

TEMPORARY CONSTRUCTION LICENSE AGREEMENT

Grantor: City of Glendale, Arizona

Grantee: Coffman Specialties, Inc.

License Area: Depicted in Exhibit A

For the consideration of One Dollar (\$1.00) and other valuable consideration paid to Grantor by the Grantee, the receipt and sufficiency of which is acknowledged in this Temporary Construction License Agreement (the "Agreement"), and subject to the terms and conditions contained in the Agreement, Grantor has granted, bargained, sold, and conveyed to Grantee, its successors and assigns a temporary license over, across and under the License Area for continuous and uninterrupted use in order to allow Grantee to store equipment and make use of the License Area as a laydown yard as Grantee undertakes improvements to the high-occupancy vehicle lane at State Route 101 and Maryland Avenue (the "Improvements").

Terms and Conditions

1. **Survey; Fence.** No later than fifteen (15) days following the execution of this Agreement, Grantee will at its sole cost and expense hire a professional surveyor to survey the boundary of the License Area generally depicted in Exhibit A. Grantee will fence and screen the portion of the License Area that Grantee plans to use at Grantee's sole cost and expense and subject to Grantor's review and concurrence.
2. **Use of License Area.** In its use and enjoyment of the License Area, Grantee will exercise its best efforts so as to avoid any disruption on all properties adjacent to the License Area. Prior to termination of this Agreement, Grantee shall restore the License Area to the condition in which it existed prior to the execution of this Agreement.
3. **Entrance.** Prior to commencing any use of the License Area, Grantee will obtain a license or similar instrument from the City of Peoria ("Peoria") allowing Grantee to cross Peoria's property in order to enter the License Area. The preceding sentence will not prevent or restrain Grantee from complying with its obligation in **Paragraph 1** to survey the License Area.
4. **Dust Control.** Grantee will fully comply with any and all laws and regulations related to dust control, including but not limited to all dust control regulations promulgated by Maricopa County.
5. **Indemnity.** To the fullest extent permitted by law, Grantee will indemnify, defend and hold harmless Grantor and each of Grantor's members, officers, employees or agents (the

“Indemnified Parties”), for, from and against any and all losses, claims, damages, liabilities, costs and expenses (including, but not limited to, reasonable attorneys’ fees, court costs and the costs of appellate proceedings) to which any such of the Indemnified Parties may become subject, under any theory of liability whatsoever (“Claims”), unless caused by the negligence of any of the Indemnified Parties, insofar as such Claims (or actions in respect thereof) relate to, arise out of, or are caused by or in connection with the work of the Grantee, its officers, employees, agents, or any tier of Grantee’s subcontractor.

6. **Term.** This Agreement will terminate upon (i) Grantor’s completion of the Improvements, or (ii) April 15, 2014, whichever occurs first.

7. **Insurance.**

7.1 **Requirements.** Contractor must obtain and maintain the following insurance (“Required Insurance”):

a. Contractor and Sub-contractors. Contractor, and each Sub-contractor performing work or providing materials related to this Agreement must procure and maintain the insurance coverages described below (collectively referred to herein as the “Contractor’s Policies”), until each Party’s obligations under this Agreement are completed.

b. General Liability.

(1) Contractor must at all times relevant hereto carry a commercial general liability policy with a combined single limit of at least \$1,000,000 per occurrence and \$2,000,000 annual aggregate for each property damage and contractual property damage.

(2) Sub-contractors must at all times relevant hereto carry a general commercial liability policy with a combined single limit of at least \$1,000,000 per occurrence.

(3) This commercial general liability insurance must include independent contractors’ liability, contractual liability, broad form property coverage, XCU hazards if requested by the City, and a separation of insurance provision.

(4) These limits may be met through a combination of primary and excess liability coverage.

c. Auto. A business auto policy providing a liability limit of at least \$1,000,000 per accident for Contractor and \$1,000,000 per accident for Sub-contractors and covering owned, non-owned and hired automobiles.

d. Workers’ Compensation and Employer’s Liability. A workers’ compensation and employer’s liability policy providing at least the minimum benefits required by Arizona law.

e. Notice of Changes. Contractor’s Policies must provide for not less than 30 days’ advance written notice to City Representative of:

- (1) Cancellation or termination of Contractor or Sub-contractor's Policies;
 - (2) Reduction of the coverage limits of any of Contractor or and Sub-contractor's Policies; and
 - (3) Any other material modification of Contractor or Sub-contractor's Policies related to this Agreement.
- f. Certificates of Insurance.
- (1) Within 10 business days after the execution of the Agreement, Contractor must deliver to City Representative certificates of insurance for each of Contractor and Sub-contractor's Policies, which will confirm the existence or issuance of Contractor and Sub-contractor's Policies in accordance with the provisions of this section, and copies of the endorsements of Contractor and Sub-contractor's Policies in accordance with the provisions of this section.
 - (2) City is and will be under no obligation either to ascertain or confirm the existence or issuance of Contractor and Sub-contractor's Policies, or to examine Contractor and Sub-contractor's Policies, or to inform Contractor or Sub-contractor in the event that any coverage does not comply with the requirements of this section.
 - (3) Contractor's failure to secure and maintain Contractor Policies and to assure Sub-contractor policies as required will constitute a material default under the Agreement.
- g. Other Contractors or Vendors.
- (1) Other contractors or vendors that may be contracted with in connection with the Project must procure and maintain insurance coverage as is appropriate to their particular contract.
 - (2) This insurance coverage must comply with the requirements set forth above for Contractor's Policies (e.g., the requirements pertaining to endorsements to name the parties as additional insured parties and certificates of insurance).
- h. Policies. Except with respect to workers' compensation and employer's liability coverages, City must be named and properly endorsed as additional insureds on all liability policies required by this section.
- (1) The coverage extended to additional insureds must be primary and must not contribute with any insurance or self insurance policies or programs maintained by the additional insureds.
 - (2) All insurance policies obtained pursuant to this section must be with companies legally authorized to do business in the State of Arizona and reasonably acceptable to all parties.

