

TEMPORARY, NON-EXCLUSIVE LICENSE AGREEMENT

This Temporary, Non-exclusive License Agreement is made and entered into this ____ day of _____, 2024 (“Agreement”), by and between _____ (“Licensee”), on the one hand, and the City of Ashland, Alabama, a municipal corporation (“City” or “Licensor”), on the other hand (“Lease”). Licensee and Licensor, each a “Party,” are hereinafter referred to collectively as the “Parties”.

Recitals

WHEREAS, the City owns that certain real property commonly known as 83121 Highway 9, Ashland, Alabama 36251;

WHEREAS, the Licensee desires to obtain and exercise certain privileges with respect to the above-described property, and the Licensor is willing to grant a license to Licensee subject to the terms and conditions herein;

NOW, THEREFORE, in consideration of the foregoing premises, the mutual promises and obligations hereinafter recited, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree and covenant as follows:

Terms and Conditions

1. **Grant of License.** Subject to all terms and conditions herein, the City grants to the Licensee a temporary, non-exclusive, revocable, and non-assignable license (the “License”) to use a portion of the real property commonly known as 83121 Highway 9, Ashland, Alabama 36251 (the “Robinson Building”) for the purpose of operating a frozen lemonade pop-up retail stand, and for no other purpose or use whatsoever.

2. **Term and Limitations.** The term of the License shall be ____ months, commencing on the ____ day of _____, 2024, and Licensee shall be entitled to use the license area, as defined herein for no more than two (2) days per week during the term of this license .

3. **License Fees.** The Licensee shall pay to the City in advance a license fee of \$_____ per month during the term of this Agreement, and the first month’s license fee shall be paid simultaneously with the Licensee’s execution of this Agreement. Thereafter, Licensee shall pay to the City, in advance, the monthly license fee on or before the first day of each subsequent month during the term of this Agreement. The License Fee includes electricity and water.

a. **Manner and Place of Payment.** Licensee shall pay to the City the license fee and all other charges due under this Agreement via a check made payable to the City of Ashland and delivered to the City via the City Clerk, at City Hall or such other person or place as the City designates in writing from time to time.

4. **License Area.** Licensee affirms Licensee has inspected the Robinson Building and the subject unit therein and the portion thereof to be used by the Licensee (the “License Area”)

and that the License Area shall be in its “as is” condition existing on the date of this License. The City is under no obligation to perform any work, supply any materials, incur any expense, or make any alterations or improvements to prepare the License Area for Licensee’s use thereof. The City shall have the right, in its sole discretion, to designate other comparable space in the Robinson Building at any time or from time to time, for use by Licensee in lieu of the area then used by the Licensee.

5. Rules and Regulations. Licensee shall comply with all rules and regulations made by the City from time to time, including, without limitation, for trash and storage removal, and with all laws, ordinances, rules, regulations and code requirements imposed by any governmental authority, including, without limitation, obtaining and maintaining at Licensee’s sole expense, any licenses or permits required for Licensee’s business or use.

6. Preservation, Dangerous Materials. Licensee agrees to use due care in the use of the License Area and all other parts of the Robinson Building. Licensee shall not destroy, damage, or impair the License Area or Robinson Building, or any part thereof, or allow the same to deteriorate, or commit waste on any of the City’s property. Licensee acknowledges the License Area is within a municipally owned building and is currently used by the Clay County Art’s League and agrees it shall not use the License Area in any manner that, in the City’s sole judgment, offends, disturbs, or detracts from or injures the image of the Robinson Building. Licensee shall not use, store, dispose of or sell any hazardous or toxic substance or waste, or any oil or pesticide at or in the Robinson Building; provided, however, that Licensee may use and keep in the License Area and common areas cleaning supplies customarily used by general consumer retail stores and food establishments that are disposed of in compliance with all applicable laws.

