ROUTING SLIP
CONTRACTS AND AGREEMENTS

Originating Department: **Recreation Services** Council Meeting Date: **8/27/2015**

Department Contact: **Steve Ivey** Phone # **8022**

Contract or Agreement: **License Agreement between the City of Huntsville and Homegrown, LLC.**

Document Name: **License Agreement between the City of Huntsville and Homegrown, LLC.**

City Obligation Amount:

Total Project Budget:

Uncommitted Account Balance:

Account Number:

Procurement Agreements

Not Applicable	**Not Applicable**

Grant-Funded Agreements

Not Applicable	**Grant Name:**

Department	Signature	Date
1) Originating		8.24.15
2) Legal		8-20-15
3) Finance		8/25/15
4) Originating		
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		

Revised 04/15/2011

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number_____

Meeting Type: Regular

Meeting Date: 8/27/2015

Action Requested By:
Recreation Services

Agenda Item Type
Resolution

Subject Matter:

Homegrown, LLC.

Exact Wording for the Agenda:

Resolution authorizing the Mayor to enter into a License Agreement between the City of Huntsville and Homegrown, LLC.

Note: If amendment, please state title and number of the original

Item to be considered for: Action

Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what Council action will provide, allow
and accomplish and; any other information that might be helpful.

Associated Cost:

Budgeted Item: Not applicable

MAYOR RECOMMENDS OR CONCURS: Select...

Department Head: 8-01

Date: 8-24-15

revised 3/12/2012

RESOLUTION NO.15-____

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor be, is hereby authorized to enter into a License Agreement by and between the City of Huntsville and Homegrown, LLC., on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as a "License Agreement between the City of Huntsville and Homegrown, LLC." consisting of seven (7) pages, including Exhibit "A" and the date of August 27, 2015, appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

ADOPTED this the 27th day of August, 2015.

_____
President of the City Council of
the City of Huntsville, Alabama

APPROVED this the 27th day of August, 2015.

_____
Mayor of the City of
Huntsville, Alabama

LICENSE AGREEMENT BETWEEN THE CITY OF HUNTSVILLE AND HOMEGROWN, LLC.

This License Agreement (the "Agreement") is entered into this _____ day of August, 2015, by and between the City of Huntsville, a municipal corporation in the State of Alabama (hereinafter the "City"), and Homegrown, LLC., an Alabama limited liability company (hereinafter "Homegrown").

WHEREAS, Homegrown is an organization committed to promoting cultural events in the Huntsville area; and

WHEREAS, Homegrown desires to stage an event known as the "Big Spring Crush" in Big Spring Park East, located at 201 Church Street, Huntsville, Alabama 35801; and

WHEREAS, the City has determined that entering into this License Agreement will serve the public purpose of promoting cultural events and also of enhancing the vitality of the Downtown Huntsville area;

NOW THEREFORE, for and in consideration of the mutual covenants herein, the parties agree as follows:

1. Use of Premises, Timing and Road Closures.

(a) Subject to the terms and conditions of this License Agreement, the City hereby grants Homegrown permission to utilize that portion of Big Spring Park East, located at 201 Church Street, Huntsville, AL 35801, which is shown on the map attached hereto and incorporated herein by reference as Exhibit "A", along with the portion of Spragins Street south of Spring Street, hereinafter referred to as the "Premises" to be used for an event called the "Big Spring Crush" (the "Event") which shall be a community wine and food festival with musical performances in Downtown Huntsville.

(b) Subject to subsection 1(c) concerning the road closure of Spragins Street, Homegrown may access the Premises for Event set-up starting at 2:00 p.m. on Friday, September 25, 2015. The Event shall not commence until 4:00 p.m. on the afternoon of Saturday, September 26th and shall conclude no later than 9:00 p.m. on the evening of Saturday, September 26th. Subject to section 2 concerning the sale of alcoholic beverages, alcoholic beverage sales or service shall not commence until the 4:00 p.m. start time for the Event and must conclude by the 9:00 p.m. end

time for the Event. The take-down of the Event and restoration of the Premises shall be concluded no later than 12:00 p.m. on Sunday, September 27, 2015.

(c) The Spragins Street cul-da-sac shall be closed between the hours of 3:00 p.m. and 10:00 p.m. on September 26, 2015, only. Otherwise the road shall remain open to traffic, unless the Huntsville Police Department allows or requires a different time for the opening/closing of the street.

2. Alcoholic Beverages

(a) Homegrown intends that the event will include the retail sale of alcoholic beverages for on-premise consumption. In such event, Homegrown shall have secured all licensing necessary for such sale by at least one (1) week prior to the commencement date for the event unless the time specified by the state's or City's alcoholic beverage control laws requires an earlier time. Failing therein, the sale or service of alcoholic beverages shall not be permitted for the Premises.

