

LICENSE AGREEMENT

This License Agreement is made this 25th March day of ~~January~~, 2010, between **David Farmer**, of 113 Crestwood Avenue, Louisville, KY 40206 ("**Licensee**") and **Louisville/Jefferson County Metro Government**, of 444 S. 5th Street, 4th Floor, Louisville, KY 40202 ("**Licensor**").

ENCROACHED PROPERTY LOCATION:

Licensee acknowledges the existence of an encroachment onto the Crabbs Lane right-of-way at the rear 113 Crestwood Avenue caused by the construction of a single-car garage at the residence of 113 Crestwood Avenue. This encroachment is approximately 7.8' 1 x 18.2' w into the 40-foot right-of-way.

Licensee acknowledges his intention to demolish the single-car garage and construct a new garage.

This License Agreement shall establish, memorialize and permit the following total encroachment area:

18.8' 1 x 24' w into the existing 40 right-of-way as described on Exhibit A. Said right-of-way is recorded in Plat Book 7, Page 11 in the office of the Jefferson County Clerk's Office, Louisville, Kentucky.

TERM OF LICENSE: The term of this agreement shall begin on January 1, 2010 and shall terminate at midnight, December 31, 2034. This License Agreement is non-transferrable.

Licensee acknowledges that approval by Licensor of this agreement is contingent on Licensee successfully obtaining all pertinent building permits and complying with all applicable building codes and regulations as stated in the Terms and Conditions. Construction into the encroachment area shall in no way impede the delivery of sanitation services along Crabbs Lane.

ANNUAL PAYMENT: \$1.00

PAY TO: Director of Metro Finance, Louisville-Jefferson County Metro Government. Total amount payable in advance without demand annually, or may be pre- paid in full at the initiation of this agreement.

SCOPE OF LICENSE AGREEMENT: The Scope of this License Agreement is to allow Licensee full and exclusive use of the property highlighted on the attached Exhibit A for expansion of Licensee's garage and for vehicular parking space. Licensee shall also assume all responsibility for control, maintenance, and repair of said property. Parking enforcement shall be at the sole discretion and responsibility of the Licensee.

Licensee's general liability insurance coverage shall list Louisville/Jefferson County Metro Government as an additional insured.

This license is hereby granted pursuant to the Terms and Conditions set out below which are incorporated herein. This License Agreement shall constitute an agreement by and between all parties and signatories listed below.

WITNESS this Agreement by the parties signatures affixed hereon.



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LICENSOR:
LOUISVILLE/JEFFERSON COUNTY
METRO GOVERNMENT

BY: Ted A. Pule

DATE: 3-25-10

Approved as to form:

Ed Lowry

Edwin J. Lowry, Jr.
Assistant County Attorney

LICENSEE:
DAVID FARMER
113 Crestwood Avenue
Louisville, Kentucky 40206

BY: David Farmer

DATE: 1/8/10

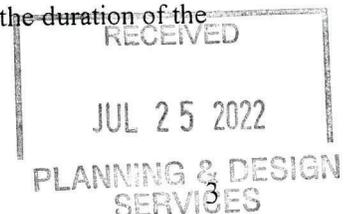
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LICENSE AGREEMENT

TERMS AND CONDITIONS

- I. **GENERAL TERMS.** In consideration of Licensee's agreement to abide by the following terms and conditions, Louisville/Jefferson County Metro Government agrees to grant this License agreement as provided herein:
- A. Licensee agrees that its License shall not affect the rights or interest of public service companies or any other entity which may in the past, present or future coexist with Licensee on public right-of-way or this land including but not limited to any rights by franchise easement or other recorded document granting or authorizing use of the right-of-way.
- B. Licensee agrees that any work required or performed pursuant to this Agreement shall be done in accordance with Louisville/Jefferson County Metro Government standards and specifications. Licensee further agrees that plans for work to be performed on right-of-way or on public lands shall be approved by the Director of the Department of Public Works prior to beginning any work.
- C. Should this License Agreement be terminated, revoked, or canceled as provided herein, if Licensor so directs, Licensee shall remove within sixty (60) days after written notice any and all improvements or installations placed within the public right-of-way or on public lands and shall restore the right-of-way or land to its original condition at the Licensee's sole expense and to the satisfaction of Louisville/Jefferson County Metro Government. Licensee shall be responsible for, whether resulting from negligence or otherwise, damage, or breakage done by Licensee, its employees, contractors, agents or invitees on the Premises.
- D. Licensee agrees that whenever any maintenance work is to be performed on the property that is the subject of this agreement, Licensee, its contractor, subcontractor and anyone directly or indirectly employed by Licensee, shall conduct such operations so as to promote and preserve public safety and general welfare of the citizens of Louisville/Jefferson County Metro Government, Kentucky. Licensee agrees that any work it undertakes on the subject property shall be accomplished with a minimum of disruption and interference to the free flow of vehicular and pedestrian traffic on the public right-of-way or public land over which this License is to be granted. Licensee agrees that any maintenance work within the public right-of-way will be coordinated with the Department of Metro Public Works and done only after approval of that department. All necessary permits shall be obtained by Licensee at its cost.
- E. Licensee, agrees to comply with all federal, state and local statutes, ordinances, rules and regulations which may pertain or apply to public right-of-way or lands. Licensee shall abide specifically by the regulations of the Department of Metro Public Works, and those of any other applicable public agency for the duration of the License Agreement.



