

LICENSE AGREEMENT

PRIVATE PARKING AND IMPROVEMENTS IN PUBLIC RIGHT-OF-WAY

THIS LICENSE AGREEMENT ("Agreement") is made and entered into this ____ day of _____, 2025, by and between the CITY OF DOUGLAS, an Arizona municipal corporation ("City"), and **Kim V. & Luis A. Peralta**, husband and wife ("Licensee").

RECITALS

WHEREAS, the City owns and maintains public rights-of-way within its jurisdictional boundaries; and

WHEREAS, Licensee owns property adjacent to that certain City right-of-way depicted on Exhibit A ("City ROW") and desires to utilize a portion of the City ROW for private parking and to make certain improvements thereto; and

WHEREAS, the City is willing to permit such use and improvements on the City ROW subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. GRANT OF LICENSE

1.1 The City hereby grants to Licensee a non-exclusive license to use and improve a portion of the City ROW as described in Exhibit B, ("Licensed Area"), for the purpose of private parking and the related improvements set forth on Exhibit C.

1.2 This license is revocable and is not intended to convey any real property interest or easement.

1.3 This license shall not be construed as waiving any regulatory requirement of the City, including but not limited to permits, inspections, or fees.

1.4 This Agreement and the use of the Licensed Area is not exclusive and does not grant Licensee exclusive access or possession to the Licensed Area. The City and anyone acting for, on behalf of or through the City shall at all times have access to the Licensed Area for any purpose not inconsistent with this Agreement and, further, the City shall have the right to access and use the Licensed Area for municipal purposes at any time.

2. TERM

2.1 The initial term of this Agreement shall be for a period of five (5) years commencing on the date first written above.

2.2 This Agreement may be renewed for additional five (5) year terms upon written agreement of both parties, provided Licensee is not in default of any provisions of this Agreement.

2.3 Either party may terminate this Agreement without cause upon one hundred eighty (180) days' written notice to the other party.

3. AUTHORIZED IMPROVEMENTS

3.1 Licensee is authorized to make the following improvements to the Licensed Area at Licensee's sole expense: a. Paving and striping of parking spaces; b. Installation of curbs, wheel stops, and parking barriers; c. Installation of drainage features; d. Installation of lighting for the parking area; e. Landscaping and irrigation systems; f. Signage identifying the parking area as private parking; and g. Other improvements as specifically approved in writing by the City.

3.2 Prior to installation of any improvements, Licensee shall submit detailed plans and specifications to the City's Public Works Department for review and approval.

3.3 All improvements shall comply with applicable building codes, Americans with Disabilities Act requirements, and City standards and ordinances.

3.4 Licensee shall obtain all necessary permits prior to commencing any work.

3.5 Any modifications to approved improvements shall require additional review and approval by the City.

3.6 Licensee will not commit or suffer any act or neglect whereby the Licensed Area shall at any time during the term of this Agreement become subject to any attachment, judgment, lien, charge or encumbrance whatsoever, including mechanics' and materialmen's liens, and will indemnify, defend, save and hold the City and the Licensed Area harmless from and against all loss, cost and expense with respect thereto.

4. MAINTENANCE OBLIGATIONS

4.1 Licensee shall, at its sole expense, maintain the Licensed Area and all improvements thereon in good condition and repair at all times.

4.2 Maintenance responsibilities shall include, but not be limited to: a. Pavement maintenance and repair; b. Snow and ice removal; c. Cleaning and debris removal; d. Maintenance of drainage facilities; e. Landscape maintenance; f. Repair and replacement of lighting fixtures; and g. Maintenance and repair of signage.

4.3 Licensee shall promptly address any maintenance issues identified by the City and shall correct such issues within thirty (30) days of notice, or sooner if the condition creates a public safety hazard.

4.4 If Licensee fails to maintain the Licensed Area as required, the City may, after providing written notice and a reasonable opportunity to cure, perform necessary maintenance at Licensee's expense and Licensee shall reimburse the City within five (5) days of receipt of the invoice for the maintenance performed by the City. Unpaid invoices will accrue interest at the rate of 12% per annum on the amount due until paid in full

5. UTILITY SERVICE

5.1 Licensee shall be responsible for arranging and paying for all utility services necessary for the operation and maintenance of the Licensed Area.

5.2 Licensee shall ensure that all utility connections comply with applicable codes and obtain necessary permits prior to installation.

5.3 Licensee acknowledges that the Licensed Area may contain existing public utilities and agrees that: a. Any improvements shall not interfere with existing utilities; b. The City and utility providers shall have the right to access, maintain, and repair utilities within the Licensed Area; and c. Licensee shall be responsible for any costs associated with relocating or protecting utilities to accommodate improvements.

