

**GROUND LEASE AGREEMENT  
For Gate Improvements/Encroachment  
Campbell Cove Investments, LLC**

This Ground Lease Agreement ("Agreement") by and between Lake Havasu City, an Arizona municipal corporation ("City"), and Campbell Cove Investments, LLC ("Lessee"), both individually referenced as the "Party" and collectively referenced as the "Parties," is effective as of \_\_\_\_\_, 2019 ("Effective Date"). The Parties agree as follows:

**1. Property:**

City is the owner of real property described as Parcel K in Tract 2290, Lake Havasu City, Arizona, and further identified and described in the attached Exhibit "A" ("Property"). Lessee desires to lease a twenty by thirty foot (20'x30') portion of the Property from the City for the improvement and encroachment of a gate, further identified and described in the attached Exhibit "B" ("Lease Area").

**2. Use:**

- 2.1 City agrees that Lessee may locate improvements necessary for the placement and operation of a gate on the Lease Area pursuant to the provisions of this Agreement. Lessee shall assume all costs and liability, including construction and maintenance costs and insurance, for any and all improvements made to and use of the Lease Area related to this Agreement.
- 2.2 Lessee shall be responsible for all utilities to and all maintenance and repair of the Lease Area and any improvements to the Lease Area. Lessee shall not allow the accumulation of litter of any kind on the Lease Area. Any signage on the Lease Area must be approved by City in writing prior to displaying.
- 2.3 Lessee shall not construct any permanent improvements to the Lease Area without the prior written consent of City. At the end of the Agreement, the title to any improvements automatically vests with City. Lessee agrees to keep the Lease Area free and clear of any liens for services, construction, or otherwise.
- 2.4 If requested by City, any improvements installed by Lessee not wanted by the City shall be removed by Lessee upon evacuation of the Lease Area. City shall inspect the Lease Area after evacuation of Lessee to insure that the Lease Area has been returned to as good as, or better, condition than existing when the Leased Area was first leased to Lessee.
- 2.5 Lessee acknowledges that it has inspected the Lease Area, is familiar with the condition of the Lease Area and accepts Lease Area "as is" in its present condition, with no representation by, or, or from City. City disclaims any warranty, expressed or implied, regarding the condition, use, or fitness of the Lease Area. City makes no guarantee of the security of Lessee's property.

**3. Term.**

The term of this Agreement shall be for one hundred twenty (120) months, commencing on the Effective Date, subject to termination as set forth in this Agreement.

**4. Termination.**

- 4.1 Either Party may terminate this Agreement upon sixty (60) calendar days' written notice to the other Party without consequence to either Party. Lessee, upon written notice of termination of this Agreement by either Party, shall vacate the Lease Area within sixty (60) calendar days upon receipt of the written notice. Upon termination of this Agreement and the vacating of the Lease Area by Lessee, Lessee shall deliver possession of the Lease Area to City in the condition which is contractually required under the terms and conditions of this Agreement including, but not limited by enumeration to, all intended improvements and maintenance required to be performed by Lessee during the term of this Agreement.
- 4.2 Lessee agrees to vacate Lease Area promptly upon termination of this Agreement. If Lessee fails to vacate Lease Area, Lessee authorizes City to remove all personal property from the Lease Area and in this event Lessee waives any and all claims for damages against City. Nothing herein shall be deemed a waiver of any other rights of City to demand and obtain possession of the Lease Area in accordance with the law.

**5. Default.**

In the event of any breach of this Agreement by Lessee, City shall notify the Lessee in writing of the breach, and Lessee shall have thirty (30) days in which to cure the breach. If Lessee fails to cure the breach of default within the time limit, then City, in addition to other rights or remedies City may have, shall have the immediate right of re-entry and may remove all persons and property from the Lease Area.

