

LICENSE AGREEMENT

This LICENSE AGREEMENT, made and entered into this 23rd day of April, 2010, by and between the Commonwealth of Kentucky, acting by and through the Secretary of the Finance and Administration Cabinet on behalf of the Department of Parks (hereinafter referred to as "the Licensor") and the Louisville Dog Run Association, Inc, c/o Brian Davis, President, 291 North Hubbards Lane, B26-214, Louisville, Kentucky 40207-2252, (hereinafter referred to as "the Licensee").

WITNESSETH:

WHEREAS, the Licensor operates a facility in Louisville, Jefferson County, Kentucky, which facility is known as E.P. "Tom" Sawyer State Park (hereinafter referred to as "the Park"); and

WHEREAS, said Park contains a Dog Park for public use; and

WHEREAS, the Department of Parks requested the Division of Real Properties to solicit bids for the operation of said Dog Park; and

WHEREAS, the Licensee was the only response to the bid opening dated February 8, 2010; and

WHEREAS, pursuant to the terms and conditions of such solicitation, the Licensee is hereby being awarded the present License Agreement for operation and maintenance of said Dog Park.

NOW, THEREFORE, in consideration of the foregoing, and other good and valuable consideration as set forth herein, the receipt and sufficiency of which is hereby acknowledged by the Licensor and Licensee, the party hereto agrees as follows:

1. Description of Property. The Licensor hereby grants to the Licensee a license to occupy and use, subject to all of the terms and conditions hereinafter stated, the old airfield area as shown in red on Exhibit "A" which is attached hereto and expressly made a part hereof.
2. Term of License. The premises may be occupied and used by the Licensee for the conduct of the activity set forth in Section 3 below for the period beginning April 23, 2010 through April 22, 2015, with automatic one year renewals for up to a total of five (5) years. In the event either party wishes to terminate this License Agreement or modify the terms and conditions thereof, such party must give thirty (30) days written notice prior to the automatic renewal date of the year in question.
3. Purpose of License. The purpose of this License is to permit the operation of said Dog Park by the Louisville Dog Run Association.
4. Rental Consideration. As rental under this license, the Licensee shall pay to Licensor at the end of each year during the term of this License Agreement, the sum of \$3.50 for each dog registered by the participating owner. All payments due under this License Agreement shall be made no later than January 15th in the Park's business office. Registration fees for participants are to remain as reasonable as possible in order to sustain the program. At the end of each business year, any monies in the Licensee's general fund (excluding monies retained in special funds for major purchases or capitalization projects such as mower replacement, field improvements, etc.) over a working capital amount of \$5,000.00 shall be paid to the Licensor. Monies or fees collected for advance registration will not be considered working capital for the current fiscal year. A list of all registered users (with name, address, phone number and number of dogs) will be provided to the

Park Manager by January 15th of each year. The attached (Item A) Off-Leash Rules will be posted at the Dog Park.

5. Improvements. The Licensee shall not construct, add, operate, or maintain buildings, facilities, structures, landscaping, etc., of any kind on the premises, except such as are constructed, added, operated, and maintained in accordance with plans and specifications which shall first have received the written approval of the Kentucky Department of Parks. All such buildings, facilities, or structures as may be placed in or upon or attached to the licensed premises shall be and remain the property of the Licensee, which may remove such buildings, facilities, or structures at any time prior to any termination of this License Agreement. Upon the removal of said buildings, facilities, or structures, or any portion thereof, the Licensee shall promptly repair any damage to the licensed premises resulting from the installation or removal of the same. Structures not removed from the licensed premises at the termination of this License shall become property of the Licensor, which may, at its sole discretion, assess the Licensee the reasonable costs of removal or repair incurred by said Licensor as a result of the Licensee's failure, howsoever caused, to effect the removal or repair required herein. All buildings, facilities, or structures of the Licensee placed in or upon or attached to the licensed premises shall be so placed or attached at the sole risk of the said Licensee. The parties hereto expressly recognize the need for landscaping the premises in setting priorities for funding and development.
6. Parking and Safety. Licensee shall provide adequate information to assure that participants and visitors of Licensee-sponsored events as specified in Section 3 herein shall park in designated parking lots and in an organized fashion. No parking is allowed in the fields or along side of the road.
7. Maintenance and Park Services. Licensor shall provide one (1) portable restroom and determine its placement and shall provide trash containers and collect trash; provided, however, Licensee shall provide any additional portable restrooms needed above one, and shall be responsible for assuring that trash is collected in the trash containers. Licensor shall mow the area surrounding the Dog Run fields, but Licensee shall maintain the interior of the Dog Park and be responsible for all clean up of any waste left by their dog(s) to ensure cleanliness and to avoid potential health risks.
8. Alcoholic beverages. Licensee shall not allow alcoholic beverages on the licensed premises.
9. Hours of Operation. Any outdoor, organized program held pursuant to Section 3 herein shall commence no earlier than 7:00 a.m. and end not later than 9:30 p.m., and Licensee shall be responsible for assuring that all visitors and participants have left the premises by 10:00 p.m., the Park closing time. Any deviations from this schedule require prior written approval.
10. Termination. In the event the Licensee shall fail to comply with any of the covenants, terms or conditions of this License, Licensor may, on written notice to the Licensee, demand compliance therewith, and in the event the licensee shall fail to comply within thirty (30) days with such covenants, terms, or conditions thereafter, following the mailing of such notice, Licensor may at its option declare the License terminated, such declaration to be made in writing to the Licensee. Upon the termination date specified in said declaration, the License shall expire. Any such notice mailed addressed to the License at the address stated above, or delivered to the Licensee, shall be noticed hereunder by Licensor.
11. Either party may terminate this License Agreement at its convenience by giving the other party thirty (30) days written notice of its intent to terminate.

