

USE AND LICENSE AGREEMENT WITH ANDERSON HUMANE FOR THE USE OF THE PREMISES AT ELBURN FOREST PRESERVE

KNOW ALL MEN BY THESE PRESENTS that the undersigned, **FOREST PRESERVE DISTRICT OF KANE COUNTY** (hereinafter "**FPDKC**"), for and in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby permit **ANDERSON HUMANE**, an Illinois not-for-profit corporation, South Elgin, Illinois, (hereinafter called "**Wildlife Center**") the non-exclusive right, permission and authority to use, operate and maintain that property which is described in **Exhibit A** (the "**Premises**"), which is attached hereto and incorporated herein (hereinafter referred to as the "Wildlife Center License"), which FPDKC warrants that FPDKC owns in fee simple. FPDKC further grants Wildlife Center the right of ingress and egress to and from the Premises for itself, its workers, agents and contractors for the purpose of the rehabilitation of injured wild animals, not domestic ones, and for all other purposes convenient or incidental to the exercise by Wildlife Center of the rights herein granted for the term of this Agreement. The parties acknowledge that Wildlife Center has been in possession of the Premises for many years prior to the term granted hereunder, the parties agree to extend such possession, and occupancy rights in accordance with the terms hereof for an additional five (5) years hereby.

The Aforesaid Permit and non-exclusive license are granted as and from the date hereof, and shall be terminated at the end of five (5) years from the date of this Agreement on the following terms and conditions precedent and continuing for the term of this Agreement, which are hereby mutually covenanted and agreed to, by and between FPDKC and Wildlife Center.

FIRST: FPDKC covenants with Wildlife Center that it is the lawful fee simple owner of the aforesaid lands and that it has the right and authority to make this license and permit grant.

SECOND: Wildlife Center, at the time of occupancy and as a condition precedent to any right received under this Agreement shall display on the premises its license or permit to rehabilitate injured wild animals as required by state, federal and local law.

Additionally, Wildlife Center agrees to the following:

1. To be responsible for the maintenance of safe and sanitary conditions of the premises; and
2. To be responsible for all maintenance of buildings, structures and grounds within the area depicted as Exhibit A with the exception of the common area mowing; and
3. To store all equipment and other supplies inside the buildings as storage of materials outside is strictly prohibited; and
4. To dispose of all animals that expire and their waste products in a location off of the premises; and

5. Annually submit a completed Forest Preserve District of Kane County 'Natural Resources Permit' for authorization to release wild animals at designated/approved preserves.
6. To obtain express permission from FPDKC prior to the release of any wild animals, not approved on the Natural Resources permit, or whose origin is from outside of Kane County, onto FPDKC preserves; and
7. To put up a sign identifying its facility; and
8. To recognize the FPDKC as a "sponsor" of the Wildlife Center on all printed materials and advertising related to the Wildlife Center and to provide the FPDKC annually with a copy of all printed materials; and
9. To provide the FPDKC the list of species and their quantities handled by the Wildlife Center.
10. To comply with all requirements relating to the Americans with Disabilities Act with respect to the Wildlife Center, including installation, as necessary of any ADA compatible improvements.

THIRD: The Aforesaid Permit and non-exclusive license concerning the parcel, and the FPDKC license are granted as and from the date hereof, and shall be terminated at the end of five (5) years from the date of this Agreement on the following terms and conditions precedent and continuing for the terms of this Agreement, which are hereby mutually covenanted and agreed to, by and between FPDKC and Wildlife Center.

FOURTH: Wildlife Center, its agents, representatives, employees and contractors agree to pay for the cost of and hold FPDKC harmless from any and all losses of or damages to property, including environmental and economic losses, or injuries to or death of any person resulting from Wildlife Center's, its employees, contractors, affiliates; subsidiaries or successors, activity or use on the Premises, or any property affected by such activity or use. Wildlife Center shall indemnify and save harmless FPDKC, its officers and employees, from all claims, litigation and liability asserted against them or any of them, and any costs and attorney's fees incidental thereto, on account of injury to or death of any person or persons whomsoever, on account of damage to any property, caused by, connected with, or in any way attributable to, the rights herein granted or Wildlife Center's failure to comply with any of the terms or conditions hereof. Wildlife Center shall pay for the defense of FPDKC, its officers and employees in any such litigation, with FPDKC having the right to designate its own local counsel.

