

LICENSE AGREEMENT

THIS LICENSE AGREEMENT, made this ____ day of _____, 2022, by and between the NORTHERN VIRGINIA REGIONAL PARK AUTHORITY, a body corporate and politic (the "AUTHORITY"), and the CITY OF FALLS CHURCH (the "LICENSEE").

WHEREAS, the AUTHORITY owns certain Property, extending from Arlington County to Purcellville, Virginia, on which the AUTHORITY operates and maintains a Park, including trails and related facilities, for the public's use and enjoyment; and

WHEREAS, LICENSEE desires to construct and maintain certain facilities and improvements on a portion of the AUTHORITY's Property ("Licensed Premises"); and

WHEREAS, LICENSEE acknowledges that the paramount use of the Property is for the public's use and enjoyment and that the construction and operation of LICENSEE's facilities and improvements on the Licensed Premises shall not adversely affect the Property's paramount use for park purposes; and

WHEREAS, the AUTHORITY is willing to license LICENSEE to use the Licensed Premises on the terms and conditions set forth herein.

NOW, THEREFORE, the AUTHORITY and LICENSEE, in consideration of payment hereinafter stipulated and the mutual covenants hereinafter contained, hereby agree as follows:

1. Definitions

As used in this Agreement:

"Licensed Premises" means that portion of the Property as shown within limits of disturbance (LOD) on signed & sealed ready for construction (RFC) plans prepared by GKY Associates Inc. first submission dated 10/22/21 titled "Trammel Branch Culvert Improvements" sheet 4 of 20, hereby incorporated as Exhibit A, on which Licensee is authorized, pursuant to this Agreement, to construct, install, operate, and maintain certain Facilities and Improvements specified herein.

"Park" means that portion of the W&OD Railroad Regional Park Property on which the Authority maintains and operates recreational facilities and related improvements, whether existing as of the date of this Agreement or established thereafter, for the public's use and enjoyment.

"Property" means that property owned by the Authority, extending from Arlington

County to Purcellville, Virginia, on which the Authority operates and maintains a public park, including trails and related facilities for the public's use and enjoyment, a portion of which is shown on Exhibit A hereto.

"Trail" means that portion of the Property as shown on Exhibit A hereto, which the Authority maintains and operates as a trail or path, both paved and unpaved, for the public's use and enjoyment, including barricades, bridges, signs, benches, fountains, and related improvements.

"Facilities and Improvements" means approximately 106 linear feet of 4-ft x 6-ft reinforced concrete storm drainage culvert and 472 linear feet of 4-ft x 8-ft reinforced concrete storm drainage culvert, headwalls and junction boxes.

2. License Grant

a. AUTHORITY hereby grants a nonexclusive license to LICENSEE, for the term and upon the conditions, covenants, and agreements hereinafter set forth, to use the Licensed Premises for the purposes of constructing, installing, operating and maintaining the "Facilities and Improvements" as well as abandoning or removing existing storm water facilities, as shown on attached Exhibit A

b. It is a specific prerequisite to LICENSEE's use of the Licensed Premises pursuant to this License that the continuity of the Trail shall be, at all times, maintained in a safe and reasonable manner reasonably satisfactory to the AUTHORITY.

c. The rights or privileges herein granted to LICENSEE shall be subject to the rights or interests held by others in and to the Property as of the date of this Agreement. The AUTHORITY makes no representations or warranties, express or implied, concerning the extent of such outstanding rights held by others and shall have no responsibility for conflicts with others as a result of this License. The AUTHORITY makes no warranties with respect to the Property but gives LICENSEE a license to use such rights in the Property that the AUTHORITY has in the Property.

d. Nothing contained in this agreement shall be interpreted to create anything other than a license and shall specifically not create any right, title or interest in the Property, nor shall it create an easement.