**6. Rent.**

- 6.1 Lessee agrees to remit to City an annual rent of \$363.52 (8% of \$4,544.02 Full Cash Value) payable in advance and due by February 1<sup>st</sup> of each year, except the first payment, which is due upon execution of this Agreement.
- 6.2 Rent is payable to "Lake Havasu City, Arizona" submitted to Administrative Services Department, Attention Accounts Receivable, 2330 McCulloch Blvd. N., Lake Havasu City, Arizona 86406.
- 6.3 Delinquent Payment: Payment is delinquent when thirty (30) calendar days or more past the due date. A late fee in the amount of ten percent (10%) of the past due balance will be assessed for each delinquent payment.
- 6.4 Lessee shall be solely responsible for, and shall pay the cost of, constructing or installing utility hookups from existing utility installations to the Lease Area and the Lessee shall be responsible for, and shall pay the cost of, all utility services consumed on the Lease Area.
- 6.5 Commencing on the second year of this Agreement, rent shall be adjusted annually based on the most currently published Consumer Price Index for all Urban Consumers, West B/C Category, published by the U.S. Bureau of Labor Statistics.

**6.6 Additional Payments:** Lessee shall pay during the term of this Agreement, without notice and without abatement, deduction, or setoff, all sums, impositions, costs, expenses, and other payments and all taxes, including personal property taxes and taxes on tents, leases or occupancy, if any, and government property improvement lease excise tax, assessments, special assessments, enhanced municipal services district assessments, water and sewer rents, rates, and charges, charges for public utilities, excises, levies, licenses, and permit fees, and other governmental or quasi-governmental charges of any kind related to Lessee's occupancy and use of the Lease Area during the Agreement.

**6.7 GPLET Notice:** In accordance with Arizona Revised Statutes § 42-6206, Lessee is notified of its potential tax liability under the Government Property Lease Excise Tax ("GPLET") provisions of state law. Failure of Lessee to pay the tax after notice and opportunity to cure, if applicable, could result in termination of this Agreement.

**7. Regulatory Requirements:**

**7.1** Lessee will promptly observe and comply with all present and future laws, ordinances, requirements, rules, and regulations of all governmental authorities having or claiming jurisdiction over the Lease Area of any part thereof. Lessee will procure every permit, license, certificate, or other authorization required in connection with the lawful and proper use of the Lease Area or required in connection with any building, structure, or improvement erected on the Lease Area.

**7.2** Lessee covenants and agrees not to use, generate, release, manage, treat, manufacture, store, or dispose of, on, under, or about, or transport to for from the Lease Area any hazardous materials. If any of the above occurs, Lessee covenants and agrees to pay all costs and expenses associated with enforcement, removal, remediation, or other governmental or regulatory actions, agreements, or orders threatened, instituted or completed, and shall be responsible to notify the appropriate regulatory agencies regarding any such spill. Lessee shall notify City immediately of any spill or leak of hazardous substance on the Lease Area.

**8. Right of Entry Upon Lease Area:**

City and its agents and employees shall have the right to enter the Lease Area at all reasonable times to inspect and determine if Lessee is performing the terms and conditions required of Lessee under this Agreement and to post reasonable notices as City may desire to protect its rights.

**9. Indemnification.**

**9.1** City shall not at any time be liable for injury or damage occurring to any person or property from any cause whatsoever arising out of Lessee's construction, maintenance, repair, use, operation, condition or dismantling of the Lease Area.

**9.2** To the fullest extent permitted by law, Lessee agrees to indemnify, defend, save, and hold harmless the City, its departments, agencies, boards, commissions, officers, officials,

agents, volunteers, and employees ("Indemnatee") for, from, and against any and all claims, actions, liabilities, damages, costs, losses, or expenses (including, but not limited to, court costs, attorneys' fees, and costs of claim processing, investigation and litigation) to which any Indemnatee may become subject, under any theory of liability ("Claims") by reason of any of the following: (i) any act or omission by Lessee, or its employees, contractors, subcontractors, agents, or representatives, undertaken in fulfillment of Lessee's obligation under this Agreement; (ii) any use or nonuse of, or any condition created by Lessee on the Lease Area or any part thereof; (iii) any accident, injury to or death of persons (including workmen) or loss of or damage to property occurring on or about the Lease Area or any part thereof; (iv) performance of any labor or services of the furnishing of any materials or other property with respect to the Lease Area of any part thereof; (v) any failure on the part of Lessee to comply with the matters set forth in Section 7 (Regulatory Requirements) of this Agreement, including by not limited to any failure by Lessee to clean up any hazardous materials; and (vi) all Claims relating to or arising from design, construction, and engineering acts or omissions related in any way to, of, or in connection with Lessee's work and improvements to the Lease Area. This Indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation law or arising out of the failure of Lessee to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. Lessee agrees it will be responsible for primary loss investigation, defense, and judgement costs where this indemnification is applicable. The amount and type of insurance coverage requirements of this Agreement will in no way be construed as limiting the scope of the indemnity in this Section. Lessee's obligations under this Section survive expiration or earlier termination of this Agreement.