FIFTH: Wildlife Center agrees to obtain any and all necessary permits from any public or quasi-public authorities having jurisdiction concerning the rehabilitation, care, and control of wildlife.

SIXTH: Wildlife Center shall accept injured, ill, or orphaned wildlife presently or historically native to Kane County that have been directly or indirectly impacted by human activities, and healthy specimens of rare, threatened or endangered species native to Kane County which may have been inadvertently captured. Wildlife Center will not accept for treatment animals from outside Kane County when referrals to licensed wildlife rehabilitators in the appropriate county can be provided.

In addition, thereto, Wildlife Center shall not accept:

1. Adult or orphaned ungulates, except that immature deer may be accepted on a temporary basis only for stabilization prior to transfer to facilities licensed to accept such animals.
2. Reptiles and amphibians not native to Illinois, except on a temporary basis to relocate the animal to another facility, rehabber or private individual.
3. Native wild mammals or birds reared as pets except if the Wildlife Center determines the animal(s) would be a candidate for the Wildlife Center's education program. Number of animals to be held in the education program shall be limited to two per species. If an animal is accepted and found to not function in the education program, it will be transferred to another facility or rehabber.
4. Exotic wild mammals, birds, reptiles or amphibians, except on a temporary basis to relocate the animal to another facility or rehabber.
5. Introduced feral species; (Examples: "wild" dogs, cats, ferrets, burros, etc.), except on a temporary basis to relocate the animal to another facility, rehabber or individual.
6. Domestic species. (Examples: Pets, farm animals) except on a temporary basis to relocate the animal to another facility, rehabber or individual.
7. Skunks or bats as mandated by the Illinois Department of Natural Resources as part of the state's rabies vector control program. These animals may be turned away or accepted to euthanize.
8. Any species of animal that exceeds current Carrying Capacities. These animals shall be referred to other facilities or rehabbers. Referral information should be provided whenever possible.
9. None of the above mentioned animals may be re-released into the wild.

Definitions and Examples:

1. Carrying Capacity: The maximum number of animals, by species, which can be humanely housed in available cages based at the Wildlife Center, based upon minimum standards as outlined by the National Wildlife Rehabilitators Association, the International Wildlife Rehabilitators Council, and the U.S. Department of Agriculture.
2. Exotic: Species common to the pet trade and not native to Kane County, such as Arctic fox, boa constrictors, prairie dogs, Cockatiels, etc.
3. Feral: Domestic species strayed or escaped from human control such as "wild" dogs, cats, ferrets, burros, etc.
4. Native: Year-round residents or migratory species whose evolutionary history includes Kane County.

5. Orphaned: An animal too young to care for itself, which has been abandoned by a parent.
6. Temporary: Time necessary to stabilize an animal for transport, but not to exceed one calendar week (7 days).

SEVENTH: Wildlife Center agrees that written approval shall be secured from the FPDKC prior to the maintenance, renovation, expansion or construction of the premises. The Wildlife center has permission to install and operate a construction style trail no larger than 40'x10' within the parking area of the facility provided that they secure an occupancy permit from Kane County. The District reserves the right to approve the exact location prior to installation. The trailer is the property of Anderson Humane and will be removed at which time the lease is not renewed. The District is not responsible for the maintenance, damage or repairs to the construction trailer.

EIGHTH: Wildlife Center is prohibited from any solicitation on the premises with the exception of a donation box located inside the facility and one annual fundraiser provided that no animals are on display.

NINTH: Wildlife Center agrees to pay FPDKC, its grantees, lessees, licensees, successors or assigns for any and all damage and expense which they or any of them may sustain or be put to because of damage to any property of FPDKC, its successors or assigns, cause by or attributable to the exercise by Wildlife Center of the rights granted by this Agreement.