- F. Licensee agrees that under no circumstances shall any public right-of-way or lands be used for commercial advertising. Licensee shall not place or permit any commercial advertising signs, banners, balloons, or other inflatable's, placards or billboards upon the encroached property without obtaining the prior written approval of Louisville/Jefferson County Metro Government.
- G. Licensee shall use the encroached property solely for the purpose as described under **Scope of License Agreement** as described above and no other activities may be conducted on said encroached property without the prior written approval of Louisville/Jefferson County Metro Government.
- H. Licensee shall make no alterations to, nor make any improvements on, the encroached property without the prior written approval of Louisville/Jefferson County Metro Government.
- I. Louisville/Jefferson County Metro Government retains the full right and authority to enter, inspect and view the encroached property.
- J. The Parties agree that Louisville/Jefferson County Metro Government may waive the performance of any items, condition and covenant herein, provided that such waiver shall not be construed or deemed a continuing waiver of the same or any subsequent conduct which may constitute a default of any provision. Further, this License shall not be amended, modified or terminated, nor shall any obligations hereunder be waived orally, and no such amendment, modification, termination or waiver shall be effective for any purpose unless it is in writing, signed by all parties.
- K. Louisville/Jefferson County Metro Government and Licensee, by execution of this License Agreement, do hereby warrant and represent to each other that they are duly organized and validly existing corporation, are qualified to do business in the State of Kentucky, have full right, power and authority to enter into this License Agreement, and that each person signing on behalf of Louisville/Jefferson County Metro Government and Licensee is authorized to do so.
- L. If any provision of this License Agreement shall be declared invalid or unenforceable, the remainder of this License Agreement shall continue in full force and effect.
- M. The covenants, conditions, warranties and agreements made and entered into by the parties hereto are declared binding on, and shall inure to, the benefits of their respective heirs, successors and representatives.
- N. Licensee shall keep the encroached property free from any liens or claims of lien arising out of any work performed, material furnished or obligations incurred by, for or at the insistence of Licensee. In the event that any liens are filed arising out of work performed, materials furnished or obligations incurred by, for or at the insistence of Licensee and Licensee fails to bond, pay or otherwise extinguish such liens within thirty (30) days after Louisville/Jefferson County Metro Government notifies Licensee of the existence thereof, Louisville/Jefferson County Metro Government may, without waiver of other rights or remedies, bond, pay or otherwise extinguish such liens and any expenses incurred by Licensee in connection therewith and shall be reimbursed by Licensee upon demand as additional charge hereunder.



- O. This License represents the entire understanding and agreement between the parties relating to the subject matter hereof and supersedes all prior negotiations and agreements relative thereto. The language in all parts of this License shall in all cases be construed as a whole according to its fair meaning and not strictly for or against either Louisville/Jefferson County Metro Government or Licensee.
- P. This agreement shall be governed by and construed in accordance with the laws of the State of Kentucky. In the event of any proceedings regarding this Agreement, the Parties agree that the venue shall be the state courts of Kentucky or the U.S. District Court for the Western District of Kentucky, Louisville Division. All parties expressly consent to personal jurisdiction and venue in such Court for the limited and sole purpose of proceedings relating to this Agreement or any rights or obligations arising thereunder. Service of process may be accomplished by following the procedures prescribed by law.

II. PAYMENT UNDER LICENSE AGREEMENT

Licensee agrees that consideration under this License Agreement shall be the sum identified on Page 1 hereof, payable at the direction of the Licensor. Said sum shall be payable to Louisville/Jefferson County Metro Government and shall be directed to the Director of the Department of Metro Finance with copy to the Department of Metro Public Works. Should this License Agreement be renewed, payment pursuant to such renewal Agreement shall continue to be due and payable on or before September 15th of each year.

III. LIABILITY AND INDEMNITY

- A. The Licensee shall indemnify, hold harmless, and defend the Louisville/Jefferson County Metro Government, its elected and appointed officials, employees, agents and successors in interest from all claims, damages, losses and expenses including attorneys' fees, arising out of or resulting, directly or indirectly, from the Licensee's (or Licensee's subcontract(s), if any) performance or breach of the contract provided that such claim, damage, loss, or expense is: (1) attributable to personal injury, bodily injury, sickness, death, or to injury to or destruction of property, including the loss of use resulting therefrom, or breach of contract, and (2) not caused by the negligent act or omission of the Louisville/Jefferson County Metro Government or its elected and appointed officials and employees acting within the scope of their employment. This Hold Harmless and Indemnification Clause shall in no way be limited by any financial responsibility or insurance requirements and shall survive the termination of this Contract.
- B. Licensee must purchase at its own expense, and maintain for the duration of this License Agreement, a General Liability insurance policy in an amount of not less than \$1,000,000.00, combined single Limit for any one Occurrence and Aggregate for Bodily Injury, Personal Injury and Property Damage. The required insurance coverage and License Bond, if a bond is required, are to be placed with insurance companies approved by the Kentucky Department of Insurance to transact business in the state of Kentucky. Insurance and License Bond, are to be placed with Insurance Companies with an A.M. best rating of no less than "B+VI", unless approved by Louisville/Jefferson County Metro Government's Risk Management Division. Prior to Louisville/Jefferson County Metro Government approval of this License Agreement, the Licensee must provide to Metro Government proof of such General

