

STATE OF TEXAS           §  
  §  
BRAZORIA COUNTY       §

## VENDING LICENSE AND INDEMNITY AGREEMENT

WHEREAS, Rob and Erin Fleischer created Texas Hometown Heroes, LLC. (“THH Vending” or “LICENSEE”) to support their son Collin Fleicher, who has autism; and

WHEREAS, stocking vending machines provides Collin a job with a learning experience to utilize the many skills he learned while participating in summer internships through the HEART Program at The Houston Food Bank; and,

WHEREAS, they have made a request for the City of Iowa Colony to allow placement of THH Vending machines in the lobby of the Police and Public Safety Building; and

WHEREAS, on March 3, 2025, the City Council voted to approve the request by Rob and Erin Fleischer of THH Vending for the placement of vending machines in the lobby of the Police and Public Safety Building; and

WHEREAS, the city council deemed it a municipal purpose to provide refreshments to citizens using the Police and Public Safety Building and to further the support of Collin, and therefore have waived any fees or compensation for this minimal use of city property; and,

WHEREAS, the City Council is agreeable to said project, subject to the execution of this non-exclusive Vending License and Indemnity Agreement;

NOW, THEREFORE, the City of Iowa Colony approves this Vending License and Indemnity Agreement with Licensee, in consideration of the promises, covenants, and conditions as follows:

### 1. Parties

1.01 The Parties hereto are the City of Iowa Colony (“CITY”) and Texas Hometown Heroes, LLC. (“THH Vending”) (“LICENSEE”). LICENSEE is a Healthier4U Vending affiliate.

### 2. License

2.01 License. The CITY hereby grants a non-exclusive license to LICENSEE and agrees to the placement of:

(a) A certain number and size of Healthier4U vending machines in the lobby of the Police and Public Safety Building.

(b) Final placement and number and size/type of machines shall be subject to final approval by

the city manager or his designee.

(c) This license is hereby granted for the Police and Public Safety Building lobby located at 3144 Meridiana Parkway, Iowa Colony, Brazoria County, Texas ("Property").

2.02 Use. The LICENSEE agrees that this license is based upon the stated use (placement and servicing of food and drink vending machines).

2.03 Term. The term shall be for one year beginning on date of city council approval and shall automatically renew annually without further action by either party. This License may terminate upon the cessation of said use by LICENSEE, or upon either side terminating for convenience by providing the other party with 30 calendar days written notice.

2.04 Fee. LICENSEE shall pay to the CITY no fee for the license to use the city property. The fee shall be \$0.00 dollars (\$00.00).

### 3. Conditions

3.01 The CITY and LICENSEE agree that the License is granted subject to the following conditions, terms and reservations:

- a) The LICENSEE must keep the machines well stocked. Restocking shall be done at times that will provide minimum disturbance to the use of the council chambers, such as when municipal court is in session.
- b) The LICENSEE must upkeep and maintain the machines.
- c) LICENSEE shall provide a visible phone number to call for users to complain or discuss malfunctions and such. In no way shall city staff be called upon to investigate malfunctions, lost money matters, etc.
- d) The LICENSEE must not create or allow any nuisances or insect infestation on the property.
- e) At such time as this License is expired, terminated or canceled, for any reason whatsoever, LICENSEE shall promptly remove all machines, and LICENSEE shall restore the premises in accordance with the requirements of the city manager. If LICENSEE fails to remove all machines, then the CITY shall have the right to do all work necessary or cause such machines to be removed and/or stored and assess the costs against LICENSEE and the CITY shall in no case be liable to LICENSEE.
- f) LICENSEE shall obtain and keep in place a general liability insurance policy of not less than \$500,000 in coverage and **shall name the City of Iowa Colony as an additional insured**. LICENSEE shall provide, or cause to be provided, in advance, notice to the CITY of ANY termination or change in coverage.

3.02 Temporary cessation. LICENSEE agrees to temporarily remove the machines at request of the CITY, if needed because of the CITY's temporary maintenance or construction activity within the property.

3.03 Permits. This license is subject to health laws and regulations, and all state and federal laws,

the provisions of The Charter of the City of Iowa Colony as it now exists or as it may hereafter be adopted or amended, and the ordinances of the City of Iowa Colony now in effect or those which may hereafter be passed, adopted, or amended. The LICENSEE must apply for and receive any necessary vending machine permits from the pertinent City boards or departments.