6. FEES

6.1 Licensee shall pay an annual license fee of **\$0.00** to the City, due on the anniversary date of this Agreement. Any license fee not received within five (5) days of the date it is due will be charged interest at the rate of 12% per annum on the amount due until paid in full.

6.2 The City may adjust the annual license fee upon renewal of this Agreement, with written notice to Licensee.

6.3 In addition to the annual license fee, Licensee shall pay all applicable permit fees for improvements and any other fees required by City ordinance.

7. USE RESTRICTIONS

7.1 The Licensed Area shall be used solely for parking by Licensee, its employees, customers, invitees, and authorized users.

7.2 No commercial activities other than parking shall be conducted within the Licensed Area without prior written approval from the City.

7.3 Licensee shall not store or permit the storage of inoperable vehicles, equipment, materials, or debris within the Licensed Area.

7.4 Licensee shall not use or permit the use of the Licensed Area in any manner that would constitute a public or private nuisance.

7.5 Signage shall comply with City sign regulations and shall not obstruct visibility for traffic safety.

7.6 Licensee shall not use, generate, manufacture, treat, handle, refine, produce, process, store, discharge, release, dispose of or allow to exist on, under or about the Licensed Area any flammable explosives, radioactive materials, asbestos, organic compounds known as polychlorinated biphenyls, chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances or related materials, including without limitation any substances defined as, or included in, the definition of "hazardous substances", "hazardous wastes", "hazardous materials", or "toxic substances" under any federal, state or local laws, ordinances or regulations, now or hereafter in effect, relating to environmental conditions, industrial hygiene or hazardous materials, including without limitation the Comprehensive

Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., the Clean Water Act, 33 U.S.C. Section 1251, et seq., the Clean Air Act, 42 U.S.C. Section 7401, et seq., the Toxic Substances Control Act, 15 U.S.C. Section 2601 through 2629, the Safe Drinking Water Act, 42 U.S.C. Sections 300f through 300j, and any similar state and local laws and ordinances and the regulations now or hereafter adopted and published and/or promulgated pursuant thereto.

8. INSURANCE AND INDEMNIFICATION

8.1 Licensee shall maintain, at its sole expense, commercial general liability insurance with limits of not less than \$2,000,000 per occurrence and \$4,000,000 aggregate, naming the City as an additional insured.

8.2 Licensee shall provide certificates of insurance to the City prior to installation of any improvements and annually thereafter.

8.3 Licensee shall defend, save, indemnify, and hold harmless the City, its agents, representatives, officers, directors, officials, and employees, for, from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, court costs, expert witness fees, and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the acts, errors, omissions, or mistakes by Licensee or Licensee's employees, customers, invitees or authorized users (collectively "Licensee Parties") relating to Licensee or Licensee Parties' use of the Licensed Area or other actions under this Agreement.

9. COMPLIANCE WITH LAWS

9.1 Licensee shall comply with all applicable federal, state, and local laws, ordinances, rules, and regulations in the performance of this Agreement.

9.2 Licensee shall obtain all necessary permits and approvals prior to installation of any improvements.

10. DEFAULT AND REMEDIES

10.1 The following shall constitute events of default: a. Failure to maintain the Licensed Area as required by this Agreement; b. Failure to maintain required insurance; c. Failure to pay any fees when due; d. Unauthorized modifications to improvements; e. Use of the Licensed Area for unauthorized purposes; or f. Any other material breach of this Agreement.

10.2 Upon default by Licensee, the City shall provide written notice of such default. Licensee shall have thirty (30) days from receipt of such notice to cure the default.

10.3 If Licensee fails to cure the default within the specified time period, the City may: a. Terminate this Agreement; b. Require removal of improvements and restoration of the Licensed Area at Licensee's expense; c. Perform necessary maintenance or repairs at Licensee's expense; or d. Pursue any other legal remedies available to the City. If the City performs the necessary maintenance or repairs, Licensee shall reimburse the City within five (5) days of receipt of the

invoice for the maintenance or repairs performed by the City. Unpaid invoices will accrue interest at the rate of 12% per annum on the amount due until paid in full

11. REMOVAL OF IMPROVEMENTS

11.1 Upon termination or expiration of this Agreement, Licensee shall, at its sole expense, remove all improvements from the Licensed Area and restore the area to its original condition within ninety (90) days, unless otherwise directed by the City.

11.2 If Licensee fails to remove improvements as required, the City may remove the improvements and restore the area at Licensee's expense and Licensee shall reimburse the City within five (5) days of receipt of the invoice for the cost of the removal performed by the City. Unpaid invoices will accrue interest at the rate of 12% per annum on the amount due until paid in full.

