

REVOCABLE LICENSE FOR USE OF PUBLIC RIGHT OF WAY OR PUBLIC PLACE

THIS REVOCABLE LICENSE FOR USE OF PUBLIC RIGHT OF WAY OR PUBLIC PLACE is granted this 10th day of October, 2023, (the "Effective Date") by the Town of Frisco, a home rule municipal corporation, ("Town"), whose address is 1 Main Street, Frisco, Colorado 80443, to Unsheltered in Summit, ("Licensee") whose address is 45 Gingerquill Court, Dillon, Colorado 80435.

- A. The Town owns the public place which is commonly known as the Marina Trailhead Lot (the "Trailhead Lot").
- B. Licensee desires to utilize the Trailhead Lot for the winter of 2023 – 2024 for a Transitional Shelter Facility, to be operated and maintained by licensee as the Summit Safe Parking Program.
- C. Pursuant to Town Charter, the Code of the Town of Frisco ("Town Code") and the laws of the State of Colorado, the Town is vested with power and authority over the use of municipally owned streets, rights-of-way and other public places.
- D. The Town is willing to grant a revocable license to Licensee to allow Licensee to use the property to operate the Summit Safe Parking Program (the "Program"), under certain circumstances and with certain conditions and stipulations.
- E. The intent of this License is to authorize, on a revocable basis, the installation and operation of the Private Activities upon Town property without cost or liability to the Town.

LICENSE

NOW THEREFORE, in consideration of the mutual promises, covenants and obligations of the Parties hereto, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound, the Town and the Licensee agree as follows:

1. Grant of Revocable License.

The Town hereby grants to Licensee a non-exclusive and revocable authorization (the "License") to install and operate the Summit Safe Parking Program Transitional Shelter Facility on Town property, provided, however, that as conditions to the License, the Licensee shall:

- (i) install and maintain the Program facilities only within the boundaries of the area described in paragraph B above; and
- (ii) operate the Program only in accordance with the operating conditions and criteria as determined as part of the land use permit application and review for the Program.

The rights granted under this License are expressly subject to the rights of the public and any rights granted previously by the Town to any person. The Town may enforce this License either by seeking damages or by specific performance or through any other legal or equitable remedy available to the Town.

2. Design, Installation, Operation and Maintenance.

a. The Licensee shall pay all costs of design, installation, operation and maintenance of the Program. Upon revocation of the License as provided herein and upon the Town's demand, Licensee shall pay all costs and perform all removal of the Private Activities/Improvements from the Town ROW and, as applicable, shall pay all costs of and be responsible for returning the land surface to substantially the same condition that it is on the Effective Date.

b. This License shall not operate or be construed to abridge, limit or restrict the Town in exercising its right to make full use of the public places, nor shall it operate to restrict utility companies or any other Licensees in exercising their rights to construct, remove, operate and maintain their installations within the Public Place.

c. Licensee hereby assumes full responsibility for any and all damages incurred to public facilities, utilities or other private activities and/or improvements located within the Public Place due to activities authorized by this License.

d. Licensee shall cooperate with Town officials in the installation, removal, replacement or alteration of the facilities related to the Program and shall maintain the Program facilities in a good and attractive condition during the term of the License.

e. Licensee acknowledges that it is installing, removing, replacing or altering the Program facilities at its own peril. Licensee is solely responsible for any damage to the Program facilities caused by Town personnel, or the Town's Licensees or subLicensees, in connection with conducting maintenance or emergency operations in the Public Place.

3. Repair of Damages

Licensee shall promptly repair all damage to the Public Place caused by its activities. If such damage poses a threat to health, safety or welfare of the public or individuals, the Town may cause repairs to be made at Licensees' expense unless the Licensee makes such repairs upon the Town's request.

4. Term.

This License shall commence on the Effective Date and shall terminate on such date as the Town may revoke this License. This License may also terminate upon Licensee's request so long as Licensee removes all Program facilities and returns the Public Place to substantially similar condition as that prior to installation and operation of the Program.

5. Revocation.

a. Town may revoke this License upon five (5) calendar days' written notice to Licensee and upon the occurrence of any one or more of the following events:

(i) Breach of this License by Licensee including, without limitation, the failure to maintain the Program facilities in a good and attractive condition, after Licensee has failed to cure such breach for a period of two (2) calendar days from receipt of written notice of such breach by Licensee from Town.

