

RESOLUTION NO. 32480

A RESOLUTION AUTHORIZING THE ADMINISTRATOR FOR THE DEPARTMENT OF ECONOMIC DEVELOPMENT TO ENTER INTO A LICENSE AGREEMENT WITH THE UNIVERSITY OF TENNESSEE, CHATTANOOGA CAMPUS, IN SUBSTANTIALLY THE FORM ATTACHED, FOR THE USE OF SPECIFIC PORTIONS OF THE PROPERTY IDENTIFIED AS GREENWAY FARM, TAX MAP NO. 110-021, FOR THE UTC STOPOVER PROJECT, FOR A LICENSE TERM OF THREE (3) YEARS WITH THE OPTION TO RENEW FOR TWO (2) ADDITIONAL TERMS OF THREE (3) YEARS EACH, WITH EACH TERM TO BE AT NO EXPENSE TO THE LICENSEE.

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BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, it is hereby authorizing the Administrator for the Department of Economic Development to enter into a License Agreement with the University of Tennessee, Chattanooga Campus, in substantially the form attached, for the use of specific portions of the property identified as Greenway Farm, Tax Map No. 110-021, for the UTC Stopover Project, for a license term of three (3) years with the option to renew for two (2) additional terms of three (3) years each, with each term to be at no expense to the Licensee.

The Project aims to install a series of mist nets to capture migratory songbirds and evaluate their body condition and length of stay in order to guide management actions and educate the public about the importance of birds.

ADOPTED: April 29, 2025

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## LICENSE AGREEMENT

This License Agreement made this \_\_\_\_ day of \_\_\_\_, 2025, by and between the University of Tennessee on behalf of its campus at Chattanooga) (hereinafter “UTC” or “Licensee”) on the one hand and the City of Chattanooga (hereafter “City” or “Licensor”) on the other.

### RECITALS

WHEREAS, our understanding of the movement ecology of migratory animals is surprisingly rudimentary, though understanding how migratory animals move across the landscape is critical to preserving them;

WHEREAS, the effects of urbanization on wildlife populations are equally important, as the world becomes increasingly urbanized. This is especially true for migratory species, which need suitable places to rest and replenish energy stores (stopover sites). Urban greenspaces may become increasingly important for ensuring migratory species can successfully complete their journey. Thus, understanding the suitability of urban greenspaces as stopover sites is critical for their management;

WHEREAS, the UTC Urban Stopover Project aims to install a series of mist nets to capture migratory songbirds and evaluate their body condition and length of stay in order to guide management actions and educate the public about the importance of birds;

WHEREAS, Licensor owns property that is well situated to support and further the purposes, goals and efforts of the UTC Urban Stopover Project;

NOW, THEREFORE, the parties hereto, intending to be legally bound, hereby contract and agree as follows:

1. Grant of License. Subject to the provisions, covenants and agreements herein contained, Licensor hereby grants to Licensee a non-exclusive license to use the specified portions of property owned by Licensor and located at 4960 Gann Store Rd, Chattanooga, Tennessee (Tax Parcel No. 110-021) as shown on **Exhibit “A”** (the “Licensed Area”) solely for the purposes of the installation, use, and maintenance of mist nets and such related purposes described herein. The red dots on Exhibit A are the sensor locations, and the green line is an access path to the sensor locations. The specific locations of the Licensed Area may be changed by written agreement of both parties.

2. Purposes. The intended purpose of such permission is not only to accommodate the placement of mist nets upon the Licensor's property, but to allow rights to enough land for the installation, maintenance, repair, service, replacement, removal, access and use of such equipment as may be necessary to accomplish these undertakings.

3. **No Representations; Nature of Licensed Area.** Licensee acknowledges and agrees that the Licensee is being provided with access to, and use of, the Licensed

Area, and Licensee shall accept the Licensed Area, in its then **“AS IS,” “WHERE IS,” and “WITH ANY AND ALL FAULTS”** condition as of the execution of the Agreement and Licensee’s occupation or use of any portion of the Licensed Area shall be conclusive evidence that the Licensed Area was in good order and satisfactory condition when Licensee was granted access. **Licensors has not made, nor does Licensors make any representations or warranties with respect to the Licensed Area, including without limitation, representations, and warranties as to the marketability and fitness for use of any particular purpose, and shall be licensed by Licensee at Licensee’s own risk.** Licensee agrees that Licensors does not have any obligation to perform any work or otherwise prepare the Licensed Area for Licensee’s use. **LICENSEE UNDERSTANDS THAT THE LICENSED AREA IS NOT A SECURE AREA AND LICENSEE TAKES FULL RESPONSIBILITY FOR THE SECURITY OF ITS PERSONAL PROPERTY. LICENSOR IS NOT RESPONSIBLE FOR THE SECURITY OF ANY OF LICENSEE’S PERSONAL PROPERTY. LICENSOR SHALL NOT BE LIABLE FOR ANY DAMAGES OR LOSSES INCURRED BY LICENSEE IN THE EVENT OF ANY LOSS, CASUALTY OR THEFT. LICENSOR RECOMMENDS THAT LICENSEE ARRANGE FOR THE SECURE STORAGE AND PROTECTION OF ITS PERSONAL PROPERTY.**

