

Prepared by Rob Frost

LICENSE AGREEMENT

This Agreement is made on _____, 2025 between the City of Knoxville, a municipal corporation organized and existing under the laws of the State of Tennessee (the "City"), and Knoxville CBID Management Corporation d/b/a Downtown Knoxville Alliance, a Tennessee non-profit company with a principal office at 17 Market Square, Suite 201, Knoxville, TN 37902 ("Licensee").

BACKGROUND

- A. Licensee seeks to ensure a vibrant, flourishing downtown. As part of its mission, Licensee has developed a scavenger hunt for newts ("The Newts in Knoxville") which will motivate visitors to explore downtown with the potential to grow into a must-see attraction with minimal maintenance. An example of the newts to be mounted on City-owned properties is depicted in the photograph attached hereto as Exhibit A, which is incorporated by reference. The newts shall be made of durable material.
- B. Licensee desires to place the newts in, on, and about real property or buildings owned by the City.
- C. The City agrees that The Newts in Knoxville will meet joint goals of both the City and Licensee in promoting downtown Knoxville and encouraging local residents and visitors to explore downtown.
- D. Licensee has requested that the City allow its use of a portion of the following City-owned properties where the Licensee can permanently affix newts that comprise The Newts in Knoxville scavenger hunt (see Exhibit B for more details): Jackson Ave ramp/viaduct, the Emporium Building (100 block of South Gay Street), Pier 865 (200 block of Gay Street) retaining wall towards Summit Hill & Gay, 300 block of Gay Street streetlight, 400 block of Gay Street on clock, Strong

Alley rock near Downtown Knoxville mural, Market Square arch, Krutch Park rocks near waterfall, streetlight on Gay Street near East Tennessee History Center, 500 block of Gay Street under Southeastern Conference sign.

- E. The City believes the limited use of portions of these City-owned properties for The Newts in Knoxville will enhance the visibility of downtown Knoxville, thus the City is willing to allow Licensee to use a portion of the listed properties in accordance with the terms of this Agreement.

NOW, THEREFORE, in consideration of the sum of \$1.00 cash and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows.

ARTICLE 1.

LICENSED PROPERTY AND TERM

1.1. License. The City grants to Licensee permission to utilize a mutually agreed portion of each of the following properties in the location and for the purposes described in Exhibit B, subject to the limitations set forth in Section 1.2. of this Article ("Licensed Property").

- a. Licensed Property. The Licensed Property shall not exceed more than one foot by one foot at each licensed property. The particular location of the newts at each Licensed Property is depicted in the photographs attached hereto as Exhibit B, which is incorporated by reference.
- b. Purpose. The City grants the Licensee permission to use the portions of the Licensed Properties only for the purposes of The Newts in Knoxville. The Licensed Properties shall not be used for any other purpose.

1.2. Limitations on License. The License granted by Section 1.1. is subject to the Licensee not charging or assessing any fee for a member of the public to participate in The Newts in Knoxville scavenger hunt.

1.3. City Approval of Unspecified Items. Any improvement, construction, or other modification to the Licensed Property that is not controlled specifically by this Agreement must be approved in writing by the City of Knoxville. The required approval(s) shall include, but is not limited to, activity such as the removal or relocation of the newts or the installation of permanent fixtures or signage.

1.4. Property As Is. The Licensee's signature on this Agreement signifies that the Licensee has inspected the area to be utilized pursuant to this Agreement and is fully acquainted with the openings for ingress and egress to public spaces and the grade and the surface conditions of the Licensed Property. The failure of the Licensee to do any of the above does not, in any way, relieve the Licensee of any obligations pursuant to this Agreement. The Licensee accepts the Licensed Property as is, in its present condition, and the City makes no representations or warranties that the Licensed Property is suitable or safe for the Licensee's intended use.

1.5. Term. The term of this Agreement will be for a 15-year period beginning on _____, 2025, and ending on _____, 20__, unless terminated under the provisions of Article 3. This Agreement will be automatically extended for two additional fifteen-year terms under the same provisions with the prior written approval of the parties unless written notice is given 120 days in advance by either party.

1.6. Use by Licensee Only. This License is for the sole purpose of The Newts in Knoxville scavenger hunt by the Licensee. This License and Agreement shall terminate immediately, without notice to Licensee and without any action required by the City, upon the sale, assignment, sublease, or any other conveyance, whether such conveyance is voluntary or involuntary, of (i) the Licensee's interest in The Newts in

Knoxville, or (ii) its business.