TENTH: The privileges herein granted are subject to the paramount rights of the FPDKC, and FPDKC shall not be liable to Wildlife Center for damage to the property of Wildlife Center due to the installation, operation, maintenance or removal of any present or future facilities of FPDKC on its property; subject to the rights of this License.

ELEVENTH: This license shall not in any manner or to any extent limit or restrict the right of FPDKC to grant additional licenses or rights over, along, under and across said property herein for other purposes, subject to the rights of this license.

TWELFTH: Any taxes, assessments or imposts levied against FPDKC or its property by reason of the construction, existence, operation, maintenance, repair or removal of said the Wildlife Center's use on FPDKC property shall either be paid and discharged by Wildlife Center, or FPDKC shall be reimbursed by Wildlife Center for the amount paid by FPDKC for or on account thereof. Wildlife Center agrees to be responsible for all utility costs to include, but not limited to gas and electric.

Wildlife Center also agrees to be responsible for all costs associated with phone service and all operating costs.

THIRTEENTH: Wildlife Center agrees to utilize the property in a manner that will not interfere with natural or installed drainage. Upon completion of the activities of Wildlife Center, FPDKC's property shall be left in a neat, clean and orderly condition, at the sole expense of Wildlife Center. All structures cleared and site restored as approved by FPDKC.

FOURTEENTH: FPDKC shall have the right to perform inspections of facilities and grounds with a 10-day notice. Notice of required improvements to facilities and/or grounds with reasonable deadlines for compliance will be provided to the Wildlife Center in writing.

FIFTEENTH: Wildlife Center covenants and agrees that it will not permit or suffer any lien to be put upon or arise or accrue against said premises in favor of any person or persons, individual or corporate, furnishing either labor or material in any work herein proposed, and Wildlife Center further covenants and agrees to hold FPDKC and said premises free from any and all lies or rights or claims of lien which may or might arise or accrue under or be based upon any mechanic's lien law, so called, of the State of Illinois, now in force or hereafter to be enacted.

All contracts and agreements that may be made by Wildlife Center relating to any work herein proposed, shall expressly state that the interest of FPDKC in and to said premises shall be wholly free from and not subject to any lien or claim of any contractor, subcontractor, mechanic, material man or laborer, whether based upon any law or regulation of the State of Illinois, or any other authority, now in force or hereafter to be enacted, and Wildlife Center also hereby covenants and agrees that it will not enter into any contract for such work which shall not in express terms contain the aforesaid provision.

Wildlife Center shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the Wildlife Center's operation and use of the licensed premises. The cost of such insurance shall be borne by the Wildlife Center.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. Commercial General Liability (CGL): Insurance Services Office Form CG 00 0110 93, or a substitute form providing equivalent coverage, on an "occurrence" basis, and shall cover liability arising from premises, operations, independent contractors, products-completed operations, property damage, bodily injury, personal injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract) with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this location or the general aggregate limit shall be twice the required occurrence limit. The policy(s) shall specifically provide general liability coverage for liability arising out of the operations of a wildlife sanctuary and rehabilitation facility.
2. Workers' Compensation insurance as required by the State of Illinois, with Statutory Limits, and Employer's Liability Insurance with limits of no less than \$500,000 per accident for bodily injury or disease.
3. Property insurance against all risks of loss to any Wildlife Center improvements or betterments, at full replacement cost with no coinsurance penalty provision.

If the Wildlife Center maintains higher limits than the minimums shown above, FPDKC requires and shall be entitled to coverage for the higher limits maintained.