11.3 At the City's sole discretion, the City may allow certain improvements to remain in place upon termination of this Agreement, in which case such improvements shall become the property of the City without compensation to Licensee.

12. ASSIGNMENT

12.1 This Agreement may not be assigned or transferred by Licensee without the prior written consent of the City, in the City's sole discretion.

12.2 If Licensee sells or transfers the property adjacent to the Licensed Area, this Agreement shall terminate unless the City consents in writing to an assignment to the new property owner, in the City's sole discretion.

13. NOTICES

13.1 All notices required under this Agreement shall be in writing and delivered by certified mail, return receipt requested, or by personal delivery to the addresses below:

To City: City of Douglas Attn: City Manager 425 E. 10th Street, Douglas, AZ 85607.

To Licensee: [LICENSEE NAME] Attn: [CONTACT PERSON] [ADDRESS] [CITY, STATE ZIP]

14. GENERAL PROVISIONS

14.1 This Agreement, including Exhibit A, Exhibit B and Exhibit C, constitutes the entire agreement between the parties and supersedes all prior agreements and understandings, whether oral or written.

14.2 This Agreement may be modified only by a written amendment signed by both parties.

14.3 This Agreement shall be construed and interpreted under, and governed and enforced according to the laws of the State of Arizona, without giving effect to the principles of conflicts of law. The parties agree that should any court action be commenced relating to this Agreement, that the Cochise County Superior Court shall be the appropriate and exclusive venue therefore. The

parties expressly waive any and all provisions of law providing for a change of venue to any other state or federal court.

14.4 The parties hereby agree to make a good faith effort to resolve any controversy or claim through informal negotiations. Any claim of controversy must first be presented in writing, with supporting documentation, to the agent of the other party. The recipient shall have seven (7) days to prepare and deliver a response. Thereafter, in the event that there is a dispute hereunder which the parties cannot resolve between themselves, the parties agree to attempt to settle the dispute by nonbinding arbitration before commencement of litigation. The arbitration shall be held under the rules of the American Arbitration Association. The matter in dispute shall be submitted to an arbitrator mutually selected by Licensee and the City. In the event that the parties cannot agree upon the selection of an arbitrator within seven (7) days, then within three (3) days thereafter, the City and Licensee shall request the presiding judge of the Superior Court in and for the County of Cochise, State of Arizona, to appoint an independent arbitrator. The cost of any such arbitration shall be divided equally between the City and Licensee. The results of the arbitration shall be nonbinding on the parties, and any party shall be free to initiate litigation subsequent to the final decision of the arbitrator.

14.5 This Agreement is subject to the conflict-of- interest provisions set forth in A.R.S. § 38-511.

14.6 Each and every provision of law and any clause required by law to be in the Agreement shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Agreement shall forthwith be physically amended to make such insertion or correction.

14.7 If any provision of this Agreement is held invalid or unenforceable, the remainder of the Agreement shall not be affected thereby.

14.58 Nothing in this Agreement shall be construed to make the parties partners or joint venturers.

14.9 The City's rights and remedies under this Agreement are cumulative and in addition to all other rights and remedies available at law or in equity.

14.10 This Agreement may be executed in counterparts, each of which shall be deemed an original.

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

CITY OF DOUGLAS

By: _____ [NAME], Mayor

Attest:

[NAME], City Clerk

LICENSEE

By: _____ Kim V. Peralta, Owner

_____ Luis A. Peralta, Owner

EXHIBIT A

CITY RIGHT OF WAY



EXHIBIT B

DESCRIPTION OF LICENSED AREA

The Right of Way located adjacent to the west of parcel 410-18-039B commencing at the northwest corner of parcel 410-18-039B, thence westerly a distance of 29 feet, thence continuing in a southerly direction, parallel to the western boundary line of said parcel a distance of 190 feet, thence easterly a distance of 29 feet ending at the southwest corner of parcel 410-18-039B. Said Right of Way containing 5,510 square feet more or less. Western edge of Right of Way shall end before the existing City owned sidewalk on North A Avenue between 19th and 20th Street.

EXHIBIT C

APPROVED IMPROVEMENTS

- **Short-term improvements:** Repair existing potholes and landscape the area with gravel to improve functionality and appearance until able to move forward with permanent upgrades (asphalt).
- **Long-term improvements:** Fill the entire area with asphalt to create a more formal and durable parking area for tenant use.
- **Lighting:** No additional lighting is planned at this time beyond the existing dusk-to-dawn pole light, which currently is maintained and paid for by Licensee.
- **Landscaping:** Add light vegetation, such as shrubs, at the north and south ends of the property to enhance curb appeal

