

LICENSE

I. PARTIES

A. **CITY OF CONCORD**, a municipal corporation duly existing under the laws of the State of New Hampshire and having a usual place of business at 41 Green Street, Concord, New Hampshire 03301 (“City”).

B. **HIPPO PRESS, LLC** a for profit corporation in the State of New Hampshire, having a principle place of business at 195 McGregor Street, Suite 325, Manchester, NH 03102 (“Licensee”).

C. The City and Licensee are collectively referred to as the “Parties.”

II. PURPOSE

The purpose of this License is for the City to authorize Licensee the right to maintain nine (9) newspaper dispensing boxes within the right-of-way of Main Street, Concord, New Hampshire.

III. TERM

The term of this License shall commence on or after November 9, 2020, and shall remain in effect for three (3) years subject to the termination conditions set forth under sub-section VII.

IV. USE OF LICENSED AREA

In accordance with applicable local ordinances; and state and federal laws, rules, and regulations, the City hereby grants to Licensee a License to maintain nine (9) newspaper dispensing boxes in specified locations on the public sidewalk within the Main Street right of way beginning at the southeast corner of Main Street and Theatre Street to the intersection of Park Street and Main Street (“Licensed Area”). The specific locations of the boxes are listed on Exhibit A which by reference is made a part of this License. The final decision over any dispute regarding the exact location of a box shall rest with the Licensor.

V. MAINTENANCE

Licensee shall keep the newspaper dispensing boxes in clean, functioning order. Licensee shall monitor dispensing boxes regularly for signs of deterioration, damage, litter or vandalism. Any such instances observed by Licensee or reported to Licensee by the City shall be rectified by the Licensee within three (3) days to the satisfaction of the City. The City retains the right to remove any newspaper dispensing boxes that do not comply with this maintenance standard. In the event of removal, the City shall notify the Licensee and the box or boxes in violation shall be kept in storage by the City for up to fourteen days (14) pending recovery by the Licensee. Upon 14 days, any remaining boxes in the City’s possession shall be disposed of with no further obligation on the City.

Licensee shall be solely responsible for any and all damages that may occur to the City's property, or abutting properties, as a result of the newspaper dispensing boxes. Licensee shall repair any and all damage to the City's property and/or abutting properties that may result from installation and/or maintenance of the boxes. All repairs shall be completed to the sole satisfaction of aggrieved property owners.

Any and all maintenance work on the newspaper dispensing boxes shall be at Licensee's sole cost and expense. Any such maintenance shall be coordinated with the City Engineer prior to commencement.

VI. RENEWAL

The City, may at its sole option, without returning to the City Council for approval, extend the Term of the License, on the same terms and conditions set forth herein, or upon additional terms and conditions as the City may solely determine, for an additional three (3) years (the "Extension Term"), subject to the following: (i) the Licensee shall give the City ninety (90) days prior written notice to the City of its intent to extend the License unless this License has been earlier terminated. If the City does not extend the Term of the License, the City shall provide written notice to the Licensee, which shall, within thirty (30) days of the final Term of the License, remove its newspaper dispensing boxes from the Licensed Area.

VII. TERMINATION

Either party may terminate this License at any times and for any reason with thirty (30) days written notice to the non-terminating party. In the event of termination, the Licensee shall immediately, but no more than thirty (30) days following notice, at its sole expense, remove the newspaper dispensing boxes from the Licensed Area.

VIII. ASSIGNABILITY

Licensee shall not assign or otherwise transfer this License.

IX. INSURANCE

Licensee shall, during the term of this License, at its sole cost and expense, shall carry and maintain the following types of insurance which shall name the City as "Additionally Insured." The Insurance shall be as follows:

Certificate of Liability Insurance:

- General Liability Insurance in the Aggregate of Two (2) Million Dollars.
- Each Occurrence of Injury One (1) Million Dollars.
- Medical Expense (any one person)

The failure to maintain such insurance by the Licensee shall be grounds for the City to terminate this License.

X. INDEMNIFICATION

Licensee shall defend, indemnify and hold harmless City and its officials, agents and employees (collectively, the “*Indemnified Parties*”), from and against all loss, damage, expense, liability, and other claims, including court costs and reasonable attorneys’ fees (collectively, “*Liabilities*”) resulting from any third party actions relating to the breach of any representation set forth in this License and from injury to or death of persons, and damage to or loss of property to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Licensee (or its contractors, agents or employees) in connection with this Agreement; provided, however, that nothing herein shall require the Licensee to indemnify the Indemnified Parties for any Liabilities to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the City. Additionally, to the fullest extent permitted by law, no official, employee, agent, or representative of the City shall be individually or personally liable for any obligation or liability of Licensee under this License.

Further, Licensee agrees that the City, its agencies and their employees, agents, and representatives shall not incur any legal liability whatsoever to Licensee for any damage with in the Licensed Area or to any other property or employee of Licensee or to any other person or entity hired by or affiliated with Licensee resulting from or arising out of any maintenance and use of the marquee sign.

XI. COMPLIANCE WITH LAW

Licensee shall use, possess, maintain, repair, and replace its newspaper dispensing boxes within the Licensed Area in compliance with all applicable federal, state, and local laws, codes, ordinances, statutes, rules, and regulations, and in accordance with any and all federal, state, and local permits and approvals.

XII. NOTICES

Any notice or other communication required by this License Agreement will be deemed to have been duly given, if deposited in the U.S. Mail, postage prepaid, and addressed to the other party at the address set forth in the identification of the Parties in this Agreement.

XIII. DISPUTES

The Parties hereby submit to the jurisdiction of the courts of the State of New Hampshire and the courts from which an appeal from such trial venue may be taken or other relief may be sought for purposes of any action or proceeding arising out of this License or any related agreement, and further waive any and all objections they may have as to venue in such courts and waive all rights to bring any such action or proceeding before any other court or tribunal.

All legal actions taken by the Parties shall be commenced in Merrimack County New Hampshire Superior Court.

XIV. NO ORAL WAIVER, MODIFICATION, OR TERMINATION

This License may not be changed, modified, waived, discharged, or terminated orally, but only by an instrument in writing signed by each of the Parties hereto or by the party against which enforcement is sought. Any change, modification or amendment, which requires the consent or approval of a Governmental Authority, shall be effective only upon receipt of such approval.

XV. GOVERNING LAW

This License shall in all respects be governed by, and construed and enforced in accordance with, the laws of the State of New Hampshire.

XVI. SEVERABILITY

If any term or provision of this License or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this License, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this License shall be valid and be enforced to the fullest extent permitted by law.

XVII. NO THIRD PARTY BENEFICIARIES

This License is solely for the benefit of the Parties hereto and no right or cause of action shall accrue by reason hereof for the benefit of any third party not a party hereto.

XVIII. CAPTIONS

The captions and headings throughout this License are for convenience of reference only and the words contained therein shall in no way be held or deemed to define, limit, explain, modify, amplify, or add to the interpretation, construction or meaning of any provisions of, or the scope or intent of this License, nor in any way affect this License, and shall have no legal effect.

XIX. ENTIRE AGREEMENT

This License embodies the entire agreement and understanding between the Parties hereto relating to the subject matter hereof and thereof, and supersedes all prior agreements and understandings between the Parties.

XXI. AUTHORITY OF THE CITY

Authority for the City Manager to enter in this License Agreement on behalf of the City was granted by the City Council on November 9, 2020, and is hereby incorporated into this Agreement by reference.

CITY OF CONCORD

Date

Thomas J. Aspell, Jr.
City Manager

Date

(Title)