

**AGREEMENT BETWEEN ROOTED TRADING COMPANY, LLC AND THE CITY OF  
POWDER SPRINGS, GEORGIA WITH REGARD TO PUBLIC ACCESS TO CITY  
RECREATIONAL PROPERTY**

This Agreement (“the Agreement”) is made this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by and between Rooted Trading Company, LLC, a Georgia limited liability company (hereinafter "Rooted") and the City of Powder Springs (hereinafter "the City") with regard to public access for certain City-owned real property.

WHEREAS, Rooted owns a retail establishment at 4455 Marietta Street, Powder Springs, GA 30127; and

WHEREAS, the City owns 99.89 acres of land, more or less, with a street address of 38 Powder Springs Dallas Road, being Cobb County Tax Parcel 19074800010 (hereinafter “the Property”); and

WHEREAS, the Property includes a pond for which the City from time-to-time grants permission for individuals to use for fishing and other forms of outdoor recreation so long as the individuals complete an indemnification and hold harmless agreement in a form acceptable to the City; and

WHEREAS, Rooted rents kayaks, boats, and other outdoor recreational equipment to its customers and desires to facilitate the use of the Property by its customers at no charge to its customers for the use of the Property; and

WHEREAS, the City is willing to allow Rooted to facilitate such use on a non-exclusive basis pursuant to the terms of this agreement.

**NOW THEREFORE**, in consideration of mutual covenants contained herein the parties agree as follows:

1.

The City will provide Rooted with an indemnification and hold harmless agreement in a form acceptable to the City for Rooted to make available to its customers desiring to use the Property for outdoor recreational purposes. The City may make changes to such agreement at will anytime or otherwise alter what is required of users to order to be granted permission to use the Property, which will be communicated to Rooted and to which Rooted will immediately abide.

2.

The rights of Rooted herein will be non-exclusive and terminable at the will of the City at any time. Nothing herein shall prohibit the City from granting permission to use the Property for outdoor recreation to others or to enter into an agreements of this nature with other individuals or entities.

3.

Rooted shall not charge a fee for users to be granted permission to use the Property. While Rooted may rent outdoor recreational equipment to its customers, such rental shall not be a prerequisite to a customer or other individual to gain permission to use the Property.

4.

Rooted shall at its own expense keep and maintain orderly records of all persons obtaining permission to use the Property, including the date and time. The City may inspect such records at any time.

5.

Nothing herein shall be construed as limiting the City's ability as the owner of the Property to restrict, limit, or terminate the use of the Property or any portion thereof at any time in its sole discretion or to terminate the permission granted to a user found to be in violation of any law, rule, or policy adopted by the City to govern the use of the Property.

6.

Rooted shall indemnify and save harmless the City, its officers, council members, agents, contractors, assigns, volunteers, and employees from and against all claims, demands, liabilities, suits, judgments and decrees, including reasonable attorneys' and other professional fees, losses and costs and expenses of any kind or nature whatsoever on account of claims arising from or related to Rooted's performance hereunder.

7.

Nothing herein shall be construed as creating a joint venture of the parties.

8.

The term of this Agreement shall be for one (1) year unless the City should terminate it earlier.

9.

Rooted shall not assign this Agreement or any rights or obligations hereunder to any other person or entity.

10.

The provisions of this Agreement shall be governed by the laws of the State of Georgia. If any dispute arises with regard to interpretation or meaning of the Agreement which cannot be resolved amicably it will be settled by litigation. Both parties agree exclusive venue shall lie in Cobb County, Georgia.

11.

In the event any part of this Agreement shall be held to be invalid by any competent court, this Agreement shall be interpreted as if only that part is invalid and that the parties to this Agreement will continue to execute the rest of this Agreement to the best of their abilities unless both parties mutually consent to the dissolution of this Agreement.

12.

Each party hereby represents, warrants and covenants to the other that it is an entity validly existing pursuant to the laws of the state in which it is organized and has the full power and authority to carry out the terms of this Agreement. The person signing this Agreement is duly authorized to so execute the same and this Agreement will be valid and binding on such party in accordance with its terms. The execution, delivery and performance of this Agreement will not violate any other agreement or instrument to which such party is a party.

13.

This Agreement constitutes the entire agreement of the parties with respect to the matters addressed herein and no modifications of this Agreement shall be enforceable unless in writing signed by both parties.

**ROOTED TRADING COMPANY, LLC**

By: \_\_\_\_\_

Sign: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

**CITY OF POWDER SPRINGS**

By: **Albert Thurman, Mayor**

Sign: \_\_\_\_\_

Date: \_\_\_\_\_

Attest: \_\_\_\_\_

**APPROVED AS TO FORM:  
GREGORY, DOYLE, CALHOUN & ROGERS, LLC  
CITY ATTORNEYS**

By: \_\_\_\_\_