

LICENSE AGREEMENT

This agreement ("Agreement") made and entered into this ____ day of May, 2019, by and between the **Louisville and Jefferson County Landbank Authority, Inc.**, a public body corporate and politic, hereafter referred to as "**Landbank**", whose address is 444 South Fifth Street, Suite 500, Louisville, KY 40202, and **The Louisville Community Design Center, Inc.**, doing business as the "**Center For Neighborhoods**", 507 S. Third Street, Louisville, KY 40202, hereafter referred to as "**Licensee**."

RECITALS

WHEREAS, Landbank holds fee-simple title to the property located 2743 Dumesnil Street, Louisville, Kentucky (tax parcel 046K-0004-0000), which property is hereafter referred to as the "**Premises**" and is more particularly described on Exhibit A attached hereto and made a part hereof; and

WHEREAS, Licensee desires to operate and use the Premises for its Better Block Event for the benefit of the public and citizens living in the surrounding neighborhood; and

WHEREAS, Landbank is willing to grant Licensee a license to have the use and possession of the Premises for the Better Block Event subject to the terms and conditions in this Agreement;

Now, therefore, in consideration of the Recitals and the mutual promises contained in this Agreement, the parties hereto agree as follows:

1. The Recitals are hereby made a part of this Agreement.
2. The term of this Agreement shall be May 15, 2019 and through July 1, 2019.
3. Licensee shall be solely responsible for all the site preparation necessary to make the Premises usable for the purposes permitted by this License. Licensee accepts the premises AS IS WITH ALL FAULTS.
4. Licensee shall use the Premises solely for the purpose of conducting its Better Block Event for the benefit of the public in the Parkland neighborhood. Licensee shall obtain a special event's permit from the Louisville/Jefferson County Metro Government and the use of the Premises shall be limited to activities approved by said permit which may include benches, planters, a kids table with bubbles, bouncing balls, a soccer net, a water activity, play structures, yoga sessions, meditation, and a drum circle.
5. Licensee, at its sole expense, shall maintain the Premises in good order and condition and state of repair and shall keep the Premises and surrounding property, including public streets and sidewalks which provide ingress and egress to the Premises, free of debris and litter at all times during the term of this License.
6. At all times during the term of this License, Licensee shall conduct operations on the Premises in a safe, prudent, orderly, lawful and business-like manner in full compliance with all laws, ordinances and regulations which may be applicable to the Premises or Licensee's use thereof, Further, Licensee shall not commit or suffer waste upon the Premises or allow any part thereof to become a nuisance.
7. Licensee shall provide at its sole expense, any utility service hookups and their installation by the appropriate licensed contractors.

8. Licensee shall obtain and be solely responsible for obtaining all required permits and licenses necessary for its operation of the Better Block Event at the Premises from the appropriate governmental authorities, including obtaining a Special Events permit from the Louisville Metro Government.

9. Licensee, prior to the end of the term of the License, shall return the Premises to its original condition, to the satisfaction of the Landbank.

10. Licensee shall at all times be responsible for the actions of its employees, contractors, subcontractors, sub-licensees or other persons using any portion of the Premises with the approval or authority of Licensee and Licensee shall insure that all such persons adhere to the requirements of this License.

11. Licensee agrees that any maintenance work it does on the Premises under this Agreement shall be done in such a manner as to promote and preserve public safety and welfare and with a minimum of disruption and interference with the free flow of vehicular and/or pedestrian traffic over public rights-of-ways adjacent to the Premises.

12. Licensee shall, at its expense, keep the Premises in good order, condition and state of repair during the term of this Agreement. Licensee shall make no alterations to, nor make any improvements on, the Premises without the prior written approval of the Landbank. The parties agree that the Landbank may waive the performance of any items, conditions and covenants herein, provided that such waiver shall not be construed or deemed a continuing waiver of the same or any subsequent conduct which may constitute a default of any provision. Any amendments or modifications to this Agreement must be in writing and signed by both parties.