2. Term

a. Unless terminated in accordance with paragraph 2b or c, the term of this license shall be forty (40) years from the date hereof, and thereafter shall be automatically renewed for additional ten (10) year periods not to exceed a total term of ninety (90) years, unless either party provides the other party written notice of its intention not to renew this License at least six (6) months prior to any expiration date of this

Agreement.

b. Should LICENSEE abandon or remove the facilities and improvements constructed on the Licensed Premises without an intention to resume use thereof within a reasonable time, this License shall terminate forthwith at the election of the AUTHORITY, after written notice to the LICENSEE.

c. The AUTHORITY may unilaterally terminate this Agreement for the LICENSEE's failure to comply with the terms hereof, provided the AUTHORITY gives the LICENSEE written notice of the violation and a reasonable time to rectify it to the reasonable satisfaction of the AUTHORITY.

d. In the event this License agreement is terminated pursuant to a provision of this License Agreement, LICENSEE shall, within three (3) months after the termination remove LICENSEE's facilities and improvements from the Licensed Premises. LICENSEE shall assume full responsibility for all costs and expenses incurred in connection with termination of this Agreement and removal of its facilities and improvements. LICENSEE shall leave the Property in a clean condition reasonably acceptable to the AUTHORITY. In the event LICENSEE does not, within the required period of time, remove its facilities and improvements, then the AUTHORITY may remove the same at the cost and expense of LICENSEE, or the AUTHORITY may, at its option, allow said facilities and improvements to remain on the Property, in which event LICENSEE shall be deemed to have relinquished all right, title and interest thereto and said facilities and improvements shall be and become the property of the AUTHORITY.

e. Termination of this License shall not relieve or release LICENSEE from any liability or obligation that may have been incurred or assumed by LICENSEE hereunder prior to termination, except that, if LICENSEE is deemed to have relinquished its right, title and interest in facilities and improvements in the Licensed Premises, then LICENSEE shall have no further obligation to maintain such facilities or improvements.

3. Payments

a. Upon execution of this Agreement, LICENSEE shall pay to the AUTHORITY a license administration and inspection fee of Waived dollars (\$Waived).

b. As further compensation, LICENSEE shall pay AUTHORITY a one-time use fee of WAIVED dollars (WAIVED) payable upon execution of this Agreement.

c. LICENSEE agrees and covenants to pay all taxes, including, but not limited to, leasehold interest taxes, assessments, use and occupancy taxes, charges for public utilities, excises and levies, levied on the Licensed Premises that arise out of LICENSEE's construction, maintenance, or operation of any facilities or improvements on the Licensed Premises.

4. Cash Bond

Upon execution of this Agreement, LICENSEE shall place on deposit with the AUTHORITY a ~~--WAIVED--~~ dollar cash bond. Said bond shall be in the form of a certified or cashier's check payable to the AUTHORITY. The purpose of said cash bond shall be to provide reimbursement to the AUTHORITY for any and all expenditures, including but not limited to attorney's fees, restoration costs, reasonably necessary to enforce the terms of this Agreement. The AUTHORITY may withdraw and expend such funds as it may deem necessary to enforce the LICENSEE's obligations under this Agreement, and if the funds shall become exhausted, LICENSEE will immediately replenish the funds. The cash bond will be held by the AUTHORITY for twelve (12) months following completion of construction (as determined by the AUTHORITY) of LICENSEE's facilities and improvements on the Licensed Premises and restoration to the AUTHORITY's satisfaction of any of the Property disturbed during such construction. Upon satisfaction of all requirements under this bond provision, the AUTHORITY will return to the LICENSEE all unexpended bond funds.

5. Notices

Notices under this License Agreement shall be deemed to be properly served if delivered in writing by certified mail with return receipt requested to the following addresses or such other places as the parties reasonably designate:

To AUTHORITY:

Northern Virginia Regional Park Authority
5400 Ox Road
Fairfax Station, Virginia 22039
Attention: Director of Planning and Development

To LICENSEE:

City of Falls Church
Attn: Wyatt Shields
300 Park Avenue
Falls Church, VA 22046-3301

Cc: Zak Bradley, Director of Public Works
300 Park Avenue
Falls Church, VA 22046-3301

6. Terms Incorporated by Reference

The document, entitled "General Terms and Conditions for License Agreements" dated January 5, 2010 is hereby incorporated as Exhibit B and by reference.

