

**AGREEMENT FOR TEMPORARY CONSTRUCTION EASEMENT AND
PERMANENT UTILITY EASEMENT**

THIS AGREEMENT FOR TEMPORARY CONSTRUCTION EASEMENT AND PERMANENT UTILITY EASEMENT (“Agreement”) is made this [____] day of May 2024 (the “Effective Date”) by and between AGNL Jerky, L.L.C., a Delaware limited liability company (“Grantor”), and the TOWN OF BRISTOL, INDIANA, a municipal corporation existing under the laws of the State of Indiana (“Grantee”).

RECITALS

WHEREAS, Grantor is the owner in fee simple of that certain real property located in Elkhart, County, Indiana, which is more particularly described in Exhibit A attached hereto and made a part hereof (the “Property”); and

WHEREAS, Grantee (i) intends to develop and construct a one million gallon storage tower located west of the Property together with a twelve inch water main in order to increase the capacity and reliability of the water supply system throughout the Town of Bristol, Indiana and (ii) seeks from Grantor a perpetual and non-exclusive easement in, on, over, and across that certain portion of the Property as described in Exhibit B attached hereto and incorporated herein by reference (the “Easement Area”); and

WHEREAS, Grantor desires to grant for the benefit of Grantee and Grantee desires to accept, a certain perpetual and non-exclusive easement in, on, over and across the Easement Area to provide for the installation, maintenance, repair, and replacement of drainage water main to be located on the Easement Area, upon the terms and conditions of this Agreement; and

WHEREAS, Grantor desires to grant and convey to Grantee the Easement (as defined herein) upon the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the premises, the mutual covenants and obligations contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby declares, grants, and conveys as follows:

Section 1. Recitals. The foregoing recitals are true and correct and are incorporated herein by reference.

Section 2. Grant of Easement. Grantor hereby grants to Grantee a non-exclusive perpetual easement for the right and privilege to install, construct, operate, maintain, inspect, reconstruct, repair, remove, and replace a municipal water main (the “Improvements”), within the Easement Area, solely for the purpose of, in connection with and in support of the installation, construction, operation, maintenance and, as needed from time to time, the repair, replacement, restoration and reconstruction of, the Improvements within the Easement Area (the “Easement”). Grantee acknowledges and agrees that this Easement is limited to and for the purposes stated herein and does not convey to Grantee any right to install, construct, operate, maintain, repair, replace, or remove any other utilities within the Easement Area including, without limitation, cable television service lines, and telecommunication, telephone, telegraph, electric, gas, and drainage facilities. Grantee shall not materially interfere with Grantor’s use and enjoyment of the Property.

Section 3. Grant of Ingress and Egress and Temporary Construction Easement Area. Subject to the terms and conditions of this Agreement, Grantor grants and conveys to Grantee and its employees, agents, licensees, representatives, successors and assigns (collectively, “Grantee’s Benefitted Parties”) a temporary right of ingress and egress to and from the Easement Area over the Property and the right to temporarily use that certain portion of the Property as described in Exhibit C attached hereto and incorporated herein by reference (the “Temporary Construction Easement Area”) in order for Grantee, or Grantee’s Benefitted Parties, to exercise their rights under this Agreement. Grantee acknowledges and agrees that construction may not take place inside the Temporary Construction Easement Area and outside the Easement Area, but that such area may be used for the exclusive purpose of storing non-hazardous materials and non-hazardous construction staging materials. Grantor acknowledges that Grantee and Grantee’s Benefitted Parties right of ingress and egress includes the right to move non-hazardous equipment and non-hazardous construction materials over the Property and onto the Temporary Construction Easement Area, which are necessary to construct the Improvements within the Easement Area. The Temporary Construction Easement Area granted herein shall terminate upon (i) the completion of the Improvements or (ii) May 1, 2027.