13. If any provision of this Agreement shall be declared invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect.

14. The covenants, conditions, warranties and agreements made and entered into by the parties hereto are declared binding and shall inure to the benefit of their respective successors and assigns.

15. This Agreement represents the entire understanding and agreement between the parties relating to the subject matter hereof and supersedes all prior negotiations and agreements relative hereto. The language in all parts of this Agreement shall in all cases be construed as a whole according to its fair meaning and not strictly for or against either the Landbank or Licensee.

16. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky. In the event of any proceedings regarding this Agreement, the parties agree that the venue shall be the state courts of Kentucky or the U.S. District Court for the Western District of Kentucky, Louisville Division. All parties expressly consent to personal jurisdiction and venue in such Court for the limited and sole purpose of proceedings relating to this Agreement or any rights or obligations arising thereunder. Service of process may be accomplished by following the procedures prescribed by law.

17. Licensee agrees to indemnify, defend, and hold harmless the Landbank and the Louisville/Jefferson County Metro Government, their elected and appointed officials, directors, employees, and agents from and against any and all claims, damages, losses, and expenses (including reasonable attorney fees) resulting from, directly or indirectly, the Licensee's (or Licensee's subcontractors, if any) acts or failure to act or arising out of its performance or breach of this Agreement, provided that such claim, damage, loss, or expense is: (i) attributable to personal injury or damage to property, including the loss of

use resulting therefrom, or breach of contract, and (ii) not caused by the negligent act or omission of the Landbank or its appointed officials and agents acting within the scope of their employment or agency. This Hold Harmless and Indemnification Clause shall in no way be limited by any financial responsibility or insurance requirements and shall survive the termination of this Agreement.

18. Licensee shall provide the Landbank and/or the Louisville/Jefferson County Metro Government with evidence of Insurance coverage in accordance with Exhibit B attached hereto and made a part hereof.

19. If, through any cause, Licensee shall fail to fulfill its obligations under this Agreement, or, if it shall violate any of the covenants, terms or conditions herein, the Landbank shall thereupon have the right to terminate this License and specify the effective date thereof. Upon such termination, Licensee shall not be entitled to any compensation from the Landbank, including but not limited to, replacement value or fair market value of any improvements placed on the Premises.

20. All notices provided for in this Agreement shall be in writing and sent to the following addresses by registered or certified U.S. Mail, return receipt requested, postage prepaid,:

IF TO LANDBANK:

Louisville and Jefferson County Landbank Authority, Inc.
444 South Fifth Street, 5th Floor
Louisville, KY 40202
Attention Laura Grabowski

IF TO LICENSEE:

The Louisville Community Design Center, Inc.
c/o Center For Neighborhoods
507 S. Third Street
Louisville, KY 40202

21. Time shall be of the essence with respect to the duties and obligations imposed on the parties hereto. With respect to any duty or obligation imposed upon a party to this Agreement, unless a time limit is specified for the performance of such duty or obligation, it shall be the duty or obligation of such party to commence and perform the same in a diligent manner and to complete the performance of such duty or obligation as soon as reasonable practicable after commencement of performance thereof.

22. This Agreement does not convey a permanent interest in the Premises or lands and does not run with the land. Accordingly, Licensee shall not transfer or assign any right or interest in the Agreement. Any attempt to assign or transfer the Agreement shall be considered a substantial breach and shall render the Agreement a nullity.

23. It is expressly understood that no employer/employee relationship is created by this Agreement nor does it cause Licensee to be an agent, partner, joint venturer, officer or official of the Landbank. By executing this Agreement, the parties hereto certify that its performance will not constitute or establish a violation of any statutory or common law principle pertaining to conflict of interest, nor will it cause unlawful benefit or gain to be derived by either party.

24. Licensee agrees to comply with all statutes, rules, and regulations governing safe and healthful working conditions, including the Occupational Health and Safety Act of 1970, 29 U.S.C. 650 *et. Seq.*, as amended, and KRS Chapter 338. Licensee also agrees to notify the Landbank in writing immediately upon detection of any unsafe and/or unhealthful working conditions detected at any Landbank-owned Premises where Licensee performs work under this Agreement.

