

## AGREEMENT

**THIS AGREEMENT** (“MOA”) dated this 12 day of September 12, 2024, by and between the **CITY OF FORT WAYNE BOARD OF PARK COMMISSIONERS** (“BPC”) and **Where to Next? LLC** are collectively referred to herein as the “Parties”.

### RECITALS:

Where to Next? desires to provide certain planning, implementation, management, administrative, and operational services (“Services”) for the purpose of operating **BPC**’s ground travel and tour program in the greater Fort Wayne area (“Services”) and **BPC** is willing to contract with Where to Next? LLC for such purpose, subject to and in accordance with the terms and conditions of this MOA. Accordingly, for good and valuable consideration, **BPC** and Where to Next? LLC agrees as follows:

1. **Where to Next? LLC** agrees to provide the Services, as further herein described, in connection with the planning, implementation, management, administration and operation of **BPC**’s ground travel and tour program (“Program”) for a period commencing on September 12, 2024 and expiring on December 31, 2027 (the “Term”) unless earlier terminated as provided in this MOA.
2. The Services Provided by **Where to Next? LLC** during the Term shall include but not be limited to the following:
  - A. Plan, implement, manage, administer, and operate the Program and regularly (or more frequently at **BPC**’s request) meet with **BPC** to review, evaluate, and consider improvements to the Program. All trips and tours offered to clients shall provide a good value and shall be priced competitively in the marketplace.
  - B. Submit a schedule of quarterly trips and tours to **BPC**’s Deputy Director of Recreation Services (“Deputy Director”) for review and written approval at least fourteen (**14**) days in advance of each quarter and meet with the Deputy Director, upon request, to review and, if required, modify any such schedule prior to the commencement of such quarter.
  - C. Submit to the Deputy Director for written approval, not less than thirty (**30**) days prior to each scheduled trip or tour, copies of all written, electronic and audio advertisements, promotions, publications, and other communications and materials which are intended for use by **Where to Next? LLC** for the advertising and promotion of such trip or tour.
  - D. Dedicate the amount of time and effort required to effectively implement, manage, administer, operate and deliver the Services required to successfully execute the Program. In connection therewith, **Where to**

**Next? LLC** shall staff the “Travel Office” located in the offices of the Fort Wayne Parks and Recreation Department at 705 West State Boulevard, Fort Wayne, Indiana, a sufficient number of hours per week during the Term which are required to accomplish the foregoing purpose.

- E. Secure, manage, oversee and supervise a sufficient number of employees and volunteers required to provide operational support to effectively and efficiently deliver the Services and execute the Program.
- F. Negotiate and finalize all contracts, agreements, reservations and commitments with transportation companies, places of lodging, points of destination, food service establishments, and other vendors for each trip and tour to ensure conformance of each such trip or tour with the description and presentation of each such trip or tour to the Deputy Director. **Where to Next? LLC** shall provide copies of all supporting documentation evidencing such conformance to the Deputy Director in advance of such trips and tours upon the Deputy Director’s request.
- G. **Where to Next? LLC** will maintain in full force and effect during the Term, Workman’s Compensation Insurance which satisfies the statutory requirements of the State of Indiana, and automobile liability insurance, commercial general liability insurance (including contractual liability insurance coverage), and errors and omissions insurance on an occurrence basis for bodily injury, death, “broad form” property damage and personal injury, each with coverage of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate. Such insurance shall name **BPC** and the City of Fort Wayne Indiana (“City”) as “Additional Insureds” and shall provide for a 30-day prior written notice from the applicable insurer of cancellation, modification, termination or non-renewal for any reason to the Additional Insureds. **Where to Next? LLC** shall provide **BPC** with Certificates of Insurance, attested by duly authorized representatives of each insurer, evidencing compliance with the requirements of this Paragraph G. prior to execution of this MOA and annually thereafter during the Term.
- H. Timely collect all fees and other payments remitted by clients in connection with the Program and remit the same to the Department together with a complete detailed accounting of all transactions which relate to such remittances.
- I. Meet with the Deputy Director at mutually convenient times to review and critique previous and future Program trip and tours.
- J. Consult with the Deputy Director prior to the expiration of the Term to ensure an effective transition of the Services provided by **Where to Next?**

LLC hereunder to a successor ground travel service vendor, if applicable.

