

REVIEWED

LEGAL COUNSEL

REVOCABLE LICENSE

DESCHUTES COUNTY a political subdivision of the State of Oregon ("Licensor") hereby grants to **TRENTON WAYNE LLC, DBA 97 Café** ("Licensee"), a non-exclusive revocable license to use County real property, described as approximately Five Hundred (500) square feet of space and use of the kitchen designated by Licensor on the first floor of the Deschutes Services Building located at 1300 NW Wall Street, Bend, Oregon 97703, together with necessary ingress and egress for such space, referred to herein as "the Premises."

RECITALS

Deschutes County is granting Licensee a non-exclusive, revocable license ("License") for that Licensee to use the Premises to operate a mobile food unit, as defined in Oregon Administrative Rules (OAR) 333-150-0000, 1-201.10(B)(48.1).

NOW THEREFORE, this nonexclusive, revocable license is granted upon the following terms and conditions:

1. Term. The effective date of this License shall be October 1, 2023, or the date on which the last party has signed this License, whichever is later, and shall continue through September 30, 2026 ("initial term"). Licensor and Licensee each reserve the right to terminate this License prior to its expiration with thirty (30) days written notice, given to the other party. Except as otherwise provided in this License, if the Licensee is not then in default and with Licensor's approval, Licensee has the option to renew this License for three (3) years by giving at least thirty (30) days written notice to Licensor prior to the expiration of the initial term. The additional term will be memorialized by a letter signed by the Licensor (Deschutes County Property Manager or County Administrator), and Licensee.
2. Rent. In exchange for the benefit the Licensee's service provides to the general public and public employees, this License is provided for zero cost during the initial and subsequent terms of this License.
3. Use of Premises. The Premises shall be used by Licensee for operation of a Class III mobile food unit, as defined in OAR 333-162-0020(2)(c). Licensee shall offer for sale to the general public food and beverages, including, but not limited to, sandwiches, soup, pastries, and fruit, as well as coffee, tea, soft drinks and juice. Licensee shall furnish customer seating and tables. Licensee shall provide all necessary materials and supplies for food and beverage preparation, service, and sanitation.
The Premises shall be used by Licensee for the purpose of operating Licensee's primary business, **97 Café**. Licensee, its principals or agents shall not use the Premises to operate a business other than that specified in this License and shall not use the Premises address as the business or mailing address for any other business than that specified in this License without obtaining the Licensor's written consent in advance.

4. Parking. Licensee, its employees, and clientele shall have a nonexclusive right to access and utilize vehicle unassigned public parking spaces in County parking lots. Licensee's employees will be required to adhere to the County Parking Policy and Regulations, which County in its sole discretion may amend from time to time.
5. Restrictions on Use. In connection with the use of the Premises, Licensee shall:
 - a. Conform to all applicable laws and regulations affecting the Premises and correct at Licensee's own expense any failure of compliance created through Licensee's fault or by reason of Licensee's use of the Premises. Licensee shall not be required to make any structural changes to affect such compliance, unless such changes are required because of Licensee's specific use.
 - b. Refrain from any use which would be reasonably offensive to the Licensor, other licensees, tenants, or owners or users of adjoining premises or unoccupied portions of the premises, or which would tend to create a nuisance or damage the reputation of the real property.
 - c. Refrain from making any unlawful or offensive use of said property or to suffer or permit any waste or strip thereof.
 - d. Exercise diligence in protecting the premises and adjoining common area from damage.
 - e. Be responsible for removing any liens placed on said property as a result of Licensee's use of licensed premises.
 - f. Comply with Lessor's policies, as periodically amended, regarding smoking, parking, fragrances, facilities maintenance, facilities use and violence in the workplace. Those policies are incorporated by reference herein and are available from Lessor upon request (copies of referenced policies were provided to Lessee prior to execution of this License).
 - g. Minimum hours of operation shall be Monday through Friday, between the hours of 7:30 a.m. and 2:00 p.m., excluding county holidays or other approved closures. If any exceptions to the above hours of operation are necessary, notice with brief explanation shall be given to Deschutes County Property Management.
6. Licensee's Obligations. The following shall be the responsibility of the Licensee:
 - a. Licensee shall not be required to make structural repairs that would place the Premises in a better condition than at the commencement of this License. Licensee may place partitions, personal property, and the like in the Premises and may make nonstructural improvements and alterations to the Premises at its own expense. Licensee may be required to remove such items at the end of the License term if required by Licensor. Licensee must obtain Licensor's express authorization prior to placing a fixture on the Premises.
 - b. Licensee, at its expense, shall keep Licensee's equipment and facilities in a first-class repair, operating condition, working order and appearance. Licensee shall also be responsible for any repairs to other property necessitated by its negligence or the negligence or wrongful acts of its agents, employees and invitees.