## **10. Insurance.**

**10.1** Lessee agrees to procure and maintain, until all obligations under this Agreement are satisfied, insurance against claims for injury to persons or damage to property, which may arise from or in connection with the use of the Lease Area. These insurance requirements are minimum requirements and in no way limit the indemnity covenant contained in this Agreement. The City in no way warrants that these minimum limits are sufficient to protect the Lessee from liabilities that might arise out of the performance of the services under this Agreement, and Lessee is free to purchase additional insurance.

**10.2 Minimum Scope and Limits of Insurance:** Lessee shall provide coverage with limits of liability not less than those stated below.

A. Commercial General Liability – Occurrence Form Policy should include bodily injury, property damage, personal injury, and broad form contractual liability:

General Aggregate	\$2,000,000.00
Each Occurrence	\$1,000,000.00

a. The policy shall be endorsed to include the following additional insured language: "Lake Havasu City, Arizona, its departments, agencies, boards, commissions, officers, officials, agents, volunteers, and employees shall be named as additional insured with respect to liability arising out of the activities performed by or on behalf of and the use of the Property by Lessee."

b. The policy shall contain a waiver of subrogation against the City, its departments, agencies, boards, commissions, officers, officials, agents, volunteers, and employees for losses arising out of the activities performed by or on behalf of and the use of the Property by Lessee.

**10.3** Lessee's insurance coverage shall be primary insurance with respect to all other available sources. Coverage provided by the Lessee shall not be limited to the liability assumed under the indemnification provisions of this Agreement.

**10.4** Each insurance policy required by the insurance provisions of this Agreement shall not be suspended, voided, cancelled, reduced in coverage or in limits without ten (10) business days' written notice from the insurer to the City. Notice shall be mailed directly to City [Lake Havasu City, Attention: City Attorney's Office/Contracts, 2330 McCulloch Blvd. North, Lake Havasu City, AZ 86403] and shall be sent by certified mail, return receipt requested.

**10.5** Lessee shall furnish to City certificates of insurance required by this Agreement. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. Certificates shall be mailed directly to City [Lake Havasu City, Attention: City Attorney's Office/Contracts, 2330 McCulloch Blvd. North, Lake Havasu City, AZ 86403]. If requested, complete copies of insurance policies shall be provided to City. Include Agreement title, date, and purpose on each certificate of insurance. All certificates and endorsements are to be received and approved by the City within ten (10) business days of the effective date of this Agreement. Each insurance policy required by this Agreement must be in effect at or prior to the commencement of the Agreement and must remain in effect for the duration of the Agreement. Failure to maintain the insurance policies as required by this Agreement or to provide timely evidence of renewal will be considered a material breach of the Agreement and the City may terminate this Agreement immediately.

**10.6** Notice of Cancellation: Each insurance policy required by the insurance provisions of this Agreement shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days prior written notice has been given to City. Such notice shall be sent directly to the address listed in Section 10 "Notice" of this Agreement and shall be sent by certified mail, return receipt requested.

**10.7** Acceptability of Insurers: Insurance is to be placed with duly licensed or approved non-admitted insurers in the State of Arizona with an "A.M. Best" rating of not less than A-VII. City in no way warrants that the above-required minimum insurer rating is sufficient to protect Lessee from potential insurer insolvency.