(b) The event will be conducted in the Quigley Arts and Entertainment District during the regular hours that the district is open. Therefore, the event shall be subject to Section 3-27 of the Code of Ordinances of the City ("City Code") concerning Arts and Entertainment Districts. Homegrown will apply for a permit to qualify as an Arts and Entertainment District Permittee pursuant to Section 3-27 of the Code of Ordinances of the City. To the extent that Homegrown qualifies as an Arts and Entertainment District Permittee ("A&E Permittee") in relation to the event, it and the event shall be governed as such.

(c) In addition to the Premises, should Homegrown include private property within the event area that is to be included within the area to be licensed to sell alcoholic beverages for on-premise consumption, then the Premises and the additional area shall be hereinafter referred to as the "licensed area".

(d) Homegrown agrees to prevent any person from leaving the licensed area while in possession of any alcoholic beverage, unless she is an A&E Permittee, and to prevent any person from bringing alcoholic beverages into the licensed area; and, to this end, the Huntsville Police Department may require security control at access points and appropriate signage.

(e) The sale of alcoholic beverages shall not start until 4:00 p.m. on September 26th, 2015, and shall cease at 9:00 p.m. on September 26, 2015. The price of alcoholic beverages shall remain constant throughout the event.

(f) Homegrown shall abide by all alcoholic beverage control laws of the state and City including the regulations of the Alabama Alcoholic Beverage Control Board. Homegrown shall provide tamper-proof measures that identify persons of legal drinking age.

3. Set up and Construction of Event Exhibits. Homegrown shall not affix any materials to the Premises without the prior approval of the City's Director of Landscape Management. Homegrown shall obtain the approval of the City's Director of General Services prior to the use of electrical power for any part of the Event. Electricity may be obtained only from sources authorized by the General Services Director.

4. Alteration of Premises. Homegrown may not remove or alter any trees or make any other changes to the Premises without the prior approval of the Director of Landscape Management.

5. Vandalism or Weather Damage. Homegrown shall promptly repair any damage to its property or the Premises caused by vandalism or weather events. The City shall not be responsible for any damage to property of Homegrown, its sponsors, vendors, patrons or any other third parties.

6. Compliance with Laws. Homegrown agrees to comply with all ordinances, laws, rules and regulations pertaining to the use of the Premises and shall not use the Premises in an unlawful manner nor create or allow to exist any nuisances or trespass nor deface or damage the Premises. The Event shall further comply, at all times, with the Special Event Permit issued for it by the Huntsville Police Department. The Premises is located in the Quigley Arts and Entertainment District, and the Event will occur during regular hours that the district is open. Homegrown may allow patrons to take alcohol from the Premises only in accordance with Section3-27 of the Code of Ordinances of the City of Huntsville.

7. Licensing and Permits. Homegrown shall obtain and maintain all licenses and permits and pay all fees necessary or required to hold the event and to sell and serve food and alcohol on the Premises. Homegrown shall provide proof of proper permitting or licensure prior to or during the event.

8. Access. Homegrown shall, at all times, maintain handicap access throughout the Premises and maintain the Premises in such a way so as to meet the Americans with Disabilities Act (ADA) standards for accessibility.

9. Indemnification; non-liability. The City, its officials, officers, employees, agents, contractors, and volunteers performing an authorized city function, shall not be liable for any loss, injury, death, or damage to persons or property which at any time may be suffered or sustained by any person who may at any time be using or occupying or visiting the Premises or be in, on or upon the same if such loss, injury, death, or damage shall be caused or result from or arise out of the negligence of Homegrown, its agents, employees or contractors, or of any occupant, visitor or user of any portion of the Premises under the terms of this Agreement. Homegrown shall indemnify and hold harmless and does hereby agree to indemnify and hold harmless the City, its officials, officers, employees, agents, contractors and volunteers performing an authorized city function, (hereinafter referred to as "indemnitees") from and against any and all claims, liability, loss, judgments, suits, penalties, costs, expenses and damages aforesaid (including but not limited to reasonable attorneys' fees and expenses and court costs and fees). Homegrown's duties hereunder shall survive the termination or expiration of this Agreement.

Nothing contained in this section 9 shall be construed as a waiver of any immunity of statutory protection of the City of Huntsville, Alabama, and no third party may expand any recovery against the City due to Homegrown's duty of indemnification.

10. Restoration. Homegrown agrees to provide for and pay all costs and expenses associated with clean-up of, and damage to, the City's property resulting from Homegrown's

use of the Premises. The Premises shall be cleaned and restored entirely by Homegrown no later than the end of the Agreement term, to the sole satisfaction of the City.