- K. **Where to Next? LLC** shall not disclose any personal information or data relating to any customer or potential customer except as required to provide and deliver the Services as described herein.
  - L. **Where to Next? LLC** expressly acknowledges and agrees that **BPC** shall assume no liability for any injury (including death) to any persons or damage to any property arising out of acts or omissions of **Where to Next? LLC**, or any employees, representatives, agents, subcontractors or volunteers of **Where to Next? LLC**, in connection with the performance of this Agreement and the providing and delivery of the Services. **Where to Next? LLC** releases, discharges and agrees to indemnify and hold harmless, to the extent permitted by law, each of **BPC** and the City and their respective directors, officers, employees, members, representatives, agents, departments and divisions from and against any and all claims, charges, demands, liabilities, costs and expenses (including legal costs and attorneys' fees) which are caused by, the result of or in any manner directly or indirectly relate to any acts or omissions of **Where to Next? LLC** or any employee, representative, agent, subcontractor or volunteer of **Where to Next? LLC**, in the performance of this Agreement or the providing and delivery of any Services, except to the extent such injury to persons or damage to property is caused solely and directly by the negligent or willful act or omission of **BPC**. This covenant of release and indemnity by **Where to Next? LLC** shall survive the expiration or termination of this MOA for any reason.
3. **BPC** shall provide the following Services in connection with the operation of the Program during the Term:
- A. Provide fiscal management and accountability for the Program, including the deposit of all revenues, preparation of internal accounting statements, payment of pre-approved invoices and such other financial and accounting services as **BPC** shall determine.
  - B. Provide such office space and secretarial and marketing support services to assist **Where to Next? LLC** in the management, administration and operation of the Program, as reasonably determined by **BPC**.
4. In consideration of the planning, implementation, management, operation, and delivery of the Services and execution of the Program in accordance with the terms and conditions of this MOA, **BPC** shall compensate **Where to Next? LLC** in an amount equal to eighty percent (80%) of the Net Profit (as hereinafter defined) realized from the execution of the Program during the Term. Compensation shall be reconciled, adjusted, paid on a quarterly basis. Payment of compensation for the final

quarter of the Term shall be withheld pending final reconciliation of final quarter revenues, expenses and adjustments to balance the prior twelve (12) month period of the Term.

- A. Net Profit shall be defined herein as total quarterly Program revenues less direct costs incurred for each trip or tour which shall include but may not be limited to: (i) salaries, wages and other costs for travel escorts (excluding one (1) **Where to Next? LLC** escort); (ii) transportation and related costs; (iii) meals and gratuities; (iv) lodging; (v) admissions to programs, attractions and events; (vi) trip-related supplies and materials; (vii) travel insurance, as required; and (viii) administrative and overhead costs incurred by **BPC** in connection with the execution of the Program.
  - B. **BPC** shall have the right to cancel any scheduled trip or tour upon written notice to **Where to Next? LLC**. and each client duly registered for such trip or tour, issued not less than thirty (30) days prior to the scheduled date of departure. Any such cancellation shall occur only if a political, legal, weather, safety, logistic or other concern may, in **BPC**'s sole opinion, affect the quality or adequacy of such trip or tour or the safety, comfort or well-being of its duly registered clients. In the event of such cancellation, **BPC** shall refund to each duly registered client all sums received by **BPC** and attributable to such client for such cancelled trip or tour.
  - C. In the event **Where to Next? LLC** incurs an unanticipated loss in the planning, implementation, management or administration of any scheduled trip or tour which loss is the direct result of either (a) **BPC** canceling any scheduled trip or tour pursuant to Section 4.B. hereof or (b) unforeseen events beyond the reasonable control of **Where to Next? LLC**, which events may include acts of God, weather conditions, natural disasters or travel delays that result from any such event, **Where to Next? LLC** may submit to **BPC**, within fifteen (15) days following the determination and calculation of such loss, a written request for reimbursement of all or a portion of such loss together with written documentation supporting such loss. **BPC** may request from **Where to Next? LLC** such additional documentation as **BPC** may deem appropriate in connection with reviewing such loss. **BPC** shall review all such calculations and documentation submitted by **Where to Next? LLC** in connection with such loss and may elect to reimburse **Where to Next? LLC** in the amount of such loss or portion thereof as **BPC** may in its sole discretion determine.
  - D. Any such reimbursement to **Where to Next? LLC**, if granted, may include a reduction of the net revenues, if any, which **BPC** receives from such scheduled trip or tour.
5. **Where to Next? LLC** shall identify one (1) **Where to Next? LLC** employee to **BPC** who will be authorized to use a Visa or Master Card credit card issued to the City of Fort Wayne exclusively for the operation of the Travel Service Program. The

authorization of such employee is subject to **BPC**'s prior written approval, which may be withheld or withdrawn at any time by **BPC** upon written notice to **Where to Next? LLC**. **Where to Next? LLC**'s use of the credit card shall be limited to payment of expenses that directly and exclusively support the operation of the Program. **Where to Next? LLC** shall not use such credit card to incur any other expense unless written approval to incur such expense is provided by the Deputy Director or the Deputy Director of Finance and Support Service. This MOA shall be immediately terminated by **BPC** upon notice to **Where to Next? LLC** in the event such credit card is used or permitted to be used by **Where to Next? LLC** for any other purpose, as determined solely by **BPC**, and **Where to Next? LLC** shall immediately reimburse **BPC** in the amount of such other expenditure together with an amount equal to all interest, charges, and charged to **BPC** by the bank of issuance for such credit card.

