

LICENSE AGREEMENT

18RL-1497

LICENSEE: Shelby Market Properties, LLC

ADDRESS: 1868 Alfresco Place, Louisville, KY 40205

ENCROACHMENT LOCATION: 225 S Spring Street, Louisville, KY 40205

TERM OF LICENSE: 10 YEARS / RENEWABLE ANNUALLY

PAYMENT: \$100.00 PER YEAR

SCOPE OF LICENSE AGREEMENT:

Access to park cars in the easement between the property line of 225 S. Spring Street and the sidewalk along Payne Street. The property has historically been used as a parking lot. We will reuse the orientation and spacing of the existing parking. We will resurface and restripe the paved areas to new condition in keeping with the lot resurfacing and striping that we will do at 225 S. Spring Street. We already currently maintain, at our own expense, the grass areas within this easement. We will continue to maintain these grass areas.

Anne/Christopher Fuller
502-836-4250

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INSURANCE: See Attachment B attached hereto and fully incorporated herein.

This License Agreement is granted by the Louisville/Jefferson County Metro Government ("Metro Government"), acting by and through Department of Public Works and Assets, and is conditioned on the Licensee's continued compliance with the Terms and Conditions attached hereto and incorporated herein by reference. It constitutes the complete agreement by and between the parties with respect to the use granted.

APPROVED:

PUBLIC WORKS AND ASSETS

BY: Vanessa D. Burns

VANESSA D. BURNS, Director

DATE: 4/24/18

APPROVED AS TO FORM:


MICHAEL J. O'CONNELL
JEFFERSON COUNTY ATTORNEY
DATE: 4/20/18

LICENSEE

BY: Anne Fuller

TITLE: member

DATE: 4/20/2018

TAXPAYER IDENTIFICATION
NUMBER (TIN)
020-69-0982

REVENUE COMM. NO:

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TERMS AND CONDITIONS

I. GENERAL TERMS

In consideration for the granting of this License, the Licensee hereby agrees to abide by the Terms and Conditions set forth herein.

A. Licensee hereby agrees and accepts the fact that a License for temporary use of public property hereunder is in no way to be construed as implying the granting of long-lasting or permanent tenure over the public property.

B. Licensee agrees that its use will not affect the rights or interest of other public or private entities, which may in the past, present or future co-exist on that portion of the public property, which is the subject of this Agreement.

C. Licensee agrees that any work required or performed pursuant to this Agreement is to be done in accordance with Metro Government standards and specifications. The Licensee further agrees that any and all work to be performed on the subject property shall have the approval and authorization of the Director of the Department of Public Works of the Metro Government, as well as of the head of the agency granting this License.

D. Should the Metro Government direct that this License Agreement be terminated, revoked or cancelled, as provided herein, it shall be the responsibility of the Licensee to remove within twenty-four (24) hours of notice of such termination, revocation or cancellation, all improvements or installations placed on the property and to restore the property to its condition just prior to the Licensee's use at the Licensee's sole expense, if the Metro Government so directs.

E. Licensee agrees that any construction, installation or maintenance work it does on the subject property under this Agreement shall be done in such a manner as to promote and preserve public safety and welfare and with a minimum of disruption and interference with the free flow of vehicular and/or pedestrian traffic over the subject property.

F. 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 or to its use of the premises and to not permit any nuisance or disturbance to occur upon the premises.

G. 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 inflatables, placards or billboards upon the encroached property without obtaining the prior written approval of the Metro Government.

H. No alcoholic beverages are permitted to be sold by Licensee on Metro Government grounds during the term of this Agreement.

I. Licensee shall use the encroached property solely for the purpose described under **Scope of License Agreement** above and no other activities may be conducted on said encroached property without the prior written approval of the Metro Government.

J. Licensee shall, at its expense, keep in good order, condition and state of repair the above-mentioned property during the period of this Agreement. Licensee shall make no alterations to, nor make any improvements on, the encroached property without the prior written approval of the Metro Government.

K. The Metro Government retains the full right and authority to enter, inspect and view the encroached property.

L. The parties agree that the Metro Government may waive the performance of any items, conditions and covenants 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. Any amendments or modifications to this License Agreement must be in writing and signed by both parties.