7. Special Conditions

Notwithstanding any other provisions of this License to the contrary, the following special conditions shall apply:

a. The parties hereto agree that the Facilities and Improvements to be established on the Property shall be constructed and installed by means of trenching across the Property. LICENSEE may excavate and occupy the ground surface of the Property during construction and installation of the stormwater sewer pipeline. LICENSEE shall haul away excess fill and dispose of such material off site. After the initial installation of the Facilities and Improvements, LICENSEE shall not further excavate in the Licensed Premises without first coordinating with, and receiving written approval from the AUTHORITY. Approval by the AUTHORITY will not be unreasonably withheld. LICENSEE may perform work without prior AUTHORITY approval under emergency circumstances but must coordinate with the AUTHORITY at the earliest opportunity after the fact.

b. LICENSEE shall take such precautions, acceptable to the AUTHORITY, as necessary to protect the public against hazards and inconveniences, including establishment of appropriate barricades, flashing lights, orange safety fences and signs in order to protect park users from construction activities and to prevent LICENSEE's encroachment outside the Licensed Premises. The construction areas, including placement of spoils, shall be separated from the Trail, crosswalk, and detours by safety fencing. Excavated areas shall be separated by flashing lights and barricades or safety fences.

c. LICENSEE shall phase construction and restoration across the Property and provide detours and flagmen to ensure Trail and crosswalk continuity during times of construction activity. LICENSEE shall place appropriate signs on the Property warning users of the Trail of construction ahead. LICENSEE shall not operate any tools or equipment outside the Licensed Premises, nor shall LICENSEE's personnel or vehicles block or disrupt the Trail or block Trail users' sight distance to the road at any time during construction.

d. Vehicles, equipment, and materials shall not be parked, stored, or stockpiled on the Property outside the Limits of Disturbance at any time, nor shall the Property be used for extended construction staging.

e. In consideration for the AUTHORITY's waiver of the deposit of a cash bond as set forth in paragraph 4 above, the LICENSEE hereby agrees to promptly pay to the AUTHORITY any charge for restoration work, which the AUTHORITY is entitled to and in fact does demand pursuant to this agreement.

f. LICENSEE shall provide regular inspection, observation and supervision of its contractor as needed to maintain control over the contractor and to ensure full compliance with all conditions of this License.

g. LICENSEE shall involve the AUTHORITY in a final inspection prior to releasing LICENSEE's restoration contractor in order to ensure restoration to the AUTHORITY's satisfaction.

h. LICENSEE shall provide all contractors on the project with a copy of this License Agreement and shall ensure that all construction personnel abide by the provisions contained herein.

i. In any discrepancy between the approved construction drawings and this License Agreement, LICENSEE shall bring said discrepancy to the immediate attention of the AUTHORITY for mutual resolution by both parties.

Subject to Appropriation: Any obligation for the payment of money by the City of Falls Church for any other obligation under this Agreement is subject to the availability of general or specific annual appropriation for this purpose by the City of Falls Church City Council. In the event of non-appropriation of funds by the City Council for these obligations, the City may terminate this license agreement, without termination charge to the City, and neither party shall have any further obligation hereunder.

IN WITNESS WHEREOF, the parties hereto for themselves and their successors and assigns have executed this License Agreement on the date and year first written above.

AUTHORITY:



By: **Brian Nolan, PLA**
Title: Director of Planning
 and Development

LICENSEE:

By: _____
Title: _____

EXHIBIT B

NORTHERN VIRGINIA REGIONAL PARK AUTHORITY

GENERAL TERMS AND CONDITIONS FOR LICENSE AGREEMENTS

Revised January 5, 2010

1. Definitions

All capitalized terms in this General Terms and Conditions shall have the same meaning as set forth in the License Agreement (“Agreement”).

2. Construction

a. Construction Plans and Specifications

(1) Construction of Licensee’s facilities and improvements on the Property shall be restricted to the Licensed Premises and shall be performed strictly in accordance with plans and specifications approved in writing by the Authority. Licensee shall not deviate from or make changes to the construction plans and specifications approved by the Authority without the Authority’s prior written approval. Only those facilities and improvements reflected on the approved construction plans and specifications shall be established on the Property. Licensee shall strictly adhere to any limitations or restrictions on construction methods or techniques as set forth in the approved construction plans and specifications, in the License Agreement, and any Exhibits thereto. After completion of the initial construction of the facilities and improvements on the Property, Licensee shall not construct additional facilities and improvements on the Property without specific written approval of the Authority, which written approval, if given, may constitute a separate license or an amendment to the Agreement.

(2) Licensee is hereby placed on notice of an existing agreement between Virginia Electric and Power Company (“VEPCO”) and the Authority which provides, in part, that the Authority shall not grant any right to use the Property for certain purposes without Virginia Power’s prior written approval. Licensee shall be responsible for obtaining Virginia Power’s approval, and shall not enter or commence any work on the Property until such written approval is obtained and a copy of said approval is provided to the Authority by Licensee. The license granted by this Agreement shall be contingent until the written approval of VEPCO is obtained and provided to the Authority.