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Liability insurance coverage via a Certificate of Insurance. The Certificate of Insurance must list Louisville/Jefferson County Metro Government as the Certificate Holder, and provide to Metro Government 30 days written notice in the event the insurance policy is canceled or materially amended. The following clause must be added to the Licensee's General Liability insurance policy, and also stated on the Certificate of Insurance: "Louisville/Jefferson County Metro Government is added as an Additional Insured as respects operations of the Named Insured performed relative to the Name Insured's License Agreement with Louisville/Jefferson County Metro Government". If the Licensee's General Liability policy expires prior to the completion of the License Agreement, a renewal Certificate of Insurance must be furnished to Louisville/Jefferson County Metro Government's Risk Management Division prior to the expiration date of such insurance coverage. Renewal Certificates of Insurance, as required, must be furnished to:

**Louisville/Jefferson County Metro Government
Department of Metro Finance and Budget
Risk Management Division
611 West Jefferson Street, Room 22
Louisville, Kentucky 40202**

IV. TERMINATION OF LICENSE AGREEMENT

- A. For cause.** If, through any cause, Licensee shall fail to fulfill its obligations under this License Agreement, or, if it shall violate any of the covenants, terms or conditions herein, and if such failure or violations should continue for a period of thirty (30) days after written notice of such is given by Louisville/Jefferson County Metro Government to Licensee, Louisville/Jefferson County Metro Government shall thereupon have the right to terminate this License Agreement or any part of it by sending written notice to Licensee of such termination and specifying the effective date thereof. Upon such termination, Licensee shall not be entitled to any compensation from Louisville/Jefferson County Metro Government in any manner, including but not limited to replacement value or fair market value of any improvements placed on the property. If, after termination for cause, it is determined that Licensee has not failed to fulfill its obligations under this License Agreement, the termination shall be deemed to have been effected for the convenience of Louisville/Jefferson County Metro Government.
- B. At will.** Notwithstanding any other provision of this License Agreement, Louisville/Jefferson County Metro Government expressly reserves the right to terminate, cancel or revoke this license at will. In the event such a determination is made, Louisville/Jefferson County Metro Government shall forward written notice to Licensee that the License has been terminated effective with the date stated in such notice, whereupon Licensee shall commence and complete removal of all encroaching structures as soon as practicable after receiving such notice.
- C.** It is expressly recognized by Licensee that notwithstanding its expense for improvements and alterations to public right-of-way or land, Louisville/Jefferson County Metro Government shall have the express right to terminate this License Agreement, be it for cause or at will, without compensating Licensee in any manner, including, but not limited to, replacement value or fair market value of any improvement placed on this property, including losses or damages that may be



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suffered by Licensee as a result of noncompliance with the Louisville and Jefferson County Zoning District Regulations.

- D. Licensee shall have the right to terminate this License Agreement at any time for cause or at will by giving notice in writing to Louisville/Jefferson County Metro Government at least sixty (60) days prior to the termination date. Licensee shall commence and complete removal of all encroaching structures as soon as practicable after providing notice of termination.

V. DEFAULT

If Licensee shall be in default of any payment or in performance of any of the terms and conditions herein, and if such default should continue for a period of thirty (30) days after written notice from Louisville/Jefferson County Metro Government to Licensee, Louisville/Jefferson County Metro Government may terminate this Agreement forthwith, and all rights and interest shall revert to Louisville/Jefferson County Metro Government. In the event of termination, Licensor shall be entitled to any and all relief, whether at law or in equity, to which Licensor is entitled due to Licensee's default, including reasonable attorney fees and court costs for the enforcement of its rights. For example, and without limiting other rights, Licensor may remove any encroaching structures if Licensee fails to do so on a timely basis, and Licensor may recover from Licensee the reasonable cost of such removal.

VI. ASSIGNABILITY, RENEWAL

This License Agreement does not run with the land without the written consent of the Licensor. Accordingly, Licensee shall not transfer or assign any right or interest in it to another. Any action by Licensee attempting to transfer or assign its interest herein shall constitute a substantial breach of this Agreement and shall render the Agreement a nullity.

It is further agreed by Louisville/Jefferson County Metro Government and Licensee that this Agreement may be renewed or reinstated as noted above. Terms shall be renegotiated at time of reinstatement. Upon expiration, or termination for any reason of the Agreement, Licensee shall remove any structures on the public right-of-way or lands at its sole cost.

