

**VILLAGE OF YELLOW SPRINGS
RESOLUTION 2022-67**

**AUTHORIZING THE VILLAGE MANAGER TO EXECUTE AN LICENSE
AGREEMENT WITH MASSIE'S CREEK VENTURES LLC FOR RIGHT-OF-WAY
IMPROVEMENTS ADJACENT TO 108 CLIFF STREET**

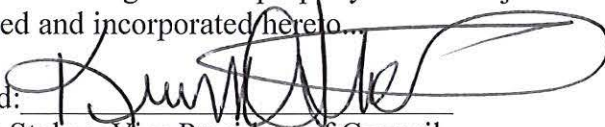
WHEREAS, Village Council pursuant to R.C. 723.121 has authority to permit the use of Village property not needed for street or highway purposes, and

WHEREAS, Massie's Creek Ventures LLC has obtained approvals from the Planning Commission and Board of Zoning Appeals for redevelopment of 108 Cliff Street, including improvements to access to its property directly from the Village-owned Little Miami Trail, Greene County Parcel ID F19000100160006800, so that trail users may utilize public restrooms and outdoor seating areas regardless of whether they patronize the business; and

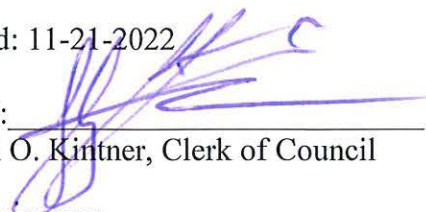
WHEREAS, the Village Manager and staff have advised that a portion of the Village-owned right-of-way adjacent to 108 Cliff Street, would benefit from improvements including bicycle parking and other amenities, if Massie's Creek Ventures LLC cooperates with the Village in improving access to comply with applicable codes, the public shall benefit as the requested area of improvement will not interfere with any future trail improvement plans, but actually enhance them, and that portion of the property is not otherwise needed for street or highway purposes;

**NOW, THEREFORE, COUNCIL FOR THE VILLAGE OF YELLOW SPRINGS, OHIO
HEREBY ORDAINS THAT:**

Section 1. The Village Manager is hereby authorized to execute a License Agreement with Massie's Creek Ventures LLC, to allow Massie's Creek Ventures LLC to improve and use the portion of Village-owned property located adjacent to 108 Cliff Street that is shown on Exhibit 1 attached and incorporated hereinto.

Signed: 
Kevin Stokes, Vice President of Council

Passed: 11-21-2022

Attest: 
Judith O. Kintner, Clerk of Council

ROLL CALL

Housh Recused

Stokes Y

MacQueen Recused

Brown Y

Devore-Leonard Y

EXHIBIT 1 to RESOLUTION 2022-67

LICENSE AGREEMENT

THIS LICENSE AGREEMENT ("Agreement") is entered into on the _____ day of _____, 2022 (the "Effective Date"), by and between **THE VILLAGE OF YELLOW SPRINGS, OHIO** ("Licensor"), and **MASSIES CREEK VENTURES, LLC**, an Ohio limited liability company ("Licensee").