(3) Failure of Licensee to comply with any provision of subparagraphs 2a(1) or (2) above shall be deemed to be a violation of the Agreement subjecting the Licensee to the liquidated damages provided for in Paragraph 9 hereof and to such other remedies as may be

available to the Authority.

b. Construction Schedule

(1) Licensee shall submit to Authority for approval a proposed construction schedule, indicating when construction will begin and be completed and construction milestones. Licensee also shall provide Authority a list of the names of all contractors and subcontractors who will work on the Licensed Premises.

(2) Licensee shall perform construction only in accordance with the approved construction schedule. Licensee shall notify Authority immediately of any changes to the approved schedule. Such changes shall be subject to the prior written approval of the Authority.

(3) Licensee shall provide notice to Authority at least two (2) business days before entering the Property to perform any construction.

(4) Failure of Licensee to comply with any provision of subparagraphs 2b(1) (2) or (3) above shall be deemed to be a violation of this Agreement subjecting the Licensee to the liquidated damages provided for in Paragraph 9 hereof and to such other remedies as may be available to the Authority.

c. Confining Construction Activity. During construction, Licensee and its contractors and subcontractors shall confine all construction activity, including access and storage, within the applicable areas specified on the approved plans and any exhibits thereto. Failure of Licensee to comply with any provision of this subparagraph shall be deemed to be a violation of the Agreement subjecting the Licensee to the liquidated damages provided for in Paragraph 9 hereof and to such other remedies as may be available to the Authority.

d. Excavation

(1) Licensee shall not make or begin any excavation or other subsurface activity on the Property without first obtaining information concerning the possible location of any underground facility from each and every public utility, municipal corporation, or other person having the right to bury underground facilities on the Property.

(2) Licensee shall not make or begin any excavation or other subsurface activity on the Property without having all underground facilities located by suitable markers or other means by the owners of such underground facilities or other qualified or authorized persons.

(3) Obtaining the information required by subparagraphs (1) and (2) of this paragraph does not excuse Licensee from making all excavation or other subsurface activity in a careful and prudent manner.

(4) In the event of any damage to or dislocation of any underground

facility in connection with the excavation or other subsurface activity, Licensee shall immediately notify the owner of such facility and shall immediately cease all work in the affected area until repairs are complete. Any such incident shall be reported immediately to the Authority, and no further excavation or subsurface activity shall be done until permission is granted by the Authority.

(5) All excavation or other subsurface activity made by Licensee shall be properly safeguarded for the prevention of accidents. All excavated or tunneled areas shall be filled in or adequately secured at the end of each work day.

(6) Failure of Licensee to comply with any provision of subparagraphs 2d(1), (2), (3), (4) or (5) above shall be deemed to be a violation of the Agreement subjecting the Licensee to the liquidated damages provided for in Paragraph 9 hereof and to such other remedies as may be available to the Authority.

e. Inspection of Construction.

(1) The construction of Licensee's facilities and improvements is subject to the Authority's inspection at all places and all reasonable times to ensure strict compliance with the terms of the Agreement.

(2) Authority inspections are for the sole benefit of the Authority and do not constitute or imply acceptance of any work as conforming with the requirements of the Agreement. The presence or absence of an Authority inspector does not relieve Licensee from any contract requirement, nor is the inspector authorized to change any term or requirement of this Agreement without the written authorization of the Authority's representative.

3. Maintenance and Operation

a. Licensee shall be responsible for maintaining and operating all facilities and improvements established by it on the Property, and shall perform such maintenance and operations in a manner and at such frequency as necessary to keep the Property safe and to protect against damage to the Property and adjoining properties.

b. Prior to commencement of any scheduled maintenance, or of any operation activity that requires entry onto the Property, Licensee shall submit a proposed maintenance or operation plan and schedule to the Authority for approval. The plan and schedule, at a minimum, shall provide a description of work to be performed, a description of equipment, vehicles, work techniques and methods to be used in connection with the maintenance or operation activity, a schedule of when maintenance or operation work will occur with an estimate as to the length of time required to perform the work, and such other information as the Authority may need in order to evaluate the proposed maintenance or operation activity.