1.7. No Interest in Licensed Properties. The parties agree that by entering into this Agreement, Licensee acquires no interest in any Licensed Property.

ARTICLE 2. MAINTENANCE AND RESPONSIBILITY FOR LICENSED PROPERTY

2.1. General Maintenance. Licensee will maintain, inspect, operate, and repair as necessary the portion of the Licensed Properties it uses for The Newts in Knoxville so that it is maintained in a good and safe condition.

2.2. Responsibility for Security and Damages. The parties agree that the City will not be responsible for the provision of any security or for vandalism, damage, or destruction to the newts of The Newts in Knoxville scavenger hunt.

2.3. Repair of Damages. Licensee agrees to promptly repair and restore all damage to the newts of The Newts in Knoxville and the portion of the Licensed Properties caused during the installation, inspection, maintenance, repair, or replacement of the newts, improvements, structures, and equipment thereon to the condition existing prior to such damage.

2.4. Surrender of the Premises. At the termination or expiration of this Agreement, Licensee agrees to deliver the Licensed Property described in Section 1.1 of this Agreement to the City in the same or better condition as the date of execution of this Agreement, and to remove any personal property or fixtures thereon at Licensee's sole cost and expense.

ARTICLE 3. TERMINATION

3.1. Termination at Will. The City or Licensee may terminate this License and Agreement upon 90 day notice with or without cause and without penalty or recourse. The terminating party shall provide written notice of such termination to the other party at the address listed in Section 6.1 of this Agreement.

3.2. Removal of Property. In the event of an emergency, as determined by the City, or within 90 calendar days of either the mailing of written termination notice from the City or the date of this Agreement's expiration, Licensee, at its sole cost and expense, will remove all of its property from those Licensed Properties designated by the City.

3.3. Failure to Remove Property. If the Licensee fails to remove its property after notice, then the City will remove the property from the Licensed Properties and may dispose of same in any manner without liability to the Licensee or any other party. If the City removes the property after Licensee's failure to do so, the City may recover the associated costs and expenses of such removal to be paid by Licensee.

ARTICLE 4. INSURANCE

4.1. Insurance. Licensee shall at its sole expense obtain and maintain in full force and effect for the duration of the Agreement and any extension hereof at least the following types and amounts of insurance for claims which may arise from or in connection with this Agreement. All insurance must be underwritten by insurers with an A.M. Best rating of A-VIII or better.

Commercial General and Umbrella Liability Insurance; occurrence version commercial general liability insurance, and if necessary umbrella liability insurance, with a limit of not less than \$1,000,000 each occurrence for bodily injury, personal injury, property damage, and products and completed operations. If such insurance contains a general aggregate limit, it shall apply separately to the work/location in this Agreement or be no less than \$2,000,000.

a. Other Insurance Requirements. Licensee shall:

- i. If requested, prior to commencement of services, furnish the City with original certificates and amendatory endorsements effecting coverage required by this section and provide that such insurance shall not be cancelled, allowed to expire, or be materially reduced in coverage except on 30 days' prior written notice to the City Attorney of Knoxville, P.O. Box 1631, Knoxville, Tennessee 37901. Proof of policy provisions regarding notice of cancellation will be required.
- ii. Upon the City's request, provide certified copies of endorsements and policies in lieu of or in addition to certificates of insurance. Copies of policies will only be requested when contracts are deemed to be extremely or uniquely hazardous, include a dollar amount that is significant to the overall budget of the City or a City Department, or the coverage(s) may not follow standard insurance forms. A policy will only be requested after the City's Risk Manager has reviewed the contract and proof of coverage has been provided. Should the certificate of insurance refer to specific coverage wording or endorsement(s), proof of such policy wording or endorsement(s) will be required.
- iii. Replace certificates, policies, and endorsements for any such insurance expiring prior to completion of services.
- iv. Maintain such insurance from the time services commence until services are completed. Failure to maintain or renew coverage or to provide evidence of renewal may be treated by the City as a material breach of contract.
- v. If Licensee cannot procure insurance through an insurer having an A.M. Best rating of A-VIII, Licensee may, in the alternative, place such insurance with insurer licensed to do business in Tennessee and having A.M. Best Company ratings of no less than A. Modification of this standard may be

considered upon appeal to the City Law Director.