7. Alterations and Signage. Licensee shall neither make any decoration, window treatment, addition, or improvement, nor install any signage, in or about the License Area or Robinson Building, without the City’s advance written consent. Any approved alterations or signage shall be performed at the Licensee’s sole expense.

8. Use of Premises. Licensee shall use the License Area for the purpose of operating a retail frozen lemonade stand and activities incidental thereto only. The Licensee’s use shall not interfere with other uses in the Robinson Building by the City or other licensees. Licensee shall use the License Area and all other portions of the Robinson Building to which Licensee has access in a reasonable, orderly, and sanitary manner in cooperation with the City, other licensees, and other persons permitted therein. Licensee acknowledges and affirms that, if Licensee receives a key to the Robinson Building or any part thereof, Licensee shall not duplicate said key. Licensee further acknowledges that, if Licensee misplaces any key, Licensee shall pay to the City a fee of \$100.00.

9. Non-Exclusive. Licensee’s use of the License Area, Robinson Building, or any part thereof shall be non-exclusive. The City shall be permitted to grant use of the Robinson Building or any part thereof to any person or entity at any time during this License Agreement for any purpose whatsoever, including retail business engaged in the sale of products or services similar to Licensee’s. The City may prohibit Licensee and others from accessing certain portions of the Robinson Building at any time.

10. Emergency Maintenance Contact Information. In the event of an emergency related to the maintenance of the Premises, Licensee shall contact Phillip Stinson via telephone ((256) 354-9015) or e-mail (phillipstinson949@yahoo.com) or such other person as may be designated by the City from time to time. Following such emergency related to the Premises, the Licensee shall notify the City in writing, below, as soon as reasonably practicable following the emergency. For any non-maintenance related emergency, Licensee may call the Ashland Police Department, whose number is (256) 354-2122.

11. Inspection/Access. The City and its agents, employees, and representatives may enter any part of the License Area at any time for any purpose, including inspections, cleaning, maintenance, repairs, or alterations as the City considers necessary. Licensee is not entitled to any abatement or reduction of the license fee by reason of the entry of the City or any of its agents, representatives, or employees or entry of others.

12. Indemnification. The City, and its council members, trustees, directors, officers, employees, attorneys, agents, affiliates, and other representatives shall not be liable for any violation of federal, state, or local law, any injury or death of any person(s), or any damage or destruction of property that arises from or relates to Licensee's use and possession of the License Area, the Robinson Building, or any portion thereof. Licensee shall indemnify, defend, and hold harmless the City and its council member(s), officers, employees, attorneys, agents, affiliates, and other representatives ("Indemnified Parties") from and against any and all demands, claims, actions, causes of action, proceedings, assessments, losses, damages (including damages for personal injury or death), liabilities, settlements, judgments, fines, penalties, interest, costs and expenses, including, without limitation, the Indemnified Parties' reasonable attorneys' fees and costs, arising out of (i) Licensee's occupation and/or use of the Premises, (ii) Licensee's breach of any representation, warranty, or covenant herein, and (iii) any act, omission, or negligence of the Licensee, its agents, employees, directors, officers, guests, invitees, or other such persons or entities.

13. Termination for Cause. This Agreement shall automatically terminate if the Licensee defaults on any obligation or term herein and fails to cure such default within seventy-two (72) hours of written notice from the City of such default.

14. Termination Without Cause. The City may terminate this Agreement at any time without cause and for the City's convenience upon ten (10) days written notice to Licensee without liability of any sort whatsoever.

15. Expiration or Termination of License. Upon the expiration or termination of this License Agreement, Licensee shall immediately remove all of Licensee's property from the License Area and deliver the same to the City in vacant, broom swept clean condition, and in the same condition existing as of the commencement of this License Agreement. If Licensee fails to surrender the License Area in the required condition, Licensee shall reimburse the City for all costs and expenses incurred by the City in returning the License Area to such condition. Any property remaining in the Robinson Building after the expiration or termination of this License Agreement shall be deemed abandoned by Licensee, and the City may dispose of the same without notice or liability.