c. Licensee shall perform maintenance and operation of the facilities and improvements strictly in accordance with plans and schedules that have been approved in writing by the Authority. Licensee shall not deviate from or make changes to the maintenance or

operation plans and schedules approved by the Authority without the Authority's prior written approval.

d. Licensee shall provide notice to Authority at least forty-eight (48) hours before entering the Property to maintain or operate Licensee's facilities; except in the case of an emergency where Licensee cannot provide the required advance notification, Licensee shall notify Authority as soon as practicable.

e. Licensee shall confine all maintenance and operation activities, including access and storage, within the applicable areas specified in the approved maintenance and operation plans.

f. Licensee shall avoid disturbing the Property and any improvements thereon while maintaining or operating Licensee's facilities and improvements. To the extent any disturbance does occur, Licensee shall restore such disturbed areas in accordance with the requirements set forth in Paragraph 4.

g. Failure of Licensee to comply with any provision of subparagraphs 3a, b, c, d, e or f above shall be deemed to be a violation of this Agreement subjecting the Licensee to the liquidated damages provided for in Paragraph 9 hereof and to such other remedies as may be available to the Authority.

h. The Authority agrees to consider and, at its discretion, grant appropriate blanket approvals for scheduled maintenance or operation activities. In such event, Licensee shall be required only to provide the required advanced notification prior to commencing scheduled maintenance or operations for which the Authority previously has granted a blanket approval.

i. In addition to any other condition which the Authority may require in consideration for approval of any maintenance or operation plan, if any maintenance or operation activity of Licensee would disturb or disrupt the land or any improvement on the Property, or would interfere with the Authority's or public's use and enjoyment of the Property, the Authority may impose upon Licensee reasonable charges and bonding (over and above any other payments or bonding required under the License Agreement) to cover its costs of reviewing, approving, administering, overseeing and inspecting the maintenance or operation activity, and to ensure the safety and well being of the public and the proper and timely restoration of the Property.

4. Restoration

a. Licensee shall, as soon as practicable after the completion of any construction, operation or maintenance activities, restore all areas disturbed during such activities. These areas shall be restored in kind to a condition substantially the same as that which existed prior to Licensee's performing such activities, and shall be restored to the satisfaction of the Authority, taking into consideration aesthetics as well as structural or design integrity.

b. Disturbed areas must be backfilled and compacted consistent with the original conditions. Where subsoil is tamped, the disturbed area will be filled to a level in kind. Disturbed areas will be reseeded or sodded in kind. Seeding required for restoration shall be of a mixture approved by the Authority. Any subsequent settling of disturbed areas will be repaired in kind. Licensee shall be responsible for any erosion which may occur as a result of Licensee's use of the Licensed Premises, and Licensee shall restore any eroded area until stabilized.

c. In the event any asphalt paths on the Trail are cut or are otherwise damaged or disturbed, repairs shall be made in accordance with the following minimum requirements:

- (1) pavement shall be saw cut and shall have straight, clean edges;
- (2) all debris shall be hauled from the Property;
- (3) the disturbed area shall be backfilled with approved material compacted to ninety-five percent (95%) of theoretical density as determined by standard proctor;
- (4) a minimum of six inches (6") of VDOT type 21-A aggregate base shall be placed and compacted;
- (5) base shall be prime coated at the rate of .3 gallons per square yard with VDOT type MC-70 or RC-250 liquid asphalt; all existing asphalt edges shall be cleaned and tack coated;
- (6) a minimum of two inches (2"), or the depth of the existing asphalt, whichever is greater, of VDOT type SM-9.5 hot-mix asphalt shall be placed and properly compacted;
- (7) all adjacent stone or turf shoulder shall be backfilled flush with the pavement edge and said turf areas seeded in accordance with the requirements in subparagraph 4b above; and
- (8) the standard minimum dimensions for patched or replaced asphalt shall be a square the width of the Trail by an equal length.

d. If the disturbed area is on a part of any path in use by the public, Licensee shall immediately restore the disturbed area with a temporary patch until the asphalt can be permanently restored in accordance with the requirements of this paragraph 4. Failure of Licensee to comply with any provision of this subparagraph shall be deemed to be a violation of this License Agreement subjecting the Licensee to the liquidated damages provided for in paragraph 9 hereof and to such other remedies as may be available to the Authority.

e. The Authority may restore any areas in case of neglect by Licensee. Licensee shall pay the cost of such restoration, including the cost of inspection and supervision.