- c. Any repairs or alterations required under Licensee's obligation to comply with laws and regulations as set forth in "Restrictions on Use" above.
- d. Licensee warrants the honesty and integrity of all personnel Licensee employs or authorizes to operate Licensee's business on the Premises. Licensee shall notify Licensor in writing in advance of any changes in personnel having access to the Premises, including without limitation suspension, termination or resignation. Subject to security policies, practices and procedures, Licensee shall be granted access to and through Licensor's security access system in order to access the Premises in accordance with this License and shall be responsible for retrieving access keys or badges from Licensee's personnel who are no longer Licensee's authorized employees or representatives on the Premises.
- e. Licensee's signage and decorative accessories may be provided but must be approved by the Licensor prior to installation. Interior wall-mounted or free-standing signs and decorative accessories may also be allowed, but must not interfere with public traffic flow or County and State message boards. Placement of exterior signs, whether wall-mounted or free-standing, will be subject to the prior approval of the County's Facilities Department. Building exterior signs, if allowed, must also comply with the City of Bend sign code and be installed in accordance with all related City of Bend permit regulations. Printed flyers, menus, notices, announcements, and other promotional materials may be distributed among the neighboring buildings of the County's complex for the purposes of increasing customer traffic with prior approval of the Licensor.

7. Maintenance and Repair of Premises.

- a. Licensor shall perform all necessary maintenance and repairs to the structure, foundation, exterior walls, roof, doors and windows, elevators, emergency lighting, and Licensor-provided fire extinguishers, sidewalks, and parking area which are located on or serve the Premises. Licensor shall maintain the premises in a hazard free condition and shall repair or replace, if necessary and at Licensor's sole expense, the heating, air conditioning, plumbing, electrical, and lighting systems in the Premises, obtaining required permits and inspections from Code enforcement authorities, and shall keep the Premises, improvements, grounds and landscaping in good repair and appearance replacing dead, damaged or diseased plant materials when necessary.
- b. Should Licensor fail to maintain the Premises in accordance with above requirements, and after at least fourteen (14) days prior written notification to Licensor, Licensee may terminate the license.
- c. Licensee shall maintain its facilities and equipment on the Premises so as to impact in the least possible way Licensor's equipment, facilities and personnel.
- d. Licensee shall also secure its personal property on the Premises in a clean, safe and sanitary condition when not in use and at the close of daily business.
- e. Licensee shall take good care and keep clean the interior of the Premises, and at the expiration of the term surrender the Premises in as good condition as at the

commencement of this License, excepting only reasonable wear, permitted alterations, and damage by fire or other casualty.

8. Utilities and Services. Licensor shall provide adequate heat, electricity, water, air conditioning, trash removal service, and sewage disposal service for the Premises and janitorial services for the common areas of the building. Licensee shall provide its own janitorial services for the Premises.
9. Liens.
 - a. Except with respect to activities for which the Licensor is responsible, the Licensee shall pay as due, and as may be applicable, all property taxes, all claims for work done on and for services rendered or material furnished to the licensed premises and shall keep the property free from any liens. If Licensee fails to pay any such claims or to discharge any lien, Licensor may do so and collect the cost from Licensee. Any amount so expended shall bear interest at the rate of nine percent (9%) per annum from the date expended by Licensor and shall be payable on demand. Such action by Licensor shall not constitute a waiver of any right or remedy which Licensor may have on account of Licensee's default.
 - b. Licensee may withhold payment of any claim in connection with a good faith dispute over the obligation to pay, so long as Licensor's property interests are not jeopardized. If a lien is filed as a result of nonpayment, Licensee shall, within thirty (30) days after knowledge of the filing, secure the discharge of the lien or deposit with Licensor cash or a sufficient corporate surety bond or other surety satisfactory to Licensor in an amount sufficient to discharge the lien plus any costs, attorney fees and other charges that could accrue as a result of a foreclosure or sale under a lien.
10. Insurance.
 - a. It is expressly understood that Licensor shall not be responsible for carrying insurance on any property owned by Licensee.
 - b. Licensee will be required to carry fire and casualty insurance on Licensee's personal property on the Premises.
 - c. Licensor will carry fire and casualty insurance only on the structure where Premises are located.
 - d. Subject to the limitations and conditions of the Oregon Tort Claims Act, ORS 30.260 through 30.300, and the Oregon Constitution, Article XI, Section 7, Licensee shall carry commercial general liability insurance, on an occurrence basis with a combined single limit of not less than limitations set forth in ORS 30.272. Licensee may fulfill its obligations through a program of self-insurance pursuant to applicable law. Licensee shall provide Licensor with a certificate of insurance, as well as an endorsement, naming Deschutes County, its officers, agents, employees and volunteers as an additional insured. There shall be no cancellation, termination, material change, or reduction of limits of the insurance coverage during the term of this License.

