RESTRICTIVE COVENANT
(Grantee leases land and building from Government Entity.)

THIS RESTRICTIVE COVENANT is hereby entered into this _____ day of _____, 2016, by the City of Fort Pierce, Florida, hereinafter referred as the "Owner"; AE "Bean" Backus Gallery and Museum, Inc., hereinafter referred to as the "Grantee;" and the State of Florida, Department of State, Division of Cultural Affairs, hereinafter referred to as the "Division".

WHEREAS, the Owner is fee simple title holder of the building(s) and the underlying land located at 500 North Indian River Drive, Fort Pierce, Florida 34950. A legal description of the subject property is attached as Exhibit A and made a part of this covenant.

WHEREAS, the Grantee leases the building(s) and underlying land from the Owner for an initial term of 50 years from June 2, 2010, "Facility" is used herein to refer to the building(s) and the associated land that will be used as a "cultural facility," as defined herein.

WHEREAS, the Grantee has been approved to receive a Cultural Facilities Grant in the amount of $300,000, to be administered by the Division and used only for the acquisition, renovation, and construction of the cultural facility in accordance with Section 265.701(1), Florida Statutes.

WHEREAS, the Division has authority under Section 265.701(4), Florida Statutes to require the recordation of this restrictive covenant to ensure that the facility will be used as a "cultural facility," as defined herein, for at least (10) years following the execution of the grant award agreement.

NOW THEREFORE, in partial consideration for the Cultural Facilities Grant and in accordance with Section 265.701(4), Florida statutes, the Parties hereby agree to the following:

1) This restrictive covenant shall run with the title to the land and the cultural facility, encumber them, and be binding upon the Grantee, the Owner and their successors in interest for ten (10) years following the execution of the grant award agreement.

2) The grant award shall only be expended for Project Title: Expansion of A.E. Backus Museum

3) The Parties agree that for the required duration of this covenant, all improvements to the facility and the associated land, funded in whole or part by grant funds shall be owned by the Owner.

4) The Division has the right to inspect the facility and the associated land at all reasonable times to determine whether the conditions of the grant award agreement and this covenant are being complied with.

5) The facility shall be maintained as a "cultural facility," defined as a building which shall be used primarily for the programming, production, presentation, exhibition or any combination of the above functions of any of the cultural disciplines, such as: music, dance, theatre, creative writing, literature, painting, sculpture, folk arts, photography, crafts, media arts, and historical and science museums.

6) This restrictive covenant will be violated if the Grantee, the Owner, or their successors in interest do not use or cease to use the facility as a cultural facility, as defined herein, and as required by Section 265.701(4), F.S., within ten (10) years following the execution of the grant award agreement. If the Grantee, A.E. "Bean" Backus Gallery and Museum, Inc., violates this restrictive covenant, the Grantee, A.E. "Bean" Backus Gallery and Museum, Inc., and only the grantee, shall repay the grant funds to the Division pursuant to the amortization schedule set forth below:

   a. If the violation occurs within five (5) years following the execution of the grant award agreement, 100% of the grant amount;

   b. If the violation occurs more than five (5) years but less than six (6) years following execution of the grant award agreement, 80% of the grant amount;

   c. If the violation occurs more than six (6) but less than seven (7) years following execution of the grant award agreement, 65% of the grant amount;

   d. If the violation occurs more than seven (7) but less than eight (8) years following execution of the grant award agreement, 50% of the grant amount;

   e. If the violation occurs more than eight (8) but less than nine (9) years following execution of the grant award agreement, 35% of the grant amount; and

   f. If the violation occurs more than nine (9) but less than ten (10) years following execution of the grant award agreement, 20% of the grant amount.

7) The amount due as a result of Grantee's violation of this restrictive covenant shall be due in full within 90 days of the violation, or some other period of time as agreed upon by the parties.

8) If the entire amount due under the paragraph (6.) is not repaid by the Grantee within the time allotted, the Parties agree that the Division may obtain a stipulated judgment against the Grantee for the amount due plus interest at the current legal rate, and record it in the public records of the county where the facility is located. The Parties further agree that such a judgment shall be a stipulated judgment by virtue of full execution of this restrictive covenant; that it shall not require further approval of the Grantee to obtain; and that no trial or hearing shall be necessary to make such a stipulated judgment legally effective. The Division shall have the right to enforce the stipulated judgment by resorting to any legal or equitable available remedy including an action for specific performance.

9) As a condition to receipt of the grant funds, the Grantee shall:

   a. Record this covenant in the public records with the Clerk of the Circuit Court of St. Lucie County, Florida;

   b. Pay all fees associated with its recording; and

   c. Provide a certified copy of the recorded covenant to the Division and to the Owner.

10) The Parties agree that the Division shall incur no tax liability as a result of this covenant.

IN WITNESS WHEREOF, the Grantee and the Owner hereby affirm that they have read this restrictive covenant; that they understand and agree to its terms; and that they hereby affix their signatures accordingly.

WITNESSES:	PARTIES:
_____	_____
First Witness Signature	GRANTEE Signature
_____	_____
First Witness Name (print)	GRANTEE Name (print)
_____	_____
Second Witness Signature	GRANTEE Address
_____	_____
Second Witness Name (print)	City State Zip

The State of Florida County of _____

I certify that on this date before me, an officer duly authorized in the state and county named above to take acknowledgments that

_____ personally
(Name)

appeared as _____ for _____
(Position) (Name of Qualifying Entity)

Known to me to be or proved to my satisfaction that he/she is the person described in and who executed the foregoing instrument.

Type of Identification Produced _____

Executed and sealed by me at _____, Florida on _____

Notary Public in and for

The State of _____

(SEAL)

My commission expires: _____

WITNESSES:

PARTIES:

_____
First Witness Signature

_____
OWNER Signature

_____
First Witness Name (print)

_____
OWNER Name (print)

_____
Second Witness Signature

_____
OWNER Address

_____
Second Witness Name (print)

_____
City State Zip

The State of Florida County of _____

I certify that on this date before me, an officer duly authorized in the state and county named above to take acknowledgments that

_____ personally
(Name)

appeared as _____ for _____
(Position) (Name of Qualifying Entity)

Known to me to be or proved to my satisfaction that he/she is the person described in and who executed the foregoing instrument.

Type of Identification Produced _____

Executed and sealed by me at _____, Florida on _____

Notary Public in and for

The State of _____

My commission expires: _____

(SEAL)

For the Division of Cultural Affairs:

R.A. Gray Building
500 S. Bronough St.
Tallahassee, Florida 32399-0250

_____	_____
Sandy Shaughnessy, Director (Signature)	Print Name of Director
_____	_____
First Witness Signature	Second Witness Signature
_____	_____
First Witness Name (print)	Second Witness Name (print)

The State of Florida County of _____

I certify that on this date before me, an officer duly authorized in the state and county named above to take acknowledgments that

_____ personally
(Name)

appeared as _____ for _____
(Position) (Name of Qualifying Entity)

Known to me to be or proved to my satisfaction that he/she is the person described in and who executed the foregoing instrument.

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Notary Public in and for

The State of _____

My commission expires: _____

(SEAL)