5. Approvals

Whenever the License Agreement requires Licensee to submit plans, specifications, schedules or other items to the Authority for approval, the Authority shall review and approve, disapprove, or take other appropriate action with reasonable promptness after receipt of the required submittal. The Authority's approval of any submittal shall not be deemed to be a waiver of any requirement of the Agreement unless such waiver is explicit and in writing and specifically references the requirement of this Agreement that is being waived.

6. Access

Licensee shall enter and exit the Property during the term of the License Agreement only at those places and by those means specified on the approved construction plans and specifications and in the Agreement, including the attached exhibits. Failure of Licensee to comply with any provision of this Paragraph shall be deemed to be a violation of this Agreement subjecting the Licensee to the liquidated damages provided for in Paragraph 9 hereof and to such other remedies as may be available to the Authority.

7. General Responsibilities of Licensee

a. Compliance with Applicable Laws and Regulations. Licensee shall construct, operate, and maintain its facilities and improvements in accordance with all applicable federal, state, and county laws, orders, rules, and regulations existing on the date of the Agreement or enacted thereafter affecting Licensee's use of the Property, and Licensee shall assume all costs, expense, and responsibility in connection therewith.

b. Manner of Performance. Licensee shall construct, operate, and maintain its facilities and improvements in an orderly and workmanlike manner. The safety of the general public, Licensee's employees and all property shall be of paramount importance whenever or wherever Licensee operates on the Licensed Premises.

c. Permits. Prior to commencement of any work Licensee shall secure and pay for all permits and government fees, licenses, and inspections necessary for the proper construction, operation, and maintenance of Licensee's facilities and improvements.

d. Storage of Hazardous Materials. Licensee shall not store flammable, explosive, or other hazardous materials on the Property, and no materials shall be piled higher than fifteen (15) feet above ground level.

e. Interference. Licensee's facilities and improvements shall be constructed, operated, and maintained in a safe and proper manner so as not to endanger the general public, interfere with the public's use and enjoyment of the Park, Trail and Property, or interfere with any improvements on the Property.

f. Licensee's Personnel. Except as otherwise specifically authorized in the Agreement, Employees of Licensee and its agents and contractors shall comply with all

regulations governing the use of the Trail and Property in effect as of the date of the Agreement or enacted thereafter.

g. Vehicles. Licensee shall operate on the Property only vehicles and equipment approved by the Authority. No vehicles or other equipment shall be operated on any trail, whether paved or unpaved, unless prior written approval has been granted by Authority.

h. Failure of Licensee to comply with any provision of subparagraphs 7a, b, c, d, e, f or g above shall be deemed to be a violation of this License Agreement subjecting the Licensee to the liquidated damages provided for in paragraph 9 hereof and to such other remedies as may be available to the Authority.

8. Warranty

Licensee warrants that Licensee has inspected the Property and accepts it in its present "as is" condition. The Authority makes no representation or warranties, express or implied, concerning the condition of the Property and shall have no responsibility for repairs and maintenance during the term of the Agreement.

9. Liquidated Damages

a. At the sole and absolute discretion of the Authority, if Licensee fails to comply with ANY requirement of paragraphs 2a(1) or (2); 2b(1), (2) or (3); 2c; 2d(1), (2), (3), (4) or (5); 3a, b, c, d, e or f; 4d; 6; or 7a, b, c, d, e, f or g hereof, Licensee shall, in place of actual damages, pay to the Authority, as fixed, agreed, and liquidated damages for each day such failure to comply continues, the sum of Five Hundred Dollars (\$500.00) (the "Liquidated Damages"); provided, however, that the Authority will not assess Liquidated Damages for any violation beyond the control of the Licensee, its employees, agents, contractors, invitees or representatives. Licensee shall pay any Liquidated Damages promptly upon receipt from the Authority of a written notice assessing such damages.

b. The assessment of Liquidated Damages pursuant to this Paragraph, (or the Authority's election not to assess Liquidated Damages), does not restrict the Authority's power to terminate the Agreement or otherwise enforce its terms.

c. On the third anniversary of the Agreement and every three years thereafter during the term of the Agreement, the Liquidated Damages shall be increased by five percent (5%).