Section 4. Restoration of Surface Area. All construction, maintenance, repair and operation of the Improvements by Grantee and Grantee’s Benefitted Parties shall be performed in accordance with all applicable laws, rules, ordinances, and regulations. Grantee and any of Grantee’s Benefitted Parties shall use best efforts to construct, install, maintain, repair, replace and operate the Improvements and exercise the rights granted herein, so as not to materially interfere with the development, operation, and use and enjoyment of the Property. Grantee and any of Grantee’s Benefitted Parties shall use best efforts to restore the Property to its pre-existing condition promptly upon Grantee, or any of Grantee’s Benefitted Parties, completion of any installation, construction, operation, maintenance, reconstruction, removal or replacement, over or within the Easement Area with respect to the Easement. Grantee and any of Grantee’s Benefitted Parties shall have the right to remove from the Easement Area any encroaching trees, or other obstructions, in order to ensure the free and unobstructed use of the Easement Area by Grantee. Grantor herein covenants for itself, its grantees, successors and assigns that Grantor will not erect any buildings or other structures or obstructions on, over, or under the Easement Area, excepting therefrom streets, drives or other surface improvements of like nature or as otherwise expressly permitted by Grantee, in writing, and in accordance with the terms hereof, and which permission when in writing and executed and recorded by the parties shall run with the Property.

Section 5. Nature and Assignment of Easements and Rights. The Easement created herein shall be permanent and perpetual and, together with the rights and benefits thereof, shall inure to the benefit of Grantee and Grantee's Benefitted Parties. The Easement created by this Agreement, together with the burdens thereof and obligations associated therewith, shall (i) run with and bind the Property and Easement Area, and (ii) bind Grantor (as the owner of the Property and Easement Area) and its grantees, successors and assigns and Grantee and Grantee's Benefitted Parties. Each instrument which conveys, grants, transfers, creates, or assigns any interest in a part of the Property and Easement Area shall be deemed to impose as a limitation or restriction upon the Property and Easement Area, the burden of the Easement and the obligations associated therewith (whether or not the instrument of conveyance expressly imposes such limitation or restriction). Notwithstanding the foregoing, Grantor hereby reserves the right to (i) to use the land within the Easement Area for purposes not inconsistent with Grantee's use of such property and (ii) grant easements to other utility or service providers which may intersect or transect the Easement Area, provided that any such easement which intersects or transects the Easement Area shall be subject to the rights of Grantee herein, and shall not be incompatible with, or interfere with, the continuing use of the Easement Area.

Section 6. Insurance. Grantee shall maintain and shall cause its contractors to maintain (i) commercial general liability insurance with limits of not less than \$1,000,000 any one occurrence, \$2,000,000 products completed operations and in the aggregate which shall be maintained for three (3) years after completion of the work, (ii) workers' compensation insurance in statutory amounts and employer's liability insurance in the amount of \$500,000 each accident for bodily injury by accident, \$500,000 each employee for bodily injury by disease, and \$500,000 policy limit for bodily injury by disease, (iii) automobile liability insurance, including coverage for owned, non-owned, leased and hired autos, in the minimum amount of \$1,000,000, (iv) excess or umbrella insurance subject to minimum limits of \$4,000,000 per occurrence and in the aggregate sitting excess of the commercial general liability, automobile liability and employer's liability; and (vi) contractor's pollution insurance, to be carried by the Grantee's contractors only and not Grantee, in the amount of \$1,000,000 per claim which shall be maintained through the completion of the Improvements. All such insurance shall be primary and non-contributory to any insurance available to Grantor and Additional Insureds and all insurance (except for worker's compensation) shall include Grantor and any entity reasonably requested by Grantor as additional insureds (collectively, "Additional Insureds"). Grantee waives and shall cause its contractors to waive all rights of subrogation against Grantor and Additional Insureds for any liability and workers' compensation claims incurred in relation to the rights granted under this Agreement. Grantee shall provide a certificate of insurance to Grantor to evidence such insurance upon the request of Grantor.