- e. As applicable, Licensee shall provide to Licensor proof of workers compensation insurance or a legally established program of self-insurance for workers compensation claims, or certify exemption from the requirement under ORS 656.
 - f. Indemnification: Licensor and Licensee shall each be responsible for and defend, indemnify and hold the other harmless for losses, costs or claims due to the negligent and wrongful acts of their employees, agents and invitees. Licensor's liability exposure is limited by the Oregon Constitution, Article XI, and Oregon Revised Statutes 30.260 through 30.300.
11. Casualty Damage. If the Premises or improvements thereon are damaged or destroyed by fire or other casualty to such a degree that the Premises are unusable for the purpose Licensed, and if repairs cannot reasonably be made within ninety (90) days, Licensee may elect to cancel this License. Licensor shall in all cases promptly repair the damage or ascertain whether repairs can be made within ninety (90) days, and shall promptly notify Licensee of the time required to complete the necessary repairs or reconstruction. If Licensor's estimate for repair is greater than ninety (90) days, then Licensee, upon receiving said estimate will have twenty (20) days after such notice in which to cancel this License. Following damage, and including any period of repair, Licensee's rental obligation shall be reduced to the extent the Premises cannot reasonably be used by Licensee.
12. Surrender of Licensed Premises. Upon abandonment, termination, revocation or cancellation of this License or the surrender of occupancy of any portion of or structure on the Licensed premises, the Licensee shall surrender the real property or portion thereof to Licensor in the same condition as the real property was on the date of possession, fair wear and tear excepted, except, that nothing in this License shall be construed as to relieve Licensee of Licensee's affirmative obligation to surrender said premises in a condition which complies with all local, state or federal environmental laws, regulations and orders applicable at the time of surrender that was caused by Licensee or occurred during the term of this License. Upon Licensor's written approval, Licensee may leave site improvements authorized by any land use or building permit. Licensee's obligation to observe and perform this covenant shall survive the expiration or the termination of the License.
13. Nonwaiver. Waiver by either party of strict performance of any provision of this License shall not be a waiver of or prejudice of the party's right to require strict performance of the same provision in the future or of any other provision.
14. Default. Neither party shall be in default under this License until written notice of its unperformed obligation has been given and that obligation remains unperformed after notice for fifteen (15) days in the case of the payment or for thirty (30) days in the case of other obligations. If the obligation (other than payment) cannot be performed within the thirty-day period, there shall be no default if the responsible party commences a good faith effort to perform the obligation within such period and continues diligently to complete performance. In case of default the non-defaulting party may terminate this License with thirty (30) days' notice in writing to the defaulting party, shall be entitled to recover damages or any other remedy provided by applicable law, or may elect to perform the defaulting party's obligation. The cost of such performance shall be immediately recoverable from the defaulting party plus interest at the legal rate for judgment.

15. Notices. Notices between the parties shall be in writing, effective when personally delivered to the address specified herein, or if mailed, effective 48 hours following mailing to the address for such party specified below or such other address as either party may specify by notice to the other:

Licensor: Deschutes County Property Management
Property Manager
14 NW Kearney Avenue
Bend, Oregon 97701
Phone: 541-385-1414
Email: Kristie.Bollinger@deschutes.org

Mail to: P.O. Box 6005
Bend, OR 97708

Licensee: Trenton Way LLC, dba 97 Café
Corina Burger and Chloe Marshall
2974 NE Dogwood Drive
Bend, OR 97701
Phone: Corina @ 541-408-3653, Chloe @ 541-213-4029
Email: corina75@live.com and chloervibe@icloud.com

16. Assignment. Licensee shall not assign or sub-rent the premises without the prior written consent of the Licensor.

17. Attorneys' Fees. In the event a suit or action of any kind is instituted on behalf of either party to obtain performance under this License or to enforce any rights or obligations arising from this License, each party will be responsible for paying its own attorney fees.

18. Authority. The signatories to this agreement covenant that they possess the legal authority to bind their respective principals to the terms, provisions and obligations contained within this agreement.

19. MERGER.

THIS LICENSE CONSTITUTES THE ENTIRE LICENSE BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION OR CHANGE OF TERMS OF THIS LICENSE SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH PARTIES. SUCH WAIVER, CONSENT, MODIFICATION OR CHANGE, IF MADE, SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS LICENSE. LICENSOR, BY THE SIGNATURE BELOW OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT LICENSOR HAS READ THIS LICENSE, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

[SIGNATURE PAGES FOLLOW]

LICENSOR:

DATED this ____ day of _____, 2023

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ANTHONY DEBONE , Chair

PATTI ADAIR, Vice-Chair

Recording Secretary

PHIL CHANG, Commissioner

[SIGNATURE PAGE FOLLOWS]

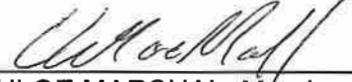
LICENSEE:

DATED this 20th day of September, 2023

TRENTON WAYNE LLC,
DBA 97 CAFÉ



CORINA BURGER, Member



CHLOE MARSHAL, Member



DAVID BURGER, Member

