ATTACHMENT "A", SUCH WORK MUST BE REMOVED BY THE COUNTY FROM ITS SELF-INSURANCE PLAN OR THE INSURANCE COVERAGE AFFORDED BY THE COUNTY (IF APPLICABLE). A CURRENT AND ACCURATE COPY OF THE AMENDED ATTACHMENT "A" MUST BE PROVIDED TO EACH PARTY AND SHALL BE MAINTAINED BY THE COUNTY'S RISK MANAGER. NO ADDITIONAL BOARD OF COMMISSIONERS' ACTION IS REQUIRED TO AMEND ATTACHMENT "A" AFTER ITS INITIAL APPROVAL AS PART OF THE ORIGINAL DONATION AGREEMENT.

D. Insurance, Ownership and Security

Insurance Value of Work (s) (U. S. Dollars – to be spelled out)

\$6,000 (Self fund by Fulton County) The McKinley "Mack" Wilbourn Legacy Foundation agrees that Fulton County is the permanent Owner of the Work, upon acceptance.

Fulton County will insure the Work or Objects under their policy?

x Yes No

Lender wants to insure the Work or Objects under their policy?

*(N/A) Yes
No

Name of person(s) doing condition check upon arrival and departure of artwork __Art Department/Library
System_____

Date of condition check on arrival: _TBD_____

Date of condition check on departure: __TBD_____

Fulton County will exercise the same care with respect to the Work as it does in safekeeping of other work donated to the County's care.

Fulton County shall retain its rights to maintain Commercial Property Insurance coverage or self-fund for damages or loss of Work (s) while in the care, custody and control of the Fulton County Library System. The Artist/Lender agrees that in the event that the Work is lost or damaged, in whole or in part, recovery will be limited to such amount as may be paid by the insurer plus any deductible, thereby releasing Fulton County, its agencies, officers and employees from any further liability for claims arising out of such loss or damage, with artist having no right to the insurance proceeds since the item is owned by the County upon acceptance. If the Artist/Lender is providing the value of the Work, Fulton County or its insurer reserve the right to substantiate the value of any Work that is damaged prior to settling a claim with the owner of the Work.

In the event the Artist/Lender elects to maintain his or her own insurance coverage, said coverage shall constitute the full release of Fulton County, its agencies, officers and employees from any and all liability in connection with the Work. Fulton County shall be listed as an "Additional Insured." The Artist/Lender's insurance shall apply as primary before any other insurance or self – funded coverage, including deductibles, non-contributory with a Waiver of Subrogation provided in favor of Fulton County.

Except in case of emergency to preserve the Work, the Work shall not be cleaned, restored, or otherwise altered without the written consent of the Artist/Lender, in which case the Artist/Lender will be notified by telephone and in writing.

In the event that the Work is offered as a gift from the Donor, it is understood that acceptance of this gift will be presented to the Board of Commissioners for acceptance.

The Donor, by executing this Donation Agreement acknowledges that they have full authority to make the donation and has not infringed on any copyright or trademark. Donor warrants that the Artist creating the Work has no rights, title and ownership interest in the Work, and that the Work is not subject to any other ownership rights, lien, encumbrance, copyright infringement or other claim by any other person or entity other than the Donor.

E. Supplemental Requirements

This Donation Agreement shall be governed by and construed under the laws of the State of Georgia, and which shall be the forum for any litigation arising from or incident to this agreement. This Donation Agreement may not be assigned by either party without the expressed consent of the other, in advance.

This Donation Agreement and attachments referenced herein, if any, constitute the entire understanding between the parties with respect to the subject matter hereof and may be amended at any time only upon mutual written agreement of the parties. Any notice to either part shall be sent to the parties at the addresses set forth above by registered or certified mail, return receipt requested or overnight mail service, with proof of delivery.

Fulton County may immediately terminate this Donation Agreement for its convenience upon providing written notice.

The Donor declares that they have full authority to make this donation. The parties acknowledge reading and agreeing to abide by the provisions of this agreement. The terms of this document remain binding.

This Donation Agreement shall be binding on all Parties, as well as the respective Parties' personal representatives, agents, attorneys, heirs, assigns, or successors in interest.

This Donation Agreement constitutes the Parties' entire agreement with respect to the subject matter. Any amendment to the Donation Agreement must be in writing and signed by the Donor and the County.

FULTON COUNTY, GEORGIA

Robert L. Pitts, Chairman
Fulton County Board of Commissioners

Date

Tonya. R. Grier
Clerk to the Commission

Date

Attest:

(Affix County Seal)

APPROVED AS TO FORM:

Office of the County Attorney

Date

APPROVED AS TO CONTENT

Gayle Holloman, Executive Director
Fulton County Library System

Date

Donor:

The McKinley "Mack" Wilbourn
Legacy Foundation

Mack Wilbourn

Date

Attachment A

(Please complete for each Work or provide a detailed list with descriptions and values)

Work name: Portrait of Former first lady Michelle Obama
Description: _____

Medium or Materials: _____

Do manufacturer's marks appear on ☐ No Where? _____
the Work? ☐ Yes _____

Date: Canvas

Dimensions: Height: _____ Depth: 8 feet
3 feet _____ (sculpture/relief) _____
(Without Mat, Frame, or Base)

Dimensions of Height: 3 feet Width: 8 feet Depth: _____
Frame/base: _____ (sculpture/relief) _____

Approximate Value: \$6000.00
Weight _____

Any special installation instructions: No

Condition of Work: _____