4. Equipment and Procedure. Standard mist nets are made of a fine nylon material, are 12 m long, 2.6 m tall, and the standard mesh size for catching songbirds is 30 mm. They are set up in pre-established locations where birds frequently move through. To set up the nets, a metal pole is hammered into the ground, one end of the net is threaded through the pole and then extended for its length, and a second pole is hammered into the ground and the other end of the net is threaded through that. The net is then opened to its height. Nets are checked every 30-40 minutes, and any birds that are caught are removed by carefully grasping the bird by its body and removing any mesh holding it in place. Birds are placed individually in cloth bags and taken to a central location approximately 120 m from the net locations (either Dr. Aborn’s vehicle or picnic tables at Greenway Farm), where they are then banded, measured, and released. The individually numbered aluminum bands are placed on the lower leg using special banding pliers, wing chord is measured using a wing ruler, mass is taken using an electronic balance, and visible subcutaneous fat is scored by blowing on the underside of a bird to expose the skin and estimating the extent of fat deposits visible beneath. At the end of a banding session, the nets are furled and tied closed so they do not catch birds or other animals when no one is around to check them. All equipment provided by licensee shall remain the personal property of licensee regardless of whether or not it is temporarily affixed to Licensors’s real property.

5. Coordination. Licensee’s project personnel will need to access equipment throughout the year for routine inspections and maintenance. Licensee will provide initial planning, coordination and installation of net set-up; on-going maintenance be handled either by local research partners or by Licensee. Licensee will coordinate with City to avoid interference with other activities taking place at Greenway Farm.

6. Term. The initial term of this License shall be three years from the date of the last signature and may be renewed for up to two additional three-year terms by mutual

written agreement for a maximum total of nine years. Both the initial term and all renewals are subject to approval by the Chattanooga City Council. Nets may remain in place year-round. At any point, the Agreement can be re-evaluated by collective agreement and nets taken down or moved.

7. Termination. Either party may terminate this Agreement for cause with ten (10) days written notice of a breach if such breach is not corrected within that time period. Either party may also terminate this Agreement without cause with thirty (30) days written notice. Upon the expiration or earlier termination of the Term of the License, Licensee shall vacate the Licensed Area in good order and condition and Licensee shall remove all of its property and debris therefrom. Licensee acknowledges that occupation and use of the Licensed Area must cease upon the expiration or earlier termination of this License. The provisions of this Section shall survive the expiration or earlier termination of the Term of this License. If Licensee fails to fulfill its obligations under this Section 10, Licensors shall have the right, in its sole discretion and without prejudice to any other remedy it may have under this Agreement or at law, or so much thereof as necessary, to satisfy Licensee's obligations under this Section at Licensee's sole cost and expense.

8. Cost of Installation or Removal of Mist Nets. Licensee will assume the cost of the acquisition, installation, dismantling, moving, and/or removing of the nets and related equipment (*collectively "Equipment"*).

9. Maintenance, Repair and Replacement. Licensee will assume responsibility for the periodic inspection, maintenance, and repair of the Equipment.

10. Notice. Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given to any party (i) upon delivery to the address of such party specified below if delivered in person or by courier, or if sent by certified or registered mail (return receipt requested), postage prepaid, (ii) upon dispatch if transmitted by email, in any case to the parties at the following address(es) or emails, as the case may be:

If to Licensors:  
City of Chattanooga  
Real Property Office  
101 E. 11th Street, Suite G-18  
Chattanooga, TN 37402  
ghart@chattanooga.gov

With a copy to:

Office of the City Attorney  
100 E. 11<sup>th</sup> Street, Suite 200  
Chattanooga, TN 37402  
cityattorney@chattanooga.gov

and

City of Chattanooga  
200 River Street  
Attn: Anna Mathis  
Chattanooga, TN 37405  
amathis@chattanooga.gov

If to Licensee:  
Dr. David Aborn  
University of Chattanooga at Tennessee  
215 Holt Hall  
615 McCallie Ave  
Chattanooga, TN 37403  
David-Aborn@utc.edu

or to such address(es) as any party may designate by written notice in the aforesaid manner.

11. Insurance. Both Licensor and Licensee are self-insured government entities and shall send proof of such to the other party upon demand. Any liability of UTC to the City and third parties for any claims, damages, losses, or costs arising out of or related to acts performed by UTC under this Agreement will be governed by the Tennessee Claims Commission Act, §§ 9-8-301, et seq.

12. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee and may be amended or otherwise modified only by a written instrument duly executed by Licensor and Licensee. Any dispute between the parties shall be resolved through mediation or lawsuit. Any lawsuit against UTC arising out of or related to acts performed by UTC under this Agreement shall be filed in the Tennessee Claims Commission. Neither party shall be entitled to attorneys' fees.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**LICENSOR**  
CITY OF CHATTANOOGA

By: \_\_\_\_\_  
Name: Richard J. Beeland  
Title: Administrator of Economic Development

**LICENSEE**

UNIVERSITY OF TENNESSEE AT CHATTANOOGA

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_



# EXHIBIT "A"

## GREENWAY FARMS: PROPOSED SENSOR LOCATIONS

