

RESOLUTION G2018-28

**RESOLUTION AUTHORIZING THE TOWNSHIP ADMINISTRATOR TO SIGN A
COMMUNITY EVENT LICENSE AGREEMENT WITH NEST COMMUNITY
LEARNING CENTER FOR USE OF SYMMES PARK AND HOME OF THE
BRAVE PARK FOR THE NEST KIDS NINJA CHARITY CHALLENGE ON
OCTOBER 13TH 2018**

WHEREAS, the NEST Community Learning Center, an Ohio organization incorporated as a 501 C-3 non-profit organization, is requesting the use of the Symmes Park property for its 2018 NEST Kids Ninja Charity Challenge to be held on October 13, 2018; and

WHEREAS, the Board of Township Trustees of Symmes Township, Hamilton County, Ohio, deems it necessary and in the best interest of the Township to enter into a Community Event License Agreement with the NEST Community Learning Center, with regard to the use of certain park property; and

WHEREAS, the Board of Trustees of Symmes Township, Hamilton County, Ohio, wishes to provide for the health, welfare and safety of residents and visitors to the Township by regulating special events which require or need special services such as police, traffic control, special parking requirement, ambulance, fire or other emergency services; and

WHEREAS, the Board of Trustees of Symmes Township, Hamilton County, Ohio, has agreed to enter into a Community Event License Agreement with the NEST Community Learning Center for use of a portion of the Home of the Brave Park located at 11605 Lebanon Road and a portion of Symmes Park located at 11600 Lebanon Road as depicted in the Community Event License Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of Symmes Township, Hamilton County, Ohio:

Section 1. That the Board of Trustees of Symmes Township of Hamilton County, Ohio hereby authorizes the Township Administrator to enter into a Community Event License Agreement with the NEST Community Learning Center, substantially in the form set forth and attached hereto as Attachment "A".

Section 2. The purpose of said granting of interest in the described in the Community Event License Agreement hereto attached is to grant permission for the NEST Community Learning Center to utilize Township park property for its 2018 NEST Kids Ninja Charity Challenge on October 13th 2018.

Section 3. It is hereby certified that all formal actions of the Board of Trustees of Symmes Township, Hamilton County, Ohio relating to the adoption of this Resolution were taken in an open meeting of the Board and that all deliberations of the Board were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4. Upon majority vote does hereby dispense with the requirement that this Resolution be read on two separate days and hereby authorizes the adoption of this Resolution upon its first reading.

Section 5. This Resolution shall take effect and be enforced from and after the earliest period allowed by law.

ADOPTED MARCH 6, 2018 – RESOLUTION G2018-28

Vote Record: Mr. Bryant _____ Mr. Beck _____ Ms. Leis _____

BOARD OF TRUSTEES:

Kenneth N. Bryant, President

Philip J. Beck, Vice-President

Jodie L. Leis, Trustee

ATTEST:

Carol A. Sims, Fiscal Officer

APPROVED AS TO FORM:

Kevin C. McDonough, Law Director

SYMMES TOWNSHIP, HAMILTON COUNTY, OHIO

COMMUNITY EVENT LICENSE AGREEMENT

This Community Event License Agreement (the “Agreement”), dated the 6th Day of March, 2018, is by and between The Board of Trustees of Symmes Township, Hamilton, County, Ohio, (“Licensor”) and the NEST Community Learning Center, an Ohio organization incorporated as a 501 C-3 non-profit organization (“Licensee”).

WHEREAS, Licensor is the owner of property commonly known as Symmes Park located at 11600 Lebanon Road and Home of the Brave Park located at 11605 Lebanon Road; and

WHEREAS, a portion of Symmes Park is hereby designated, for the purpose of this Community Event License Agreement, as the “Property” which “Property” (and relevant facilities) is depicted on the drawing attached hereto as “Attachment B”.

WHEREAS, a portion of Home of the Brave Park is hereby designated, for the purpose of this Community Event License Agreement, as the “Property” which “Property is depicted on the drawing attached hereto as “Attachment C”.

WHEREAS, LICENSEE has requested permission to utilize the “Property” for its 2018 NEST Kids Ninja Charity Challenge to be held on the 13th day of October, 2018 starting at 8:00 a.m. with a rain out date of October 14, 2018.