25. Licensee shall keep the Premises free from any liens or claims of lien arising out of work performed, materials furnished or obligations incurred by, for or at the instance of Licensee. In the event that any liens are filed arising out of work performed, materials furnished or obligations incurred by, for or at the insistence of Licensee and Licensee fails to bond, pay or otherwise extinguish such liens within thirty (30) days after the Landbank notifies Licensee of the existence thereof, the Landbank may, without waiver of any other rights or remedies, bond, pay or otherwise extinguish such liens and any expenses incurred by the Landbank in connection therewith and shall be reimbursed by Licensee upon demand as additional rent hereunder.

26. Each of the parties hereto covenant and warrant to the other that their respective entities have the full right, power and authority to enter into this Agreement and that the person executing this Agreement on its behalf has been duly authorized by the party to sign and execute this Agreement on its behalf and the Agreement is a valid and binding obligation on the party and enforceable in accordance with its terms.

WITNESS the agreement of the parties hereto by their signatures affixed hereon.

**LOUISVILLE AND JEFFERSON COUNTY
LANDBANK AUTHORITY, INC.**

LICENSEE

William P. Schreck, Chairman

By: _____

Title: _____

Date: _____

Date: _____

APPROVED AS TO FORM:

MICHAEL J. O'CONNELL
JEFFERSON COUNTY ATTORNEY

By: _____
Stephanie Malone
531 Court Place, Suite 900
Louisville, KY 40202
(502) 574-3066

EXHIBIT A

2743 Dumesnil Street

046K-0004-0000

BEGINNING on the North side of Dumesnil Street, One Hundred Fifty (150) feet East of Twenty-Eighth Street, running thence Eastwardly along the North side of Dumesnil Street, Thirty-Seven and One-half (37 ½) feet, and extending back Northwardly of that width throughout, between lines parallel with Twenty-Eighth Street, Two Hundred (200) feet to an alley.

BEING the same property conveyed to the Louisville and Jefferson County Landbank Authority, Inc. by general warranty deed dated June 25, 2015, of record in Deed Book 10435, Page 184, in the Office of the Clerk of Jefferson County, Kentucky.

EXHIBIT B

INSURANCE REQUIREMENTS

The Louisville Community Design Center, Inc., hereinafter referred to as “**Center For Neighborhoods**”, shall obtain at its own cost and expense the following types of insurance through insurance companies licensed in the Commonwealth of Kentucky. Insurance written by non-admitted carriers will also be considered acceptable, in accordance with Kentucky Insurance Law (KRS 304.10-040). Workers' Compensation written through qualified group self-insurance programs in accordance with Kentucky Revised Statutes (KRS 342.350) will also be acceptable. Center For Neighborhoods shall not commence work under this agreement until all insurance required under this agreement has been obtained and copies of policies or certificates thereof are submitted to **Louisville and Jefferson County Landbank Authority, Inc. and/or Louisville/Jefferson County Metro Government Risk Management Division** and approved by the Louisville/Jefferson County Metro Government’s Risk Management Division. Center For Neighborhoods shall not allow any subcontractor to commence work until the insurance required of such subcontractor has been obtained and copies of Certificates of Insurance retained by Center For Neighborhoods evidencing proof of coverages.

Without limiting Center For Neighborhoods indemnification requirements, it is agreed they shall maintain in force at all times during the performance of this agreement the following policy or policies of insurance covering its operations, and require subcontractors, if subcontracting is authorized, to procure and maintain these same policies until final acceptance of the work by the Louisville/Jefferson County Metro Government (“Metro”). Metro may require Center For Neighborhoods to supply proof of subcontractor’s insurance via Certificates of Insurance, or at Metro’s option, actual copies of policies.