10. Authority's Use of the Property

Nothing in the License Agreement shall be construed to prevent the Authority from repairing, altering, relocating, or constructing existing and additional Trails or other facilities on the Property. The Authority shall do such work, insofar as practicable, in a manner not to obstruct, injure, or prevent the free use and operations of Licensee's facilities and improvements. If any property of the Licensee shall interfere with Authority's planned

alteration, relocation, or construction, Licensee shall remove such property at such time and in a manner as shall reasonably be directed by the Authority so that such property shall not interfere with the work of the Authority. Such removal or replacement of Licensee's property shall be at the expense of Licensee. Authority agrees to cooperate with Licensee and to use its best efforts to accomplish any alterations, relocations, or construction of the Trail and Property in a manner least intrusive to the privileges of Licensee under this License Agreement.

11. Authority's and Licensee's Representatives

a. The Authority and Licensee shall each designate a representative who shall have the duty to coordinate all aspects of Licensee's use of the Licensed Premises and have the authority to render decisions and bind the parties upon matters which necessitate input or decisions. Any change of a party's representative shall be made in writing, and any such change shall not be effective until receipt of the writing by the other party. The Authority hereby designates its Director of Planning and Development as its representative.

b. The Authority's representative shall, at all times, have access to Licensee's construction, operation, and maintenance work whenever and wherever it is in preparation or progress.

12. Maintenance of Records

Licensee shall keep accurate maps and records, including the approved as-built construction plans and specifications, of its facilities and improvements located on the Property and shall make available to the Authority such maps and records when requested.

13. Safety

a. Licensee shall take adequate precautions (i) to insure the safety of the general public as well as Licensee's and Authority's employees, (ii) to protect the Property, and (iii) to assure safe operation of Licensee's facilities and improvements including, but not limited to, marking any temporary changes to the Trail and providing snow fences and other barricades.

b. Whenever Licensee's facilities and improvements or related construction, operation, or maintenance activities of Licensee create a serious hazard to public safety or welfare, Licensee shall take all reasonable actions to abate immediately the hazard and shall immediately notify the Authority and any other affected parties of such incidents. The Authority shall have the right to direct Licensee to halt any construction, operation, or maintenance activity for noncompliance with the provisions of this Agreement or when the Authority believes it to be necessary to protect the public's welfare or safety.

c. The Authority shall have the right, without notice to Licensee, to correct any condition in case of an emergency.

14. Indemnification

To the extent permitted by law, Licensee assumes full responsibility for injuries to or death of any person, for damages to its property, property of the Authority and the property of third parties, and for expenses arising out of Licensee's operations on the Property. To the extent permitted by law, Licensee agrees to indemnify and hold the Authority, its officers, agents, employees, or contractors harmless from all claims, losses, expenses, or suits for such injuries, death, or damages including, but not limited to, reasonable attorney's fees. Notwithstanding the provisions of this Paragraph, Licensee shall not be liable for property damage or personal injuries caused solely by the negligence or willful misconduct of the Authority.

15. No Waiver

Nothing contained in the Agreement shall be deemed to waive the requirements of the various codes, regulations, resolutions and statutes regarding permits, fees to be paid, or manner of construction, operation, or maintenance.

16. Assignment

No assignment, conveyance, apportionment, transfer or sublicense by Licensee of the Agreement or any rights hereunder as to any other parties (other than to its customers in the regular course of business) shall be made without the prior written consent of the Authority, which consent may be given or withheld in the Authority's sole discretion.

17. Entire Agreement

The Agreement (and any exhibits hereto) embodies the entire agreement between Authority and Licensee. It is not to be modified or terminated except as provided herein or by any written agreements signed by the authorized representatives of both parties. If any provision herein is invalid, it shall be considered deleted herefrom and shall not invalidate the remaining provisions.

18. Attorney's Fees

In the event the Authority retains counsel to enforce its right or protect its interests pursuant to the Agreement, whether or not any formal action is instituted, the Licensee shall, in addition to and not in lieu of Liquidated Damages, be responsible for all such fees and related costs incurred by the Authority.

19. Applicable Law

The parties agree that the laws of the Commonwealth of Virginia will govern the License Agreement.

CITY:

CITY OF FALLS CHURCH

By: _____
Name: _____
Title: _____

AUTHORITY:

NORTHERN VIRGINIA REGIONAL PARK AUTHORITY

By:  _____
Name: Brian Nolan
Title: Director of Planning and Development