11. Insurance. Homegrown shall obtain and maintain in effect throughout the term of this agreement, bodily injury and property damage liability insurance, written on an occurrence basis, covering the Premises in a minimum amount of ONE MILLION DOLLARS ($1,000,000.00) for the injury to or death of any one person and TWO MILLION DOLLARS ($2,000,000.00) for the injury to or death of any number of persons in one occurrence, and property damage liability insurance in the amount of ONE MILLION DOLLARS ($1,000,000.00). Such insurance shall specifically insure Homegrown against all liability assumed by it hereunder as well as liability imposed by law. The City of Huntsville, its officers, employees, agents, contractors and specified volunteers are to be covered as Additional Insureds. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, employees, agents, contractors or specified volunteers. Additional Insured status shall be through ISO Additional Endorsement CG 20 10 11 0413 or equivalent that is sufficient to provide coverage as per this Agreement. Such policy of insurance shall be issued by a company authorized to engage in the insurance business in the state of Alabama and shall be approved by the City Attorney of the City of Huntsville prior to Lessee entering upon the leased premises upon the terms of this agreement.

12. Fee. Homegrown shall pay to the City the sum of One Thousand and no/100 Dollars ($1,000.00) for the use of the Premises.

13. Non-compliance. In the event of any breach of any condition or term of this Agreement, the City may cancel the Event and terminate this Agreement at any time. Huntsville Police Department, Huntsville Fire and Rescue or any other official of the city of Huntsville acting within the line and scope of his/her authority may take any action they deem necessary in order to protect the public health or safety, to prevent damage or destruction to public or private property, or to enforce applicable laws.

14. Miscellaneous.

(a) This Agreement shall not be amended except by written instrument signed by the parties hereto. This Agreement, together with all exhibits, constitutes the entire agreement between the parties and shall be interpreted under and according to the Laws of the State of Alabama. This Agreement shall be binding upon and inure to the benefit of Homegrown, its successors and permitted assigns, and the City, its successors and assigns.

(b) Homegrown shall not be excused from complying with any of the terms and conditions of this Agreement by any failure of the City upon one or more occasions to insist upon or to seek compliance with any such terms or conditions, nor shall such failure on the part of the City be construed or held to be a waiver of the City's rights thereafter to strictly enforce any provision of this Agreement.

(c) The captions of this Agreement are for convenience and reference only and in no way define, describe, extend or limit the intent or scope of this Agreement.

(d) If, for any reason or no reason, any agreement(s), provision(s), or term(s) of this Agreement (whether material to the bargain of City and Homegrown or not) should be declared illegal, null and void, unconstitutional or unenforceable, in whole or in part, by any court of competent jurisdiction, the offending portion of this Agreement shall be deemed severed herefrom as though the same was never a part hereof; provided, however, the remainder of this Agreement shall not be impaired and shall remain in full force and effect according to its remaining agreements, covenants, provisions and terms.

15. The parties represent and warrant that they have full authority to enter into this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed under their respective seals and delivered as of the date first above written.

ATTEST

LICENSOR:
THE CITY OF HUNTSVILLE, ALABAMA

_____
Charles E. Hagood
City Clerk-Treasurer

By:_____
Tommy Battle, Mayor

WITNESS

Yolanda Hopson

LICENSEE:
HOMEGROWN, LLC.

By: Ashley Ryals
Its: owner

STATE OF ALABAMA)
COUNTY OF MADISON)

I, the undersigned, a notary public in and for said County, in said State, hereby certify that Tommy Battle and Charles E. Hagood, whose names as Mayor and City-Clerk Treasurer of The City of Huntsville, a municipal corporation are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they, in their capacity as such officers, executed the same voluntarily for and as the act of said municipal corporation on the day the same bears day.

GIVEN under my hand and official seal this the ____ day of _____, 2015.

_____
Notary Public

STATE OF ALABAMA)
COUNTY OF MADISON)

I, the undersigned, a notary public in and for said County, in said State, hereby certify that Ashley Ryals, whose name as Owner of Homegrown, LLC., is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, she, in her capacity as such officer, executed the same voluntarily for and as the act of said corporation on the day the same bears day.

GIVEN under my hand and official seal this the 24th day of August, 2015.

Yolanda Hayson
Notary Public

- United-Johnson Brothers
- Pinnacle Imports, Inc.
- Grassroots
- Alabama Crown
- Bread & Water Tent
- Wine Inspired Food Court
- North Alabama Wine Trail Grape Stomping Tent
- Music Stage
- iHeartRadio
- Purchase Beer & Wine by the glass or bottle
- Entertainment District Drinks "To-Go"
- Restrooms

BIG SPRING crush

DOWNTOWN WINE FESTIVAL

MORE wine, MORE grape stomping,
MORE live music, and MORE food trucks!

SEPT 26

TICKETS: homegrownhuntsville.com

homegrownhuntsville #bigspringcrush

EXHIBIT A