

REVOCABLE LICENSE AND AGREEMENT

THIS REVOCABLE LICENSE (“Revocable License” or “License”) is hereby issued as of the _____ day of _____, 2018, by THE CITY OF NORMAN, OKLAHOMA, A Municipal Corporation, (“City”), to Garner Crossing, LLC (“Licensee”).

RECITALS

WHEREFORE, Licensee obtained a Certificate of Compliance under the Center City Form Based Code for the Premises, as defined below, in Case No. CCFBC-17-2 on December 13, 2017 (“Original Certificate”) based upon the site plan attached hereto as Exhibit A.

WHEREFORE, Licensee subsequently approached the City regarding its request to place certain Licensed Improvements on the Premises, as described below, and, as part of said request, obtained approval for a new site plan demonstrating these Licensed Improvements, as described below, by obtaining a Material Modification to its Certificate of Compliance, which Modification was approved on May 21, 2018 (“Modified Certificate”). The site plan upon which the Modified Certificate is based is attached hereto as part of Exhibit B.

WHEREFORE, the City and Licensee wish to enter into an agreement whereby the Licensed Improvements may be placed by Licensee within the public right-of-way subject to certain limitations and conditions.

LICENSE AND AGREEMENT

WITNESSETH, the parties hereto, for the consideration hereinafter expressed, covenant and agree as follows:

1. City hereby permits Licensee, subject to the rights and easements hereinafter excepted and reserved and upon the terms and conditions hereinafter set forth, to use the following described land situated in Norman, Cleveland County, State of Oklahoma, as exhibited and described on the attached “Exhibit C” made a part hereof (“Premises”), for a term beginning on _____, 2018 and ending when this License shall be terminated as hereafter provided. This License is issued solely for the purpose of the installation and maintenance of stoop features, each consisting of a landing and attached staircase that are removable and are attached by secure bolts to three multi-unit dwellings fronting James Garner Avenue (“Licensed Improvements”). A rendering of the Licensed Improvements, as well as specifications regarding the design and installation requirements of the removable stoop structures, is included in the attached “Exhibit B” made a part hereof. The Licensee may not make any improvements on the Premises that are unrelated to or not necessitated by the Licensed Improvements, and the Licensed Improvements are only permitted to the extent they are compliant with the applicable Code of Ordinances for the City of Norman, Oklahoma and federal law. The Licensee may not use the Premises for any other purpose under the terms of this License and Agreement.

2. City hereby excepts and reserves the right, to be exercised by City and by any others who have obtained or may obtain permission or authority from City so to do, (a) to operate, maintain, renew and relocate any and all existing utilities, pipe, power, and communication lines and appurtenances and other facilities of like character upon, over, or under the surface of the Premises; and (b) from time to time to construct, operate, maintain, renew and relocate such additional facilities

of the same character. City shall incur no liability to Licensee for any damages to the Licensed Improvements or the Premises that may occur during the operation, maintenance, renewal, relocation of any or all existing utilities, pipes, power or communication lines, appurtenances, or facilities, and in all instances it shall remain the responsibility of Licensee to ensure that the Licensed Improvements remain complaint with the applicable Code of Ordinances for the City of Norman, Oklahoma and federal law.

3. Licensee shall pay to City for the use of the Premises as follows: One Hundred Eighty-seven and 95/100 Dollars (\$187.95) per year payable in advance without demand. This fee is due and owing on or before the date this License is issued and thereafter shall be payable on or before the first day of each annual anniversary of such date thereafter. If the fee remains unpaid for thirty days after payment is due, the penalty shall be equal to 10% of the annual amount due for each month that the fee remains unpaid. Upon termination by either party pursuant to this agreement, any non-vested portion of the annual fee paid in advance by Licensee will be refunded, on a pro-rata basis, to Licensee by City.

4. Licensee shall use the Premises exclusively for the Licensed Improvements to the multi-unit dwellings fronting James Garner Avenue as reflected on Exhibit B and Exhibit C and made a part hereof. Prior to installation of any item comprising the Licensed Improvements, engineered plans and/or drawings must be submitted to and approved by the City of Norman Public Works Department. Any deviation from the approved plans may be grounds for revocation of this License.