16. Waiver of Breach. The waiver of any breach of this Agreement by Licensee shall not constitute a continuing waiver or a waiver of any subsequent breach, either of the same or another provision herein. The delay or omission by the Licensor to exercise any right or power provided by this Agreement shall not constitute a waiver of such right or power, or acquiescence in any default by Licensee. The acceptance of any payment made by the Licensor in a manner or at a time other than as required by the terms and conditions of this Agreement shall not be construed as a waiver or variation of such terms and conditions. Any default on the part of the Licensee shall be construed as continuous, and Licensor may exercise every right and power under this Agreement at any time during the continuance of such default, or upon the occurrence of any subsequent default.

17. Assignment or Sublicensing. Licensee shall not assign in its interest in this License Agreement, sublicense all or any portion of the License Area, or permit any other person or business to use the License Area or any part thereof. Any change in ownership or control of Licensee shall be deemed to be a prohibited assignment by Licensee.

18. No Lease or Property Rights. This License Agreement does not create a lease or any other interest, possessory or otherwise, in favor of Licensee, but merely creates a revocable, non-exclusive license in accordance with the terms hereon. This Agreement grants Licensee a non-exclusive license to use the Licensed Premises for the specific purpose without diminution of the City's legal possession or control.

19. Waiver of Liability. Neither the City nor its council member(s), officers, employees, attorneys, agents, affiliates, and other representatives shall be liable for, and Licensee waives, all claims for loss or damage, economic or otherwise, to Licensee's business or damage to person or property, sustained by Licensee or any person claiming by, through or under Licensee, resulting from any accident, loss of service, or occurrence in or about the Robinson Building.

20. Enforcement. Either Party who violates the terms of this Agreement shall be liable for all expenses, costs, and attorneys' fees resulting from or made necessary by the bringing of any suit or other proceeding to enforce the performance of any of the terms, covenants, or conditions hereof or for damages for breach of the same.

21. Entire Agreement. The Parties acknowledge and affirm this Agreement contains and sets forth the entire agreement between them as to its subject matter, and supersedes and replaces all prior and contemporaneous, written and oral agreements, understandings, and negotiations with respect to such subject matter.

22. Modification. This Agreement may be modified by only a written contract executed by both Parties.

23. Time is of the Essence. Time is expressly declared to be of the essence of this lease.

24. Construction of Terms. The rule of construction that ambiguities are to be resolved in favor of the non-drafting Party shall not be employed in the interpretation of this Agreement.

25. Notices. All notices, consents, and approvals required or permitted by this Agreement shall be in writing and shall be deemed given upon personal delivery, or upon the expiration of two (2) days following mailing by US Registered Mail, postage prepaid, or when mailed if sent via a nationally recognized overnight delivery service, to the Parties respective addresses set forth below, or other such address as a Party may designate by delivery of prior notice to the other Party:

- i. Licensee: _____

- ii. Licensor: City of Ashland, Alabama
c/o Chelsey Wynn, Clerk
Post Office Box 849
Ashland, Alabama 36251

26. Choice of Law and Severability. This Agreement shall be governed by and construed under the laws of Alabama. If any portion, term, or provision of this Agreement is held by a court of competent jurisdiction to be illegal or conflict with such law, the validity of the remaining portions, terms, or provisions shall not be affected, and the rights and obligations of the Parties shall be construed as if this Agreement did not conflict with such law and/or did not contain the portion, term, or provision held to be invalid.

27. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same agreement.

IN WITNESS WHEREOF, Licensor and Licensee have set their respective signatures hereto as of the dates set forth below.

Licensee

Date: _____

ATTEST:

CITY OF ASHLAND, ALABAMA

CHELSEY WYNN, City Clerk

By: _____
LARRY J. FETNER, its Mayor

Date: _____