WHEREAS, LICENSOR wishes to provide for the health, welfare and safety of residents and visitors to the Township by regulating special events which require or need special services such as police, traffic control, special parking requirements, ambulance, fire or other emergency services.

NOW THEREFORE, in consideration of the mutual agreements herein contained, the parties hereto agree as follows:

1. Grant of License, Facilities License and Purpose.

- a. In consideration of the payments and covenants herein, Licensor grants to LICENSEE, and LICENSEE accepts and agrees to exercise, the “Agreement” for access to and use of the “Property” (and facilities) which are depicted in Attachment B and C, subject to the terms and conditions set forth in the Agreement. During the License Period (as defined in Section 1-B, LICENSEE shall have the primary use of the areas depicted in Attachment A and B, to the extent that they do not interfere with normal operations of the Licensor’s employees and representatives.
- b. This License is granted to LICENSEE, solely to allow LICENSEE to promote, coordinate and conduct its 2018 NEST Kids Ninja Charity Challenge. This License authorizes access to the Property and facilities, from October 12, 2017 to October 14, 2018 (“License Period”) to personnel, volunteers, concessionaires, vendors and

contractors hired by LICENSEE for the event. LICENSEE shall have access to the Property for the purpose of setting up the event, including tents and booths and for making other physical arrangements for the event. Promptly after the event, but no later than October 15, 2018 at 6:00 p.m., LICENSEE will cause removal of all property and/or trash and debris brought onto the Property for the event.

2. **Covenants of LICENSOR.** During the License Period, LICENSOR shall use commercially reasonable efforts to:
 - a. Provide Licensee use of space in and around the Symmes Park Maintenance Building for storage of supplies and equipment during the set-up and take down of the event to the extent that space is available.
 - b. Provide reasonable use of the available Licensor-owned picnic tables as deemed necessary to the event.
 - c. Licensor shall be under no obligation to install additional electric service beyond what is available at the time of execution of this License Agreement. Costs incurred by Licensor in supplying extension cords, generator(s) or any temporary electrical service, will be billed to Licensee at Licensor's actual costs.
3. **Covenants of LICENSEE.** Licensee shall provide the following:
 - a. All necessary permits and licenses, management, labor and equipment necessary for setting up for the event, the operations of the event and moving out the following event. Copies of all required permits and licenses shall be provided to the Licensor.
 - b. At LICENSEE's expense, provide equipment, such as tents, generators, equipment for the challenge, etc. needed for the event and any additional sanitary facilities deemed necessary by Licensor.
 - c. At LICENSEE's expense, provide traffic control and crowd security at the event. Licensor shall not be responsible for personal injury, theft, or property damage, nor otherwise indemnify or hold harmless LICENSEE, as a result of the failure of such security to prevent such loss or damage except as may result from LICENSOR's gross negligence or intentional misconduct.
 - d. Shall take all necessary action required to prevent the use of loud or noisy devices to a degree that causes annoyance to the residents or activities or the occurrence of any disorderly conduct by patrons, attendees, or employees of the LICENSEE and shall ensure that the Event closes no later than 6:00 p.m.
 - e. Any and all temporary lighting for the event shall be directed away from the abutting streets and properties using shielding devices to prevent unreasonable glow beyond the property lines.
 - f. At LICENSEE's expense, shall be liable for any damages to said Property during the License Period. All damages, as determined by LICENSOR, shall be fully resolved by October 31, 2018.
 - g. At LICENSEE's expense, provide all labor and materials which are required to keep the facilities clean and free from trash and debris during the setting up for the event,