Other Insurance Provisions:

The policies are to contain, or be endorsed to contain, the following provisions:

1. For General Liability, FPDKC, its officers, officials, employees, and volunteers are to be covered as additional insureds, using ISO additional insured endorsement CG 20 11 or a substitute providing equivalent coverage, and under the commercial umbrella, if any.
2. The Wildlife Center's insurance coverage shall be primary insurance as respects FPDKC, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by FPDKC, its officers, officials, employees, or volunteers shall be excess of the Wildlife Center's insurance and shall not contribute with it.
3. Each insurance policy required above shall contain, or be endorsed to contain, a waiver of all rights of subrogation against FPDKC.
4. Each insurance policy shall be endorsed to state that coverage shall not be canceled except after prior written notice, as required under any applicable insurance policy, has been given to the Wildlife Center. The Wildlife Center shall be responsible for immediately providing any such written notice to FPDKC.
5. The Property insurance shall name FPDKC as Loss Payee as its interests may appear.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to FPDKC.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by FPDKC. At the option of FPDKC, either: the Wildlife Center shall obtain coverage to reduce or eliminate such deductibles or self-insured retentions as respects FPDKC, its officers, officials, employees, and volunteers; or the Wildlife Center shall provide a financial guarantee satisfactory to FPDKC guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

Verification of Coverage

The Wildlife Center shall furnish FPDKC with original certificates and amendatory endorsements or copies of the applicable policy language providing the insurance coverage required above. All certificates and endorsements are to be received and approved by FPDKC before work commences. However,

failure to obtain the required documents prior to the work beginning shall not waive the Wildlife Center's obligation to provide them. FPDKC reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.

Waiver of Subrogation

The Wildlife Center hereby grants to FPDKC a waiver of any right to subrogation which any insurer of said Wildlife Center may acquire against FPDKC by virtue of the payment of any loss under such insurance. This provision applies regardless of whether or not FPDKC has received a waiver of subrogation endorsement from the insurer.

Subcontractors

The Wildlife Center shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.

Special Risks or Circumstances

FPDKC reserves the right to modify these requirements at any time, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

SIXTEENTH: Any notice required or permitted herein shall be in writing and delivered personally, by USPS or electronically via email to the address or addresses or person set forth below:

FPDKC

Executive Director: Benjamin Haberthur

Forest Preserve District of Kane County 1996 S. Kirk Road, Suite 320

Geneva, IL 60134

Anderson Humane

CEO: Dean Daubert

Anderson Wildlife

1000 South LaFox Road

South Elgin, IL 60177

SEVENTEENTH: This Agreement is not assignable or transferrable. FPDKC reserves the right to revoke its License. The parties agree that subject to FPDKC's right to revoke, this license may be renewed on a yearly basis.

EIGHTEENTH: Wildlife Center shall pay all the costs of this transaction, including recording fees, any tax, fee levy or cost associated with the this transaction or any use contemplated by such transaction now or in the future.

NINETEENTH: This License Agreement is subject to the terms and conditions of the original deed of conveyance of the property of each party and all other conditions, covenants and restrictions of record, each as disclosed by each party to the other party.

IN WITNESS WHEREOF, the FPDKC has executed this document this _____ day of _____, 2024.

FPDKC:

FOREST PRESERVE DISTRICT OF KANE COUNTY
an organized corporation, Forest Preserve

Wildlife Center:

ANDERSON HUMANE,
an Illinois not-for-profit

By: _____
Christopher Kious, President

By: _____
Dean Daubert, CEO

By: _____
Myrna Molina, Secretary

By: _____
Secretary

ACKNOWLEDGMENT

STATE OF ILLINOIS

COUNTY OF KANE

The foregoing instrument was acknowledged before me this _____ day of _____, 2024 by Christopher Kious, as President of the Forest Preserve District of Kane County Commission, and by Myrna Molina, as Secretary of the Forest Preserve District of Kane County Commission.

NOTARY PUBLIC

SUBSCRIBED and SWORN TO before me this _____ day of _____ 2024.

Term Expiration _____.

Seal:

ACKNOWLEDGMENT

STATE OF ILLINOIS

COUNTY OF KANE

The foregoing instrument was acknowledged before me this _____ day of _____ 2024,
by _____ as _____ of Anderson Humane.

NOTARY PUBLIC

SUBSCRIBED and SWORN TO before me this _____ day of _____ 2024.

Term Expiration: _____ . Seal:

EXHIBIT A



Property includes the house, three car garage and approximately one acre of land surrounding these building located within the Elburn Forest Preserve.