- vi. Require all subcontractors to maintain during the term of the Agreement Commercial General Liability insurance, Business Automobile Liability insurance, and Workers' Compensation/Employer's Liability insurance (unless subcontractor's employees are covered by Licensee's insurance) in the same manner as specified for Licensee. Licensee shall furnish subcontractors' certificates of insurance to the City without expense upon request.

ARTICLE 5. ADA COMPLIANCE

On the portion of premises of the Licensed Property where the newts of The Newts in Knoxville are installed, the Licensee will comply with any and all requirements of the Americans with Disabilities Act, 42 U.S.C. § 12101, *et seq.*, ("ADA"), including, but not limited to, the removal of all structural barriers, the accessibility of programs, services and goods, the provision of all auxiliary aids and services, and the modification of policies, practices and procedures. The Licensee agrees that the City will not be responsible for any costs or expenses related to compliance with the ADA. The Licensee agrees that it will defend, indemnify and hold the City harmless against any and all claims, demands, suits or causes of action which arise out of this Agreement or the use of the property, or an act or an act of omission by the Licensee, its employees, agents or representatives that violates or claims to violate the ADA.

ARTICLE 6. MISCELLANEOUS PROVISIONS

6.1 Notices. All notices, requests, and details concerning this Agreement will be directed to the following representatives:

To the City:

To Licensee:

Law Director
City of Knoxville
400 Main Street, Suite 699
Knoxville, TN 37902

Knoxville CBID Management
Corporation d/b/a Downtown
Knoxville Alliance
c/o Michele Hummel
17 Market Square, Suite # 201
Knoxville, TN 37902

If either the City or Licensee changes its mailing address, they shall promptly notify the other party in writing of the new mailing address.

6.2 Assignment. Licensee will not assign or transfer any rights or interests in this Agreement without obtaining prior written approval of the City. All assignments of rights are prohibited under this subsection, whether they are voluntary or involuntary, by merger, consolidation, dissolution, operation of law or any other manner.

6.3 No Delegations. No party may delegate any performance under this Agreement.

6.4 Consequences of Purported Assignment or Delegation. Any purported assignment of rights or delegation of performance in violation of this Article is void.

6.5 Relationship. Licensee acknowledges and agrees that this Agreement is not a lease and that nothing in this Agreement creates a tenancy relationship between the City and Licensee. By virtue of this Agreement the relationship between the City and Licensee is that of a licensor and a licensee, not that of a landlord and a tenant.

6.6 Written Amendments. This Agreement may be modified only by a written amendment that has been executed and approved by the appropriate officials shown on the signature page of this Agreement.

6.7 Required Approvals. Neither Licensee nor the City is bound by this

Agreement until it is approved by the appropriate officials shown on the signature page of this Agreement.

6.8 Article Captions. The captions appearing in this Agreement are for convenience only and are not a part of this Agreement; they do not in any way limit or amplify the provisions of this Agreement.

6.9 Severability. If any provision of this Agreement is determined to be unenforceable or invalid, such determination will not affect the validity of the other provisions contained in this Agreement, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable. Failure to enforce any provision of this Agreement does not affect the rights of the parties to enforce such provision in another circumstance, nor does it affect the rights of the parties to enforce any other provision of this Agreement at any time.

6.10 Federal, State, and Local Requirements. Licensee is responsible for full compliance with all applicable federal, state, and local laws, rules, and regulations.

6.11 Non-Reliance of Parties. Parties explicitly agree that they have not relied upon any earlier or outside representations other than what has been included in this Agreement. Furthermore, neither party has been induced to enter into this Agreement by anything other than the specific written terms set forth herein.

6.12 Governing Law and Venue. This Agreement will be governed and construed in accordance with the laws of the State of Tennessee. Any action for breach of this Agreement or to enforce or nullify any provision of this agreement or for any claim arising under this Agreement will be instituted only in a court of appropriate jurisdiction in Knox County, Tennessee.

6.13 Final Agreement. This Agreement forms the final Agreement between the City and Licensee. Any prior representations, promises, agreements, oral or otherwise, between the parties, which are not embodied in this writing, will be of no force or effect.

The parties have caused this instrument to be executed by their duly authorized officers on the date first above written.

IN WITNESS WHEREOF, the City and Licensee have executed this Agreement as of the below-written date.

City of Knoxville

Knoxville CBID Management Corporation
d/b/a Downtown Knoxville Alliance

By:_____

By:_____

Its:_____

Its:_____