#### 4. Indemnity

4.01 To the fullest extent permitted by law, the LICENSEE, and each person, firm, corporation, association, or entity of any kind (hereinafter "person") performing any work or activity on behalf of LICENSEE, shall indemnify, defend, and hold the CITY harmless from any claim or liability associated with the activity permitted by this License.

The LICENSEE shall promptly defend, indemnify, and hold CITY harmless from and against all damages, costs, losses, or expenses:

(1) For the repair, replacement, or restoration of CITY's property, equipment, materials, structures, and facilities which are damaged, destroyed, or found to be defective solely as a result of the user's acts or omissions; and

(2) From and against any and all claims, demands, suits, causes of action, and judgments for:

a. Damage to or loss of the property of any person (including, but not limited to, the user, its agents, officers, employees, and subcontractors, and the CITY, its agents, officers, and employees, and third parties); and/or

b. Death, bodily injury, illness, disease, loss of services, or loss of income or wages to any person (including, but not limited to, the officers, agents, and employees of the user, the user's contractors, and the CITY's officers, agents, and employees, and third parties), arising out of, incident to, concerning, or resulting from, the negligent or willful acts or omissions of the user, its officers, agents, employees, and/or subcontractors, in the performance of activities pursuant to the LICENSEE use of CITY's property. This indemnity provision is intended to include liability arising from CITY's alleged negligence, but only to the extent such liability arises out of a claim or claims that the CITY was negligent in authorizing the LICENSEE to use or occupy the public property or in failing to prevent the LICENSEE from acting in a negligent or wrongful manner.

c. For purposes of this indemnification provision, acts or omissions of the officer, agents, employees and contractors of the LICENSEE shall be considered the acts and omissions of the LICENSEE. The indemnity provision set forth above is solely for the benefit of CITY and is not intended to create or grant any rights, contractual or otherwise, to any other person.

4.02 LICENSEE shall never make any claim of any kind or character against the CITY for damages that it may suffer by reason of the installation, construction, reconstruction, operation, and/or maintenance of any public improvement or utility, whether presently in place or which may in the future be constructed or installed, including but not limited to, any water or sanitary sewer mains, or storm sewer facilities, and whether such damage is due to flooding, infiltration, natural causes or from any other cause of whatsoever kind or nature.

It is LICENSEE's intention, and a condition of this license, that this provision shall constitute a full and total indemnity against any kind or character or claim whatsoever that may be asserted against the CITY by reason of, or a consequence of having granted permission to LICENSEE to use and maintain the property. LICENSEE agrees to defend any and all suits, claims, or cause of action brought against the CITY on account of same and discharge any judgment or judgments that may be rendered against the CITY in connection herewith. Such indemnity shall apply on a proportional basis, where the claims, losses, damages, causes of action, suits or liability arise in part from the negligence of the CITY and in part from the act or omission of any representative, or employee of LICENSEE.

## 5. General Provisions

5.01 This Agreement constitutes the entire agreement between the CITY and LICENSEE. No agreements, modifications, implied or otherwise, shall be binding on any of the parties unless set forth in writing and signed by both parties.

5.02 The phrases, clauses, sentences, paragraphs or sections of this license to use agreement are severable and, if any phrase, clause, sentence paragraph, or section of this license to use agreement should be declared invalid by the final decree or judgment of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Agreement.

5.03 Any notice required to be given pursuant to the terms and provisions of this Agreement shall be in writing and shall be mailed by certified or registered mail, addressed as set forth below, or at such other address as may be specified by written notice:

**CITY OF IOWA COLONY:**

Attn: City Manager Office  
3144 Meridiana Pkwy  
Iowa Colony, TX 77583

**LICENSEE:**

Texas Hometown Heroes, LLC. ("THH Vending")  
1311 Sandpiper Ct. S  
Pearland, TX 77584  
thhvending@gmail.com

5.04 The CITY and LICENSEE agree that this Agreement shall be construed in accordance with the laws of the State of Texas. Venue for any dispute arising out of this License Agreement shall lie in a court of competent jurisdiction in Brazoria County, Texas.

Executed on this the \_\_\_\_\_ day of \_\_\_\_\_, 2025.

LICENSEE:

By: \_\_\_\_\_

\_\_\_\_\_  
Authorized signatory(ies)

Texas Hometown Heroes, LLC. (“THH Vending”)

Executed on this the \_\_\_\_\_ day of \_\_\_\_\_, 2025.

CITY OF IOWA COLONY, TEXAS

By: \_\_\_\_\_  
Wil Kennedy, Mayor

ATTEST:

\_\_\_\_\_  
Kayleen Rosser, City Secretary