12. Law and Regulations. The Licensee's occupancy and use of the premises covered by this Agreement are subject to and the Licensee shall comply with all applicable laws and regulations, including all rules and regulations prescribed by the Department of Parks. It is agreed by the parties, hereto that all questions as to the execution, validity, interpretation, construction, and performance of this License Agreement shall be governed by laws of the Commonwealth of Kentucky. Furthermore, the parties hereto further agree that any legal action, which is brought on the basis of said Agreement, shall be filed in the Franklin Circuit Court in the Commonwealth of Kentucky.
13. Permits and Licenses. The Licensee shall secure and pay for all licenses, which may be required by the State of Kentucky and its political subdivisions for the conduct of operations on the premises under the terms of this Agreement.
14. Protection of Premises. The Licensee shall not permit or suffer any offensive use of the premises, shall not permit or suffer the commission of waste upon the premises, and shall refrain from acts which have a tendency to cause undue soil erosion thereof. The Licensee shall keep the premises in good order and in clean and sanitary condition during normal use.
15. Utilities. The Licensee shall be responsible for the payment of all utilities required by its performance or perpetuation of the activity described in Section 3 herein.
16. Contractual Relations. The Licensee shall be held to be an independent contractor and all persons employed by it, or serving in a voluntary capacity, in the exercise of the rights granted under this Agreement shall be its employees, servants, and agents only.
17. Right of Entry. Licensor shall have the right to enter upon the premises at all reasonable times during the term of this Agreement.
18. Non-Warranty. Licensor does not warrant or represent that the licensed premises or any means of ingress thereto or egress therefrom are safe, healthful, or suitable for the purpose for which they are permitted to be used under the terms of this Agreement.
19. Indemnity and Release. The Licensee shall indemnify and hold harmless the Licensor from any and all claims, demands, damages, actions, costs, and charges to which Licensor may be subject or which Licensor may have to pay by reason of any injury to any person or property or loss of life or property resulting from Licensee's operation of said Dog Park and conduct of any public competition when such injury or loss arises solely from the negligence of Licensee. Licensee shall, at its own expense, assume the defense of such claims and actions for damages arising out of such injuries and losses which may be brought against Licensor by third persons, and shall pay any such judgments that may be rendered in such actions; and shall carry public liability insurance and show proof of such insurance. It is understood and agreed that Licensee cannot control use of or access to the Park and said Dog Park at other times and this indemnity agreement does not apply to injuries to any person or property or loss of life or property at times other than Licensee's operation of said Dog Park or when due to Licensor's negligence. Licensee's operation of said Dog Park shall consist of scheduled Dog events, maintenance, renovation, and development of the Dog Park pursuant to Section 5 and 7 herein. It is understood that any other requested use of the Dog Park would be subject to approval of the Park Management and the Louisville Dog Run Association and a user fee would be required.
20. Operations Records. The Licensee shall keep adequate records and books of accounts covering operations conducted upon the premises in accordance with recognized accounting practices and shall transmit a balance sheet and

operating statements to the Park on an annual basis and a final report on or before the 15th day after the close of the Licensee's fiscal year. It is understood the licensee's fiscal year is January 1 to December 31. Licensee shall provide the licensor with a financial report from the period of January 1 to December 31 each year. This report shall include names, addresses, and telephone numbers of the new board members for the upcoming year. All new board members will be advised of the terms & conditions of this license agreement.

21. Waiver of Claim or Interest or Estate. The Licensee agrees that it does not and shall not claim at any time any interest or estate of any kind or extent whatsoever in the premises by virtue of this License Agreement or Licensee's occupancy and use thereunder.
22. Assignment of Interest. No assignment of this License Agreement or any interest therein and no sub-license for any purpose shall be made or granted by the Licensee without the prior written consent of the Commissioner of the Department of Parks and the Secretary of the Finance and Administration Cabinet.
23. Binding Clause. This Agreement shall be binding upon the Licensee, its successors and assigns, and the Licensor and its successors and assigns.
24. Insurance Clause. The Licensee shall carry and maintain public liability insurance, during the term of this agreement, in the minimum amounts of \$100,000.00 per person and an aggregate of \$300,000.00 per accident for personal injury, and \$100,000.00 property damage. Said insurance shall name the Commonwealth of Kentucky and the agents, officers, and employees thereof as an additional insured and shall contain a non-cancellation clause notifying the Commonwealth at least thirty (30) days in advance of any proposed cancellation. Copies of all insurance policies shall be submitted to the Commonwealth annually for review and approval.

The Licensee shall be responsible for furnishing the Commonwealth with a copy of the certificate of renewal for the insurance policies required by this paragraph.

IN WITNESS WHEREOF, the Commonwealth and the Foundation hereto have executed this License Agreement the day and year first above written.

RECOMMENDED:


Department of Parks

LICENSEE:

Louisville Dog Run Association, Inc


Brian Davis, President

COMMONWEALTH OF KENTUCKY:

Approved as to Form and Legality:


Jonathan Miller, Secretary
Finance and Administration Cabinet


Attorney,
Office of General Counsel

Date

4/23/10