Section 7. Indemnity. Grantee shall indemnify and hold Grantor and its and their employees, officers, divisions, subsidiaries, partners, members, and affiliated companies and entities and its and their employees, officers, shareholders, members, directors, agents, representatives, and professional consultants and its and their respective successors and assigns (collectively, the "Grantor Indemnitees") harmless from and against any loss, damage, injury, accident, fire or other casualty, liability, claim, cost, or expense (including, but not limited to, actual attorneys' fees) of any kind or character to any person or property (collectively, the "Claims" or a "Claim") from or by any unaffiliated third party, arising from or relating to (i) any use, construction, installation, operation, repair or maintenance of the Easement Area by Grantee or its

agents, (ii) any act or omission of Grantee or its agents, (iii) any bodily injury, property damage, accident, fire or other casualty to or involving Grantee or its agents and its or their property on the Easement Area or the Temporary Construction Easement Area, (iv) any violation or alleged violation by Grantee or its agents of any law or regulation now or hereafter enacted, (v) any loss or theft whatsoever of any property or anything placed or stored by Grantee or its agents on or about the Easement Area or Temporary Construction Easement Area, and (vi) any breach by Grantee of its obligations under this Easement; *provided, however*, that Grantee shall not indemnify the Grantor Indemnitees for any Claim arising from or relating to any Grantor Indemnitees' negligent or willful conduct. The terms and conditions of this provision shall remain effective, notwithstanding the expiration or termination of this Easement.

Section 8. Termination of Easement. This Easement shall remain in full force and effect so long as Grantee provides services to the Property and uses the Easement Area for the purposes stated in this Agreement. In the event Grantee no longer provides services to the Property or no longer uses the Easement Area for the purposes stated in this Agreement, this Easement shall, without the need for any action by any party, automatically terminate and Grantee shall at no cost and expense to Grantor promptly (i) remove Grantee's property from the Easement Area and (ii) provide documentation reasonably requested by Grantor, its successors and assigns or any title company, in order to evidence the termination of this Easement and/or remove this Easement from record within the applicable local government records.

Section 9. Defaults and Remedies. In the event of a breach, or attempted or threatened breach, by either party of any of the terms, covenants, or agreements hereof, the other party shall be entitled forthwith to full and adequate relief by injunction and/or all other available legal and equitable remedies. Notwithstanding the foregoing, if either party shall fail to cure such breach within ten (10) business days after written notice of such breach from the non-breaching party, or an additional reasonable time after such receipt if (a) such failure cannot be cured within such ten (10) business day period and (b) the defaulting party commences curing such failure within such ten (10) business day period and thereafter diligently pursues the curing of such failure, then the non-breaching party may (i) cure (but is under no obligation to cure) such default and (ii) recover from the breaching party all costs and expenses (including, but not limited to, actual attorney's fees) associated therewith, together with interest at the rate of three percent (3%) per annum over the prime rate published in the Wall Street Journal from time to time from the date the non-breaching party incurs such costs and expenses. In no event shall a breach result in a termination of this Agreement.

Section 10. Address and Notice. Grantee shall provide Grantor no less than ten (10) business days' written notice prior to entering onto the Property, unless immediate access is necessary to perform emergency repairs to the Improvements in which case Grantee may enter onto the Property with no prior notice to Grantor. All communications directed to the parties shall be sent to the following addresses:

If to Grantor:	AGNL Jerky L.L.C. c/o TPG Angelo Gordon 245 Park Avenue, 24 th Floor New York, NY 10167 Attn: Gordon J. Whiting
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With a copy to: AGNL Jerky L.L.C.
c/o TPG Angelo Gordon
245 Park Avenue, 24th Floor
New York, NY 10167-0094
Attn: Asset Management

With a copy to: Paul Hastings LLP
2050 M Street NW
Washington, DC 20036
Attn: Michael K. Berman, Esq.

If to Grantee: Town of Bristol, Indiana
303 E. Vistula Street
Bristol, Indiana 46507
Attn: Town Manager

With a copy to: Krieg DeVault LLP
4101 Edison Lakes Parkway, Suite 100
Mishawaka, Indiana 46545
Attn: George C. Lepeniotis, Esq.

Either party may change its address for the purpose of this Section by giving written notice to the other party at the address above (or to which the above has been validly changed pursuant to this Section). All notices required to be given under this Agreement shall be in writing, and shall be mailed by certified mail, return receipt requested, or deposited with a nationally recognized overnight delivery service, properly addressed to the party to be notified, at the address set forth above.