5. Licensee shall allow City to enter upon the Premises at reasonable times for the purpose of inspection. Should Licensee not comply fully with the above-stated obligations of this section, notwithstanding anything contained in the termination for cause section hereof, City may, at its option, terminate this License by serving five (5) days' notice of termination upon Licensee; but any waiver by City of any breach of Licensee's obligations shall not constitute a waiver of the right to terminate this Lease for any subsequent or continued breach which may occur, or to enforce any other provision of this License. Upon termination, Licensee shall be governed by Sections 15 and 16 of this License regarding Licensee's surrender of possession of the Premises. Any termination of the License herein will not serve to terminate any other obligations by Licensee under this Agreement.

6. Licensee shall keep and maintain the Premises and Licensed Improvements in such safe, sanitary and sightly condition as shall be satisfactory to City. If Licensee fails or refuses within fifteen (15) days after receipt of any request by City so to do, City may, at its option, perform such work, and in such event, Licensee shall, within thirty (30) days after the rendition of bill therefore, reimburse City for the cost so incurred.

7. In using the Premises, and in constructing, maintaining, operating and using the Licensed Improvements thereon, Licensee shall comply with any and all requirements imposed by federal or state statutes, or by ordinances, orders, or regulations of any governmental body having jurisdiction thereover. Licensee shall promptly pay and discharge any and all liens arising out of any construction, alteration or repair work done, or suffered or permitted to be done, by Licensee on the Premises, and City is hereby authorized to post any notices or take any other action with respect to the Premises that is or may be permitted by law to prevent the attachment of any such liens to the Premises; provided, however, that failure of City to take any such action shall not relieve Licensee of any obligation or liability under this or any other paragraph hereof.

8. Licensee shall indemnify, defend and hold harmless City against all actions or causes of action, claims, liability, loss, cost, damage or expense, or whatever kind and nature, including but not limited to those arising under the Federal Employer's Liability Act, or under any Workers' Compensation Act, and any amendment to said Acts now or hereafter in effect, including attorney fees and other expenses of litigation, and including any suit instituted to enforce the obligations of this provision, which City may sustain or incur, or for which it may become liable, by reason of use of, damage to or destruction of property, including the loss of use thereof and lost profits, or by reason of injuries, including death, to any person or persons including, but not limited to, the person or property of the parties hereto and their employees (hereafter "Loss and Damage"):

(1) Arising out of, or directly or indirectly due to, any failure by Licensee to satisfy, promptly and faithfully, its obligations under this License;

(2) Arising out of, or directly or indirectly due to, any accident or other occurrence whatsoever causing injury, including death, to any person or persons or damage to or destruction of any property, including the loss of use thereof and lost profits, resulting from the use, occupancy or condition of the Premises and Improvements by Licensee, its employees, invitees and licensees; and

(3) Arising out of any mechanic's lien or other lien, tax, assessment or charge of any and every nature that may at any time be established against the Premises or the Improvements, or any part thereof, as a consequence, direct or indirect, of the existence of Licensee's interest under this Lease.

No settlement by Licensee for Loss and Damage shall affect City's right to indemnity, contribution or defense under this agreement.

Upon written notice from City, Licensee agrees to assume the defense of any lawsuit, administrative action or other proceeding brought against City by any public body, individual, partnership, corporation, or other legal entity, relating to any matter covered by this License for which Licensee has an obligation to assume liability for and/or to save and hold harmless the City. Licensee shall pay the entire costs incident to such defense, including, but not limited to, attorneys' fees, investigators' fees, litigation expenses, settlement payments, and amounts paid in satisfaction of judgments. Any and all lawsuits or administrative actions brought or threatened on any theory of relief available at law, in equity or under the rules of any administrative agency shall be covered by this Section, including, but not limited to, the theories of intentional misconduct, negligence, breach of statute or ordinance, or upon any theory created by statute or ordinance, state or federal.