M. The Metro Government and Licensee, by execution of this License Agreement, hereby warrant and represent to each other that they are duly organized, validly existing, 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 the Metro Government and Licensee is authorized to do so.

N. 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.

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O. 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.

P. This License Agreement 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 Agreement shall in all cases be construed as a whole according to its fair meaning and not strictly for or against either the Metro Government or Licensee.

Q. 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.

R. Unless otherwise indicated, when the performance or doing of any act, duty, matter, or payment is required hereunder and a period of time or duration for the fulfillment of doing thereof is prescribed and is fixed herein, the time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period of time. For example, if on January 1, Consultant is directed to take action within ten (10) calendar days, the action must be completed no later than midnight, January 11.

~~S. Prior to occupancy of the right of way, Licensee shall provide Public Works with a performance bond reasonably acceptable to Public Works with respect to Licensee's obligations under this Agreement as described on Attachment C attached hereto and fully incorporated herein.~~

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II. 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 subcontractors, 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 there from, or breach of contract, and (2) not caused by the negligent act or omission or willful misconduct 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.

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B. Licensee shall purchase at its own cost and maintain Commercial General Liability insurance via the Occurrence Form, with a \$1,000,000 Combined Single Limit for any one Occurrence for Bodily Injury, Personal Injury and Property Damage, including Premises-Operation Coverage, Products and Completed Operations and Personal Injury. Insurance coverage is to be placed with a company approved by the Kentucky Department of Insurance to transact business in the state of Kentucky. Licensee shall furnish proof of insurance prior to Metro Government approving this License Agreement, and at each renewal period. The Louisville/Jefferson County Metro Government shall be named as an additional insured under the Licensee's Commercial General Liability policy, and this wording shall be stated on the required proof of insurance via a Certificate of Insurance. The Certificate of Insurance shall be furnished to: Louisville/Jefferson County Metro Government, 444 South 5th Street, 1st Floor, Louisville, KY 40202

III. TERMINATION

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 the Metro Government to Licensee, the Metro Government shall thereupon have the right to terminate this License and specify the effective date thereof. Upon such termination, Licensee shall not be entitled to any compensation from the Metro Government, 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 the Metro Government.

B. At Will. Notwithstanding any other provisions of the Licensee Agreement, the Metro Government expressly reserves the right to terminate, cancel or revoke this License at will. In the event such a determination is made, Metro Government shall forward written notice to Licensee, whereupon Licensee shall commence restoration as soon as practicable.

C. It is expressly recognized by Licensee that notwithstanding its expense for improvements and alterations to public right-of-way or land, the 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 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 the Metro Government at least sixty (60) days prior to the termination date.

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IV. ASSIGNABILITY

This License Agreement does not convey a permanent interest in public property or lands and does not run with the land. Accordingly, the Licensee shall not transfer or assign any right or interest in the Agreement. Any attempt to assign or transfer the Agreement shall be considered a substantial breach and shall render the Agreement a nullity.

V. EMPLOYER/EMPLOYEE RELATIONSHIP

It is expressly understood that no employer/employee relationship is created by this Agreement nor does it cause Licensee to be an officer or official of the Metro Government. By executing this Agreement, the parties hereto certify that its performance will not constitute or establish a violation of any statutory or common law principle pertaining to conflict of interest, nor will it cause unlawful benefit or gain to be derived by either party.