Section 11. Warranty of Grantor. Grantor hereby represents and warrants to Grantee that Grantor has fee simple title to the Property and that Grantor has the full authority to grant the Easement and to execute this Agreement.

Section 12. Due Authorization. Each undersigned person signing on behalf of a party in a representative capacity warrants and represents that: (i) said party is fully empowered and duly authorized by any and all necessary action or consent required to execute and deliver this Agreement for and on behalf of said party; (ii) said party has full capacity, power and authority to enter into and carry out its obligations under this Agreement; and (iii) this Agreement has been duly authorized, executed and delivered and constitutes a legal, valid and binding obligation of such party, enforceable in accordance with its terms.

Section 13. Severability. If any provision of this Agreement is held invalid, illegal, or unenforceable by any court of final jurisdiction, it is the intent of the parties that all other provisions of this Agreement be construed to remain fully valid, enforceable and binding on all parties.

Section 14. Modification. This Agreement may not be modified or amended, except pursuant to a written agreement in recordable form executed by each of the parties hereto.

Section 15. Entire Agreement. This Agreement constitutes the entire understanding and agreement between the parties and supersedes all prior agreements (whether written or oral), representations and understandings of the parties relating to the subject matter of this Agreement. No representations have been made to induce the other party to enter into this Agreement except as expressly set forth herein.

Section 16. Counterparts. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

Section 17. Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana, without regard to its principles of conflict of laws. All claims, disputes and other matters in controversy arising out of or related to this Agreement, or the performance or breach thereof, shall be decided in the Circuit or Superior Courts of Elkhart County, Indiana, and that such courts shall have sole and exclusive jurisdiction over the action or proceeding, unless agreed to otherwise, in writing, by the parties.

Section 18. Waiver. No party shall be deemed to have waived any right which it holds hereunder unless the waiver is made expressly and in writing (and, without limitation the generality of the foregoing, no delay or omission by any party in exercising any such right shall be deemed a waiver of its future exercise). No waiver shall be deemed a waiver as to any other instance or any other right.

Section 19. Construction and Interpretation. The terms “hereof”, “herein” and “hereunder”, and words of similar import, are to be construed to refer to this Agreement as a whole, and not to any particular section, paragraph, or provision, unless expressly so stated. All words or terms used in this Agreement, regardless of the number or gender in which they are used, are deemed to include any other number and any other gender as the context may require. This Agreement is to be construed without regard to any presumption or rule requiring construction against the party causing such document to be drafted or prepared. The terms “person” and “persons” used herein shall include natural persons and corporations, partnerships (general and limited), limited liability companies, firms, associations, trusts, estates, bodies politic, political subdivisions and other entities and organizations.

Section 20. Headings. Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.

[Remainder of Page Left Intentionally Blank. Signature Pages Follow.]

GRANTEE:

TOWN OF BRISTOL, INDIANA

By: _____

Name: Jeff Beachy

Title: Council President, Town of Bristol, Indiana

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, a Notary Public, in and for said County and State, personally appeared Jeff Beachy in his capacity as the Council President of the Town of Bristol, Indiana, who acknowledged the execution of the foregoing instrument, acting for and on behalf of said Town of Bristol, Indiana, and who acknowledged the execution of the foregoing instrument as his free and voluntary act and deed, for the uses and purposes therein set forth.

Witness my hand and Notarial Seal this ____ day of _____, 2024.

Notary Public

(SEAL)

Printed Signature

My Commission Expires:

My County of Residence:

[Signatures End.]

Prepared by:

George C. Lepeniotis, Esq.
Krieg DeVault LLP
4101 Edison Lakes Parkway, Suite 100
Mishawaka, Indiana 46545

Return after recording to:

Diana Campbell
Jones Petrie Rafinski
325 S. Lafayette Blvd
South Bend, IN 46601

I affirm, under penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law. /s/ George C. Lepeniotis, Esq.

Exhibit A

The Property

Exhibit A

Exhibit B

Easement Area

See attached.

Exhibit C

Temporary Construction Easement Area

See attached.