- during the event, and during the period after the event. This would include providing garbage cans and dumpsters, providing custodial staff to clean up and remove garbage, arrange for the trash in the dumpsters to be removed from the property and providing custodial staff to patrol the facilities to keep them clean.
- h. At LICENSEE's expense, provide any necessary Hamilton County Sheriff Patrol Officers to coordinate and direct traffic to and from the adjacent public rights-of-ways (Including Lebanon Road) into and out of parking such additional personnel as is reasonably needed to provide any shuttle service as the LICENSEE deems appropriate. Further, at LICENSEE's expense, provide for such other necessary personnel to direct traffic flow, parking (including any off-site parking) that has been designated as available parking for the event.
 - i. At LICENSEE's expense, provide emergency medical and first aid personnel for event patrons.
4. **Indemnification.** In the event any lost, cost, damage, claim expense or suit arises out of LICENSEE's use, non-use or possession of the Property, or the parking facilities in or adjacent thereto, or to any person or property upon the Property, or to the Property itself from any act done or omission by or through LICENSEE, LICENSEE shall indemnify and hold LICENSOR and its affiliates, officers, agents, and employees harmless from all such losses, costs (including but not limited to reasonable attorney fees), damages, claims, expenses, or suits incurred, suffered or claimed by any person, unless the same are the result of gross negligence or willful acts of Licensor.
 5. **Waiver of Claims.** LICENSEE covenants that no claim shall be made against LICENSOR by LICENSEE, or by others claiming the right to be on the Property through or under LICENSEE for any injury, loss or damage to person or property occurring upon the Property from any cause other than the gross negligence or intentional misconduct of Licensor.
 6. **Assignment.** Neither party shall assign its rights under this Agreement, sublicense the Facilities or any portion of either, or delegate the performance of its obligations under this Agreement, without the prior written consent of the other party.
 7. **Concessions for the General Public.** LICENSEE will organize any concession areas and additional temporary food and beverage locations within the Property for the general public attending the event as agreed upon by both parties. No other party shall sell, provide or permit to be sold or provide food or specialty items to the general public at the Facilities without Licensor's prior consent. Any special permits, including, but not limited to, construction, liquor, health and food services shall be the responsibility of Licensee. Copies of all required permits and licenses shall be provided to the LICENSOR.
 8. **Insurance.** LICENSEE shall procure and keep in force at its sole expense during the License Period comprehensive public liability insurance in the amount of not less than Two Million Dollars (\$2,000,000.00) for property damage and not less than Two Million

Dollars (\$2,000,000.00) for personal injury or death, with the Board of Symmes Township Trustees and their employees named as additional insured.

9. **Compliance with Law.** LICENSEE shall conduct the event and use and occupy the Property in compliance with all applicable laws, rules and regulations and each governmental agency or authority having jurisdiction thereof, and shall neither create nor permit to be created a public nuisance thereon.
10. **Shuttle Service.** In the event that a shuttle service is utilized, LICENSEE shall ensure there is appropriate insurance coverage for said service, including but not limited to property damage liability, vehicle damage, or personal injury. LICENSEE shall provide the LICENSOR with copies of the agreement and insurance coverages.
11. **Force Matters.** In the vent of rain or inclement weather, after first consulting with LICENSEE, Licensor may restrict access to the Property as is reasonably necessary in order to protect the same.
12. **Notices.** All notices given pursuant to the terms of this Agreement shall be given in writing and shall be delivered personally or mailed postage paid by first class, addressed as follows:
 - a. If to LICENSOR: Board of Trustees of Symmes Township, 9323 Union Cemetery Road, Symmes Township, Ohio 45140-9312.
 - b. If to LICENSEE: NEST Community Learning Center, 11905 Rich Road, Loveland, Ohio 45140.
13. **License Only.** The nature of interest granted herein to LICENSEE is a license only. The parties intend that no tenancy, leasehold estate, easement or interest other than a license be created hereby.
14. **Disclaimers.** LICENSOR may not be able to provide the full amount of parking adequate to accommodate all needs of the Event. LICENSEE may have to make arrangements for parking at an off-site location and be responsible for and provide adequate shuttle transportation to and from the event. In any event, LICENSOR's inability to provide sufficient parking shall not be considered a breach of this LICENSE agreement.
15. **Miscellaneous.** This Agreement is the entire agreement of the parties as to the terms it contains. All prior agreements and representations between the parties are superseded hereby. The terms of this Agreement may be modified or waived only in a writing signed by each of the parties hereto. This Agreement shall not be final until executed by all parties.
16. **Sole Parties.** This Agreement is made exclusively for the benefit of LICENSOR and LICENSEE, and no other person or persons shall have the right to enforce the provisions hereof by action or legal proceedings. There shall be no third party beneficiary of this Agreement, express or implied.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed on the day and year first above written.

Kimberly A. Lapensee, Administrator
Symmes Township

Evangeline DeVol, Executive Director
NEST Community Learning Center

APPROVED AS TO FORM

Kevin McDonough, Law Director