

**GROUND LEASE AGREEMENT
For Refuse Enclosure
Partnership for Economic Development**

This Ground Lease Agreement ("Agreement") by and between Lake Havasu City, an Arizona municipal corporation ("City"), and Partnership for Economic Development, Inc. ("Lessee"), is entered into November 5, 2021, the parties agree as follows:

1. PARCEL AND USE

City owns in fee simple certain real property described as approximately 84 square feet (12'x7') of open space adjacent to the City-owned parking lot on a portion of Tract 161, Block 2, Lot 24, 2160 Mesquite Avenue, Lake Havasu City, Arizona, further identified and described in Exhibit "A" attached hereto and incorporated herein ("Parcel"). Lessee desires to lease the Parcel from City for the placement of a refuse enclosure. City agrees that Lessee may locate a refuse enclosure on Parcel pursuant to the provisions of this Agreement.

2. PURPOSE

Lessee and City agree that the Parcel will be used for the sole purpose of the placement of a refuse enclosure. No excavation other than for refuse enclosure activities will be performed on the Parcel. Lessee must construct and maintain the refuse enclosure and screening in accordance with City codes and regulations.

3. TERM

The term of this Agreement shall be for ten (10) years, commencing on the date first written above. Lessee shall have the right of first refusal to execute a new Ground Lease Agreement with City for Parcel upon the natural expiration of this Agreement.

4. TERMINATION

Either party may terminate this Agreement upon one hundred and eighty (180) days written notice to the other party without consequence to either party unless otherwise stated in this Agreement. Lessee, upon written notice of termination of this Agreement by either party, shall vacate the Parcel within one hundred and eighty (180) days upon receipt of the written notice. The parties may also mutually agree to terminate this Agreement at any time. Upon termination of this Agreement and the vacating of the Parcel by Lessee, Lessee shall deliver possession of the Parcel 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.

5. DEFAULT

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

6. EXCLUSIVE USE

The parties agree that the Lessee shall have exclusive right to use the Parcel, except City reserves the right to use the Parcel for drainage and utility purposes.

7. RENT

A. Lessee shall pay rent to City annually on the first day of October in the amount of \$42.00.

i. Rent is calculated as follows:

Current Parcel value equals total square footage of Parcel at \$10.00 per square foot, which is \$840.00 (84 sq. ft x \$10.00 = \$840). City requires 5% return on value of property annually for the term of the Agreement. Parcel value multiplied return on value equals \$42.00 per year for the term of the lease.

ii. Commencing on the fifth year of this Agreement, rent shall be adjusted based on the increase in the Consumer Price Index for all Urban Consumers, West-C Category, published by the U.S. BUREAU OF LABOR STATISTICS, as of December 31, 2021, and every five years thereafter as long as the Agreement is not terminated.

B. Rent shall be paid to "Lake Havasu City, Arizona" payable at 2330 McCulloch Blvd. N., Lake Havasu City, Arizona 86406 and should be delivered to the attention of the Administrative Services Department, Accounts Receivable.

C. Lessee shall be solely responsible for, and shall pay the cost of, constructing or installing utility hookups from existing utility installations to the Parcel and Lessee shall be responsible for, and shall pay the cost of, all utility services consumed on the Parcel and the continued maintenance of any landscaping.

D. Lessee agrees to pay all applicable taxes of every nature levied or assessed against either the interest of City or Lessee on the Parcel during the term hereof, and on all property of Lessee placed upon the Parcel.

8. LANDSCAPING

Lessee agrees to maintain landscaping on Parcel in accordance with a landscape design approved by City.

9. MAINTENANCE

Maintenance of the Parcel shall be the responsibility of Lessee. Lessee shall not allow the accumulation of litter of any kind on the Parcel. Lessee shall maintain the Parcel in a clean and orderly manner. Dust control shall be the responsibility of Lessee.

10. NOTIFICATION

Lessee shall notify City immediately of any spill or leak of hazardous substance and shall be responsible for clean-up and notification to regulatory agencies regarding any such spill.

11. INSPECTION

City shall inspect the Parcel after evacuation of Lessee to insure that the property has been returned to as good as, or better, condition than existing at the time of execution of this Agreement.

12. INDEMNIFICATION

A. 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 Parcel, unless such claim was caused by City's sole negligence or willful misconduct.