6. This MOA does not constitute a hiring by either Party. **Where to Next? LLC** shall at all times during the Term have an independent contractor status hereunder, and neither nor any employee of **Where to Next? LLC** shall be considered an employee of **BPC** for any purpose. In the performance of all services hereunder, **Where to Next? LLC** shall have the sole and absolute discretion in the manner and means of carrying out its activities and responsibilities. The relationship between **BPC** and **Where to Next? LLC** hereunder shall not be construed as a partnership or joint venture. **BPC** shall not be liable for any obligations incurred by **Where to Next? LLC** which are not expressly permitted hereunder without the prior written authorization of **BPC**. **Where to Next? LLC** shall not act as an agent of **BPC**, nor bind **BPC** in any manner, including but not limited to the making of any warranty or representation on behalf of **BPC** or entering into any written or oral agreement or undertaking of any kind or nature on behalf of **BPC**, unless specifically authorized in writing by **BPC**.
7. This MOA may be terminated:
  - A. By either **BPC** or **Where to Next? LLC** upon ninety (90) days prior written notice to the non-terminating Party;
  - B. By **BPC**, upon notice to **Where to Next? LLC** in the event of material fault hereunder by **Where to Next? LLC** as determined by **BPC**, and **Where to Next? LLC** failure to cure such default within fifteen (15) days following such written notice of default by **BPC**.
  - C. By either Party upon notice to the non-terminating Party if this MOA is or has the possibility of being in violation of any federal, state or local law, rule, regulation, or ordinance. In the event of such termination by **BPC**, **Where to Next? LLC** shall have the right to implement and conduct any trips or tours previously planned and advertised as part of the Program, only on the condition that such trips or tours have not been and will not be in any manner advertised as being associated with **BPC** or the Department. In the event implement and conduct any such trips or tours, **Where to Next? LLC** shall hold harmless and indemnify

**BPC**, the Department, and the City of Fort Wayne from and against all claims of every kind and nature that any party may assert against **BPC**, the Department or the City of Fort Wayne in connection with such trips or tours.

8. Any notice, statement or other communication to be derived pursuant to this agreement shall be sent to the recipient at the following address by certified U.S. Postal Service or overnight courier service with the next day delivery guaranteed or by electronic mail to the electronic address of the recipient and upon receipt by the sending party of receipt by the recipient unless signing notified pursuant thereto:

**If to BPC:** Fort Wayne Board of Park Commissioners  
c/o Fort Wayne Parks and Recreation  
Attn: Steve McDaniel, Director  
705 East State Blvd.  
Fort Wayne, IN 46805  
e-mail: steve.mcdaniel@cityoffortwayne.org

**If to Where To Next LLC:**  
Where To Next LLC  
Attn: Mona Will  
P.O. Box 9611  
Fort Wayne, IN 46899  
e-mail: mvwillartist@yahoo.com

9. This MOA may not be assigned by **Where to Next? LLC** without the prior written consent of **BPC**. Any amendment or modification of this MOA shall require a writing signed by both Parties.
10. This MOA shall be subject to all applicable federal, state, and local laws, rules, regulations, and ordinances. This MOA shall be construed in accordance with the laws of the State of Indiana. The Parties agree to submit to the venue of a court of applicable jurisdiction in Allen County, Indiana in the event of any legal proceeding between the Parties hereunder.
11. This MOA contains the entire agreement between the Parties with respect to the matters contained herein or contemplated hereby and supersedes all prior written and oral agreements and understandings between the parties with respect thereto.

**IN WITNESS WHEREOF**, the Parties have executed this Memorandum of Agreement on the day and year first above written.

**CITY OF FORT WAYNE  
BOARD OF PARK COMMISSIONERS**

\_\_\_\_\_  
**Justin Shurley, President**

\_\_\_\_\_  
**Cory Miller, Vice-President**

\_\_\_\_\_  
**Rick Briley, Commissioner**

\_\_\_\_\_  
**Jenna Jauch, Commissioner**

\_\_\_\_\_  
**Steve McDaniel, Secretary**

**Where to Next? LLC**

\_\_\_\_\_  
**By: Mona Will, President**

**STATE OF INDIANA**

} ss:

**COUNTY OF \_\_\_\_\_**

Before me, a Notary Public in and for said State and County, on this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_; personally appeared Officers, and members of Board of the City of Fort Wayne Park Commissioners, , and each acknowledged the execution of the above and foregoing document to be his or her voluntary act and deed.

**WITNESSETH my hand and Notarial Seal**

\_\_\_\_\_  
**Printed Name**

\_\_\_\_\_  
**Signature of Notary Public**

**A Resident of \_\_\_\_\_ County, Indiana**

**My commission expires: \_\_\_\_\_**

**STATE OF INDIANA**

} ss:

**COUNTY OF \_\_\_\_\_**

Before me, a Notary Public in and for said State and County, on this \_\_\_\_\_ day of \_\_\_\_\_, 2024; personally appeared Mona Will, President of **Where to Next? LLC**, and she acknowledged the execution of the above and foregoing document to be her voluntary act and deed.

**WITNESSETH my hand and Notarial Seal**

\_\_\_\_\_  
**Printed Name**

\_\_\_\_\_  
**Signature of Notary Public**

**A Resident of \_\_\_\_\_ County, Indiana**

**My commission expires: \_\_\_\_\_**