9. Neither Licensee, nor the heirs, legal representatives, successors or assigns of Licensee, nor any subsequent assignee, shall assign or transfer this Revocable License and Agreement or any interest herein, without the written consent and approval in each instance of City.

10. In case of the eviction of Licensee by anyone owning or claiming title to or any interest in the Premises, City shall not be liable to Licensee for any damage of any nature whatsoever, or to refund any fee paid hereunder, except the proportionate part of any fee paid in advance.

11. If any fee shall be due and unpaid, or if default shall be made in any of the covenants or agreements of Licensee herein contained, or in the case of any assignment or transfer of this License by operation of law, City may, at its option, terminate this License by serving five (5) days' notice in writing upon Licensee; but any waiver by City of any default or defaults shall not constitute a waiver of the right to terminate this License for any subsequent default or defaults.

12. This License may be terminated for any reason at any time by either party by serving thirty (30) days' written notice of termination upon the other party, stating therein the date that such termination shall take place, and upon the expiration of the time specified in such notice, this License and all rights of Licensee hereunder shall absolutely cease and terminate.

13. Any notice to be given by City to Licensee hereunder shall be deemed to be properly served if deposited in the United States mail, postage prepaid, addressed to Licensee at Garner Crossing, LLC c/o Peter J. Petromilli, Managing Member, 14708 Stone Manor Dr., Oklahoma City, OK 73142. Any notice to be given hereunder by Licensee to City shall be deemed to be properly served if the same be deposited in the United States mail, postage prepaid addressed to: The Office of the City Clerk, P.O. Box 370, Norman, Oklahoma 73070.

14. Upon the termination of this License in any manner herein provided, Licensee shall forthwith surrender to City the possession of the Premises and shall, at its own cost, remove the Licensed Improvements and shall complete construction or otherwise restore the structures to which the Licensed Improvements were attached in conformance with the site plan attached as Exhibit A hereto. In the case Licensee shall fail within thirty (30) days after the date of such termination to perform such construction or restoration in conformance with Exhibit A, then City may, at its election to be exercised within thirty (30) days thereafter, remove the Licensed Improvements and perform such construction or restoration in conformance with Exhibit A, and in such event Licensee shall, within thirty (30) days after the rendition of bill therefore, reimburse City for the cost so incurred. If the Licensee fails to remove the Licensed Improvements, and the City is required to remove the Licensed Improvements, the City may take and hold the Licensed Improvements as its sole property.

15. If Licensee fails to surrender to City the Premises, upon any termination of this License, all the liabilities and obligations of Licensee hereunder shall continue in effect until the Premises are surrendered; and no termination hereof shall release Licensee from any liability or obligation hereunder, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or the date, if later, when the Improvements are removed and the Premises restored or City elects to take and hold the Improvements as its sole property as hereinabove in Paragraph 15 provided.

16. Upon termination of this License by the City, Licensee further agrees and covenants that it will, at its own cost, perform any construction or restoration necessitated by Exhibit A in conformance with the applicable Code of Ordinances of the City of Norman, including but not limited to the Center City Form Based Code set forth in Section 22-429.7 of the Norman City Code.

17. All the covenants and agreements of Licensee herein contained shall be binding upon the heirs, legal representatives, successors and assigns of Licensee and shall inure to the benefit of the successors and assigns of City.

IN WITNESS WHEREOF, this License has been duly executed in duplicate by the parties hereto as of the date and year first above written.

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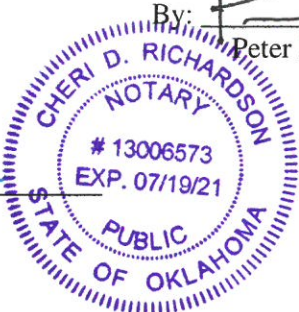
LICENSEE:

Garner Crossing, LLC

By: [Signature]
Peter J. Petromilli, Managing Member

ATTEST:

[Signature]
Secretary



CITY:

APPROVED by the Norman City Council this _____ day of _____, 2018.

By: _____
MAYOR

ATTEST:

City Clerk

APPROVED as to legality and form this 7th day of June, 2018.

[Signature]
City Attorney