**10.8 Verification of Coverage:** Lessee shall furnish City with certificates of insurance as required by this Agreement. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by City before the lease term commences. Each insurance policy required by this Agreement must be in effect at or prior to the commencement of the Agreement and must remain in effect for the duration of the Agreement. Failure to maintain the insurance policies as required by this Agreement or to provide timely evidence of renewal will be considered a material breach of the Agreement. All certificates required by this Agreement shall be sent directly to City at the address listed in Section 12 (Notice) of this Agreement. The City reserves the right to require complete, certified copies of all insurance policies and endorsements required by this Agreement at any time.

**11. Assignment:**

Lessee may not assign its rights in this Agreement without the written consent of the City; and it shall extend to and be binding upon the heirs, executors, administrators, successors, and assigns of the Parties hereto.

**12. Notice:**

Notices hereunder shall be made in writing and shall be deemed to have been duly given when personally delivered or when deposited in the mail, first class postage prepaid, or delivered to an express carrier, charges prepaid, or sent by facsimile with electronic confirmation, addressed to each Party at its address below:

To City: Lake Havasu City  
Attn: City Attorney  
2330 McCulloch Blvd. N.  
Lake Havasu City, AZ 86403

To Lessee: Campbell Cove Investments, LLC  
c/o Dick Wooding  
1515 Industrial Blvd.  
Lake Havasu City, AZ 86403

The Parties may change their designees by providing written notice to the addressees above.

**13. Partial Invalidity:**

If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

**14. Integration:**

This Agreement and any attachments referenced herein represent the entire Agreement between the Parties and supersede any and all prior negotiations or representations, either

written or oral. Amendments or modifications to the Agreement shall be in writing, signed by both Parties.

**15. Governing Law:**

The laws of the State of Arizona shall be applied in interpreting and construing this Agreement.

**16. Waiver of Performance:**

No failure by City or Lessee to insist upon the strict performance of any term or condition hereof or to exercise any right, power or remedy consequent upon a breach thereof and no submission by Lessee or acceptance by City of full or partial rent during the continuance of any such breach shall constitute a waiver of any such breach or of any such term. No waiver of any breach shall affect or alter this Agreement, which shall constitute in full force and effect, nor the respective rights of Lessee or City with respect to any other then existing or subsequent breach.

**17. No Partnership; No Third Party Rights:**

Nothing contained in this Agreement shall create any partnership, joint venture or other arrangement between City and Lessee. Except as expressly provided herein, no term or provision of this Agreement is intended to or shall be for the benefit of any person not a party

**18. Section Headings:**

The section headings contained in this Agreement are for purposes of convenience and reference only and shall not limit, describe or define the meaning, scope or intent of any of the terms or provisions hereof. All grammatical usage herein shall be deemed to refer to the masculine, feminine, neuter, singular, plural as the contract may require.

**19. Multiple Originals:**

This Agreement may be signed in duplicate originals for the purpose of providing each Party with an executed original.

**20. Conflict of Interest:**

This Agreement may be cancelled in accordance with Arizona Revised Statutes ("A.R.S.") §38-511.

**21. Lawful Presence:**

If applicable, Lessee shall comply with A.R.S. §§ 1-501 and 1-502 with regard to demonstrating lawful presence in the United States when applying to receive a public benefit.

**22. No Boycott of Israel:**

If applicable, Lessee certifies that it is not currently engaged in, and agrees for the duration of this Agreement that it will not engage in, a boycott of Israel, as that term is defined in ARS § 35-393.

**22. Signatures:**

This Agreement is effective as of the date first written above.

LAKE HAVASU CITY:

\_\_\_\_\_  
Cal Sheehy, Mayor

ATTEST:

\_\_\_\_\_  
Kelly Williams, City Clerk

APPROVED AS TO FORM:

Kelly Garry  
Kelly Garry, City Attorney

CAMPBELL COVE INVESTMENTS, LLC

Dick Wooding  
Dick Wooding, Owner-Lessee,

STATE OF ARIZONA )  
COUNTY OF Mohave ) ss.

This instrument was acknowledged before me this 28<sup>th</sup> day of January, 2019, by  
Dick Wooding on behalf of Campbell Cove Investments, LLC.