(ii) A unilateral decision by the Town Council of the Town that the Town property is desired or beneficial for any purpose.

b. Upon revocation, Licensee shall, at Licensee's sole cost, remove the Program facilities and restore the Public Place to substantially the same condition that it is in on the Effective Date.

c. Upon revocation, this License shall terminate, be deemed null and void and of no further force and effect.

d. In the event that Licensee fails to remove the Program facilities by the 5th day after the Town delivers notice of revocation to the Licensee, the Town may remove or cause the Program facilities to be removed. The Town may collect the cost of removal from the Licensee and the Licensee agrees to pay such cost promptly upon written demand therefore. Licensees further agree that, upon the failure to pay such costs within thirty (30) days after written demand therefore, the Town shall have the right to file a lien, in the dollar amount of such cost, against any and all real property owned by the Licensee, which lien may be foreclosed upon in the manner provided in Colorado Statutes for the judicial foreclosure of liens.

6. Notice.

Every notice required or permitted hereunder shall be in writing and shall be deemed to have been fully given when delivered by hand or upon delivery when sent by overnight mail, to the party's address set forth in the introductory paragraph of this License or at such other address as a party may designate, in writing, to the other party.

7. Indemnification.

Licensee expressly agrees to, and shall, indemnify and hold harmless the Town and any of its officers, agents, or employees from any and all claims, demands, damages or liability, including costs and attorneys' fees, that are incurred by the Town or that may be awarded as a result of any loss, injury or damage sustained or claimed to have been sustained by anyone, including but not limited to, any person, partnership, or corporation, in connection with or arising out of any act, omission, error, mistake, negligence, or other fault of the Licensee or any of such Licensee's agents, partners, contractors, subcontractors, or lessees, in the installation, construction, use or maintenance of the Program facilities. Licensee further agrees that should it fail to indemnify the Town as required in this Paragraph 7, the Town shall have the right to file a

lien, in the dollar amount for which the Licensee has failed to indemnify the Town, against any and all real property owned by the Licensee or its assignees, which lien may be foreclosed upon in the manner provided in Colorado Statutes for the judicial foreclosure of liens.

8. Insurance.

Licensee shall obtain and maintain at all times during the term hereof, at Licensee's sole cost and expense, a policy or policies of comprehensive general liability insurance with limits of coverage of not less than \$1,000,000 for injuries, damages or losses sustained by any one person in any one accident or event, and not less than \$1,000,000 for injuries, damages or losses incurred by two or more persons in any one accident or event. The Town shall be named as an additional insured on all such policies and Licensee shall furnish the Town with a copy of such policy or policies prior to the effective date hereof. Notwithstanding anything contained herein to the contrary, Town may terminate this Agreement, and the License granted to Licensee, if Licensee fails to procure and maintain the insurance required by this Paragraph 8.

9. Miscellaneous Provisions

a. Waiver of Breach. A waiver by any party to this License of the breach of any term or provision of this License shall not operate or be construed as a waiver of any subsequent breach by any party.

b. Binding Effect. This License shall inure to the benefit of, and be binding upon, the parties, their respective legal representatives, successors, heirs, and assigns; provided, however, that nothing in this paragraph shall be construed to permit the assignment of this License except as otherwise expressly authorized herein.

c. Underlying Intent and Scope. It is the intent of this License that the Town shall incur no cost or expense attributable to or arising from the installation, construction, maintenance, or operation of the Program facilities authorized by this License and that, in all instances, the risk of loss, liability, obligation, damages, and claims associated with the Program shall be borne by the Licensee. This License does not confer upon the Licensee any other right, permit, license, approval, or consent other than that expressly provided for herein and this License shall not be construed to waive, modify, amend, or alter the application of any other federal, state, or local laws, including laws governing zoning, land use, property maintenance, or nuisance.

d. No Third Party Beneficiaries. Nothing contained in this License is intended to or shall create a contractual relationship with, cause of action in favor of, or claim for relief for, any third party. Absolutely no third-party beneficiaries are intended by this License. Any third party receiving a benefit from this License is an incidental and unintended beneficiary only.

e. Governing Law, Venue, And Enforcement. This License shall be governed by and interpreted according to the law of the State of Colorado. Venue for any action arising under this License shall be in the appropriate court for Summit County, Colorado.