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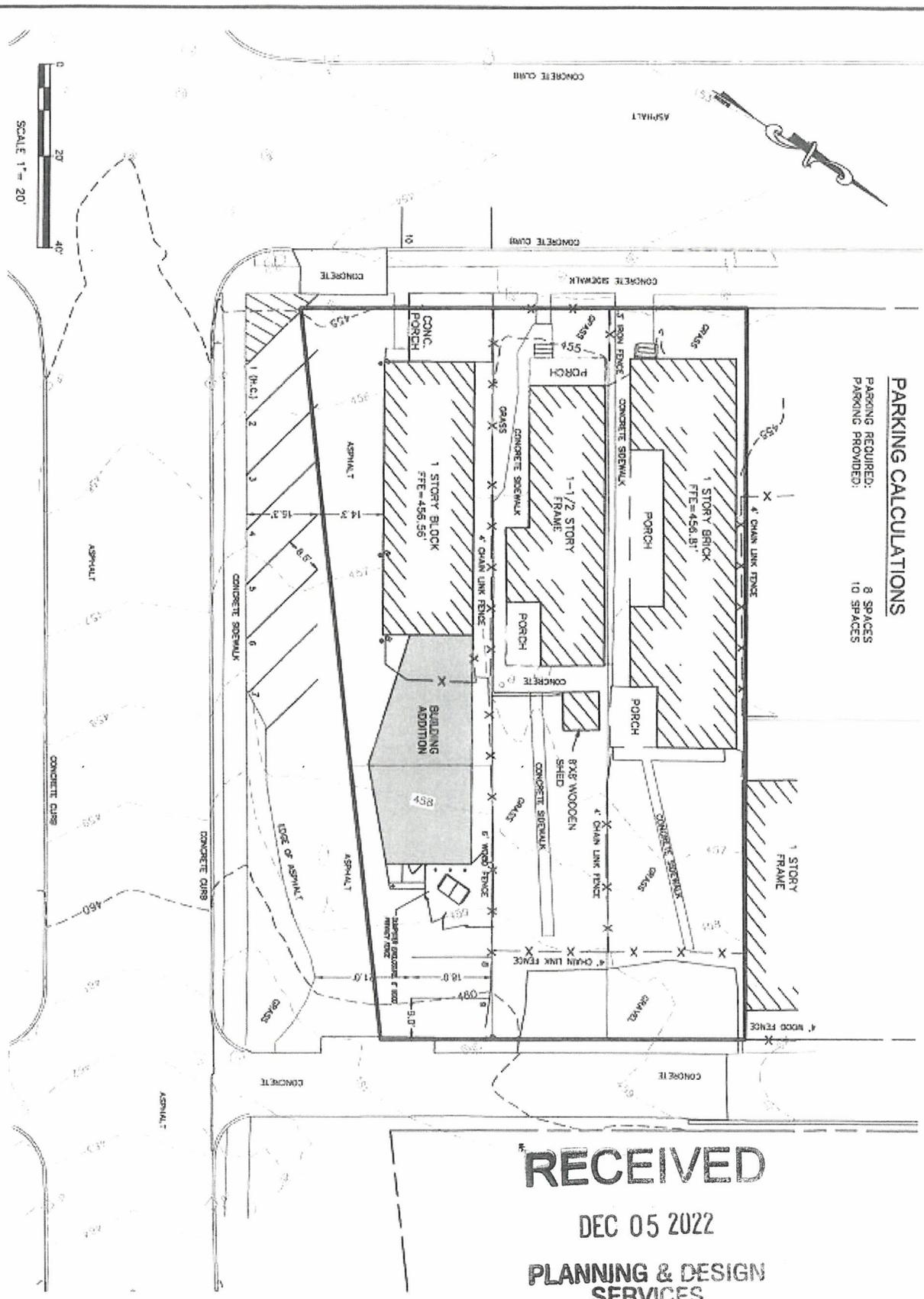
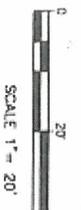
ATTACHMENT A

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PARKING CALCULATIONS
 PARKING REQUIRED: 8 SPACES
 PARKING PROVIDED: 10 SPACES

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PARKING EXHIBIT
 SPRING & PAYNE
 OCTOBER 23, 2017



SABAK, WILSON & LINGO, INC
 ENGINEERS, LANDSCAPE ARCHITECTS & PLANNERS
 THE HENRY CLAY 808 S. THIRD STREET, LOUISVILLE, KENTUCKY 40202 (502) 584 - 6271

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ATTACHMENT B

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ATTACHMENT C

BOND WAIVED:
Al Andrews
4/30/18

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5/1/2018 10 20

Register ID: BRITTANY
 Cashier: BDMEADOWS
 Tran Date: 5/1/2018 10:20:12 AM
 Tran # 244747
 Payer: MARKET PROPERTIES LLC SHELBY

DESCRIPTION	AMT DUE	AMT PAID
AP# 18RL1497		
Fee: ROW LIC(Initial Fee)	\$100.00	\$100.00
CREDIT		\$100.00
Subtotal:		\$100.00
Tax:		\$0.00
Total:		\$100.00
Payment:		\$100.00
Change:		\$0.00

Anne Elyse Fisher

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