Janet L. Halley  
Notary Public

(Notary Seal)

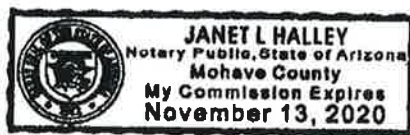




Exhibit "A"  
Tract 2290, Parcel "K"

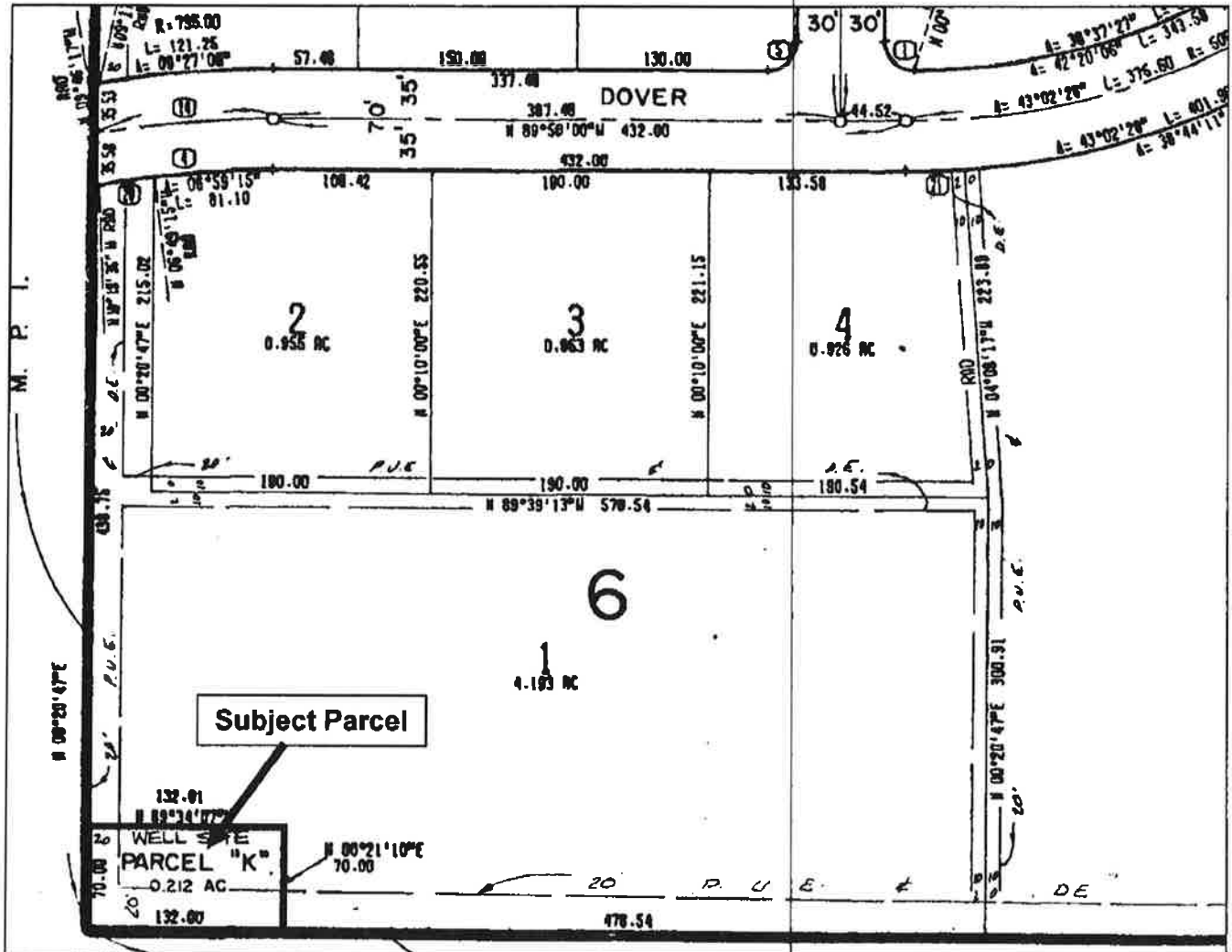


Exhibit "B"  
Lease Area