B. To the greatest extent allowable by law, Lessee shall indemnify, defend, save and hold harmless City, its departments, agencies, boards, commissions, officers, officials, agents, volunteers, and employees (hereinafter referred to as "Indemnitees") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Lessee or any of its owners, officers, directors, agents, employees or contractors, arising out of or related to Lessee's occupancy and use of the Parcel. It is the specific intention of the parties that the City shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the City, be indemnified by Lessee from and against any and all claims. It is agreed that Lessee will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable.

13. INSURANCE

A. Lessee shall provide to City a copy of the General Liability certificate. City must be listed as an additional insured, with no other conditions or restrictions, on the insurance certificate. The standard General Liability shall be for a minimum amount of \$1,000,000. Lessee shall provide proof of renewal of insurance no less than fifteen (15) calendar days prior to expiration date. Lessee shall provide property insurance against "all risks" at least as broad as the current ISO Special Form policy, including earthquake and flood, for loss to any improvements or betterments (constructed by or on behalf of Lessee) and Lessee's business personal property on a full insurable replacement cost basis with no coinsurance clause.

B. Lessee shall procure and maintain for the duration of the Agreement, insurance against claims for injury to persons or damage to property, which may arise from or in connection with this Agreement. 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.

C. The insurance requirements herein are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement. City in no way warrants that the minimum limits contained herein are sufficient to protect the Lessee from liabilities that might arise out of this Agreement. Lessee is free to purchase such additional insurance as Lessee deems necessary.

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

i. Commercial General Liability - Occurrence Form. Policy shall include bodily injury, property damage, personal injury and broad form contractual liability coverage.

General Aggregate	\$2,000,000
Products - Completed Operations Aggregate	\$1,000,000
Personal and Advertising Injury	\$1,000,000
Each Occurrence	\$1,000,000
Blanket Contractual Liability - Written and Oral	\$1,000,000
Fire Damage (Any one fire)	\$500,000

(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, and employees shall be named as additional insured with respect to liability arising out of the activities performed by or on behalf of the Lessee."

(b) Policy shall contain a waiver of subrogation against the City, its departments, agencies, boards, commissions, officers, officials, agents, and employees for losses arising from the service provided by or on behalf of the Lessee.

E. Lessee shall furnish to City 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. Certificates shall be mailed directly to City [Lake Havasu City, Attention City Attorney/Contracts, 2330 McCulloch Blvd. North, Lake Havasu City, 86403]. If requested, complete copies of insurance policies shall be provided to City. 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.

F. 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) working days written notice from the insurer to City. Such notice shall be mailed directly to City [Lake Havasu City, Attention City Attorney/Contracts, 2330 McCulloch Blvd. North, Lake Havasu City, 86403] and shall be sent by certified mail, return receipt requested.

G. Insurance coverage must be provided by an insurance company admitted to do business in Arizona and rated A-VII or better by AM Best's Insurance Rating. City in no way warrants that the above-required minimum insurer rating is sufficient to protect Lessee from potential insurer insolvency.

14. ASSIGNMENT

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

15. IMPROVEMENTS

Lessee shall not construct any permanent improvements to the Parcel without the prior written consent of City and at the end of this Agreement the title to any improvements automatically vests in City. If requested by City, any improvements installed by Lessee not wanted by City shall be removed by Lessee upon evacuation of the Parcel. Lessee agrees to keep the Parcel free and clear of any liens for services, construction, or otherwise.

16. 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: Office of the City Attorney
2330 McCulloch Blvd. N.
Lake Havasu City, AZ 86403

To Lessee: Partnership for Economic Development

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

17. 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.

18. INTEGRATION

This Agreement and any attachments referenced herein represent the entire Agreement between the parties hereto 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.

19. GOVERNING LAW

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

20. 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.

21. 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

22. CONFLICT OF INTEREST

This Agreement is subject to ARIZ. REV. STAT. § 38-511, which provides that this Agreement may be cancelled if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf City is, at any time while this Agreement or any extension thereof is in effect, an employee or agent of the other party to this Agreement in any capacity or a consultant to any other party with respect to the subject matter of this Agreement.

23. 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.

IN WITNESS WHEREOF, the parties hereto have set forth their hands on the day and date first above written.

LAKE HAVASU CITY

Cal Sheehy, Mayor

APPROVED AS TO FORM:

ATTEST:

Kelly Garry, City Attorney

Kelly Williams, City Clerk

LESSEE

[Signature]

STATE OF ARIZONA

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COUNTY OF

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)ss.

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Acknowledged before me this

5

day of

Nov

, 2021, by

James Gray



Kathleen A Tippet
Notary Public

Exhibit A



Exhibit "A"
Parcel
[attached]