A. **The following clause shall be added to the Center for Neighborhoods (and approved subcontractors) Commercial General Liability Policies:**

1. **"The Louisville/Jefferson County Metro Government and Louisville and Jefferson County Landbank Authority, Inc, its elected and appointed officials, employees, agents and successors are added as an "Additional Insured" as respects operations of the Named Insured performed relative to this agreement."**

B. The insurance to be procured and maintained and **minimum** Limits of Liability shall be as follows, unless different limits are specified by addendum to the agreement (and such minimum limits shall not limit access to the full amount of insurance available (whether through primary, excess or umbrella policies) on Center For Neighborhoods or any subcontractors policy(ies), if that/those policy(ies) provide for Limits above the minimum):

1. **COMMERCIAL GENERAL LIABILITY**, via the **Occurrence Form**, primary, noncontributory, with a **\$1,000,000** Combined Single Limit for any one Occurrence and **\$2,000,000** aggregate for Bodily Injury, Personal Injury, Property Damage, and Products/Completed Operations including:
 - a. Premises - Operations Coverage
 - b. Products and Completed Operations
 - c. Contractual Liability
 - d. Broad Form Property Damage
 - e. Independent Contractors Protective Liability
 - f. Personal Injury

2. **WORKERS' COMPENSATION (if applicable)** insuring the employers' obligations under Kentucky Revised Statutes Chapter 342 at Statutory Limits, and **EMPLOYERS' LIABILITY - \$100,000 Each Accident/\$500,000 Disease - Policy Limit/\$100,000 Disease - Each Employee.**

ACCEPTABILITY OF INSURERS

Insurance is to be placed with Insurance Companies with an A. M. Best Rating of no less than "A-VI", unless proper financial information relating to the Company is submitted to and approved by Metro's Risk Management Division.

MISCELLANEOUS

- A. Center for Neighborhoods shall procure and maintain insurance policy(ies) as described herein and for which the **Louisville/Jefferson County Metro Government's Risk Management Division and/or Louisville and Jefferson County Landbank Authority, Inc.** shall be furnished Certificates of Insurance upon the execution of the agreement. The Certificates shall include the name and address of the person executing the Certificate of Insurance as well as the person's signature. If policies expire before the completion of the agreement, renewal Certificates of Insurance shall be furnished to **Louisville/Jefferson County Metro Government's Risk Management Division and/or Louisville and Jefferson County Landbank Authority, Inc.** at least fifteen (15) days prior to the expiration of any policy(ies).
- B. **Upon execution of the agreement, Certificates of Insurance as required above shall be furnished to:**
- Louisville and Jefferson County Landbank Authority, Inc.
444 South Fifth Street, 5th Floor
Louisville, KY 40202
Attention Laura Grabowski
- C. **Upon Renewal of insurance coverage(s), Certificates of Insurance evidencing renewal shall be furnished to:**
- Louisville/Jefferson County Metro Government
Office of Management and Budget
Risk Management Division
611 West Jefferson Street
Louisville, Kentucky 40202
- D. **CANCELLATION OR MATERIAL CHANGE OF COVERAGE: Center For Neighborhoods shall notify Metro's Risk Management Division of any policy cancellation within two (2) business days of its receipt of same. Upon any material change (changes that reduce/restrict limit or terms and conditions to your insurance coverage) in coverage as required above, Center For Neighborhoods shall notify Metro's Risk Management Division within two (2) business days. If Center For Neighborhoods fails to notify Metro as required by this Agreement, Center For Neighborhoods agrees that such failure shall be a breach of this Agreement. Metro reserves the right to require the insurance policy(ies) required above to be specifically**

endorsed to provide notice of cancellation and/or material change of coverage in accordance with policy provisions. When requested by the Metro Government, a copy of the policy endorsement shall be provided to Metro's Risk Management Division.

- E. Approval of the insurance by Metro shall not in any way relieve or decrease the liability of Center for Neighborhoods hereunder. It is expressly understood that Metro does not in any way represent that the specified Limits of Liability or coverage or policy forms are sufficient or adequate to protect the interest or liabilities of Center For Neighborhoods.

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