- A. Licensor is the owner of certain real property situated in Village of Yellow Springs, Greene County, State of Ohio, being Parcel No. F19000100160006800 (the "Licensor's Property"), by virtue of the deed filed for record as Instrument No. _____ of the Official Records of Greene County, Ohio.
 - B. Licensee is the owner of certain real property situated in Villag of Yellow Springs, Greene County, State of Ohio, being Parcel No. F19000100110025600, (the "Licensee's Property"), by virtue of a deed filed for record as Instrument No. 2021018467 of the Official Records of Greene County, Ohio.
1. Grant of License. Licensor grants to Licensee an exclusive license ("License") to use to use a portion of the Licensor's Property, which is adjacent to the Licensee's Property and, consisting of approximately _____ square feet, as such area is further described and depicted on **Exhibit A**, attached hereto and incorporated herein (the "Licensed Area").
 2. License Fee. Licensee will not be charged any fee or sum for use of the Licensed Area; provided, however, in consideration of the License granted herein, Licensee shall maintain public restrooms on Licensee's Property for use by the general public.
 3. Term. The term (the "Term") of the License shall commence on the Effective Date and terminate upon Licensee's sale and/or transfer of Licensee's Property to an unrelated third-party; provided, however, Licensee may terminate this Agreement for any reason upon thirty (30) days' prior written notice to Licensor.
 4. Use of Licensed Area. Licensee is hereby granted permission to use the Licensed Area to provide ingress and egress to and from the Little Miami Trail to the Licensee's Property, and use the Licensed Area for the benefit of the Licensee's Property and its employees, agents, licenses and invitees, including but not limited to grading, landscaping and surfacing of the Licensed Area, and the placement and replacement of structures, improvements and outdoor furniture within the Licensed Area, and any other purposes deemed reasonably necessary by Licensee. Licensee shall be permitted to make alterations, structural changes or installations to, in, on or about the Licensed Area without Licensor's consent.
 5. Maintenance. Licensor shall have no duty to maintain and/or keep in good repair any improvements, furniture, landscaping or fencing installed by Licensee, and Licensee assumes sole responsibility for the maintenance and repair of any such improvements, furniture, fencing, and landscaping. Licensee shall maintain, and shall promptly perform any and all repairs

necessary to maintain, the Licensed Area in good condition, ordinary wear and tear thereof excepted.

6. Insurance. Licensee shall, at Licensee's sole cost and expense, secure and maintain in full force and effect during the Term, commercial general liability insurance of not less than One Million Dollars (\$1,000,000) combined single limit for each occurrence and aggregate limit of not less than Two Million Dollars (\$2,000,000), naming Licensor as an additional insured. Licensor and Licensee each waives any and all rights of recovery against the other, or against the officers, directors, shareholders, managers, members, employees, agents and representatives of the other, for loss of or damage to such waiving party or its property or the property of others under its control, where such loss or damage is insured against under any insurance policy in force at the time of such loss or damage.

7. Indemnification. To the extent not arising or resulting from the negligence or willful misconduct of Licensor, its employees or agents, Licensee hereby agrees to indemnify, defend and hold harmless Licensor, its officers, trustees, and employees, from and against any and all demands, claims, causes of action, fines, penalties, damages, liabilities, judgments and expenses, including, without limitation, reasonable attorneys' fees, incurred in connection with or arising from the use or occupancy of the Licensed Area or exercise of any rights granted in this Agreement by Licensee or any person claiming under Licensee.

8. Laws, Rules and Regulations. Licensee shall comply with all federal, state, and local laws, regulations and ordinances, whether now in force or hereafter enacted, pertaining to the Licensed Area and occasioned by or affecting the use thereof by Licensee.

9. Miscellaneous. This Agreement constitutes the entire agreement between the parties as to the terms it contains and, no oral or verbal or implied agreement or understanding will cancel or vary the terms hereof. This Agreement will be binding upon the parties' successors and assigns. This Agreement may not be modified, amended or changed except by written instrument signed by all the parties hereto. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Ohio. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and together shall constitute one and the same instrument. Any signature to this Agreement transmitted by facsimile or email shall be deemed an original signature hereto.

[Signature Page Follows]

IN WITNESS WHEREOF, authorized representatives of the Licensors and Licensee have executed this Agreement, as of the date written above.

LICENSOR:

THE VILLAGE OF YELLOW SPRINGS, OHIO

By: _____
Josue Salmeron, Village Manager

STATE OF OHIO)
) SS
COUNTY OF GREENE)

This instrument was acknowledged before me this ____ day of _____, 2022, by Josue Salmeron, Village Manager, of the Village of Yellow Springs, Ohio on behalf of the Village. This is an acknowledgement clause. No oath or affirmation was administered for this notarial act.

Notary Public

LICENSEE:

MASSIES CREEK VENTURES, LLC,
an Ohio limited liability company

By: _____
Patrick Lake, President

STATE OF OHIO)
) SS
COUNTY OF GREENE)

This instrument was acknowledged before me this ____ day of _____, 2022 by Patrick Lake, the President of Massie's Creek Ventures, LLC, an Ohio limited liability company, on behalf of said limited liability company. This is an acknowledgement clause. No oath or affirmation was administered for this notarial act.

Notary Public

Exhibit A to License Agreement