7.2 Sub-contractors.

- a. Contractor must also cause its Sub-contractors to obtain and maintain the Required Insurance.
- b. City may consider waiving these insurance requirements for a specific Sub-contractor if City is satisfied the amounts required are not commercially available to the Sub-contractor and the insurance the Sub-contractor does have is appropriate for the Sub-contractor's work under this Agreement.
- c. Contractor and Sub-contractors must provide to the City proof of the Required Insurance whenever requested.

7.3 Indemnification.

- a. To the fullest extent permitted by law, Contractor must defend, indemnify, and hold harmless City and its elected officials, officers, employees and agents (each, an "Indemnified Party," collectively, the "Indemnified Parties"), for, from, and against any and all claims, demands, actions, damages, judgments, settlements, personal injury (including sickness, disease, death, and bodily harm), property damage (including loss of use), infringement, governmental action and all other losses and expenses, including attorneys' fees and litigation expenses (each, a "Demand or Expense"; collectively, "Demands or Expenses") asserted by a third-party (i.e. a person or entity other than City or Contractor) and that arises out of or results from the breach of this Agreement by the Contractor or the Contractor's negligent actions, errors or omissions (including any Sub-contractor or other person or firm employed by Contractor), whether sustained before or after completion of the Project.
- b. This indemnity and hold harmless provision applies even if a Demand or Expense is in part due to the Indemnified Party's negligence or breach of a responsibility under this Agreement, but in that event, Contractor shall be liable only to the extent the Demand or Expense results from the negligence or breach of a responsibility of Contractor or of any person or entity for whom Contractor is responsible.
- c. Contractor is not required to indemnify any Indemnified Parties for, from, or against any Demand or Expense resulting from the Indemnified Party's sole negligence or other fault solely attributable to the Indemnified Party.

8. **Impediment.** Grantor will not unreasonably allow anything to impede Grantee's use of the License Area.

(SIGNATURES ON FOLLOWING PAGE)

Executed this 14 day of January 2014

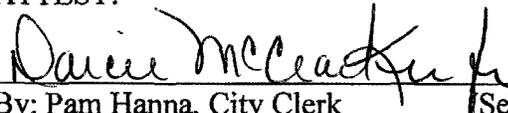
GRANTOR:

City Of Glendale,
an Arizona municipal corporation



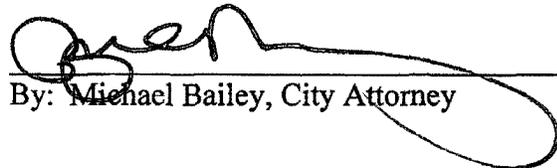
By: Brenda S. Fischer, City Manager

ATTEST:



By: Pam Hanna, City Clerk (Seal)

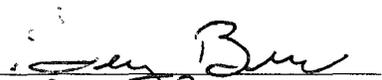
APPROVED AS TO FORM:



By: Michael Bailey, City Attorney

Executed this day 17 day of December 2013

GRANTEE:

By: 
Gregory Brown

Its: Coffman Specialties, Inc.
Project Manager

EXHIBIT "A"

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FIRST AMERICAN TITLE

When Recorded Mail To:

Richard H. Flaaen, City Attorney
THE CITY OF GLENDALE
5850 West Glendale Avenue
Glendale, Arizona 85301-2599

201-1338864 2 of 3

CONVEYANCE DEED

For the consideration of Ten and No/100 Dollars (\$10.00), and other valuable consideration, HICKMAN LAND COMPANY, L.L.C., an Arizona limited liability company ("Grantor"), does hereby convey to THE CITY OF GLENDALE, an Arizona municipal corporation ("Grantee"), the following real property situated in Maricopa County, Arizona (the "Property"):

See Exhibit "A" attached hereto and made a part hereof.

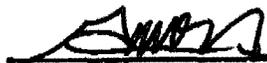
Grantor hereby reserves for itself the right to use, occupy, enjoy and remain in exclusive possession of the property, as set forth, and for the period prescribed, in Paragraph 13 of that certain Agreement in Lieu of Condemnation dated September 18, 2001, between Grantor and others affiliated with Grantor, as transferors, and Grantee, as transferee, subject to all terms and conditions governing the use, occupancy, enjoyment and possession of the Property applicable to Grantor as may be set forth in such Agreement.

SUBJECT TO: Those matters set forth on Exhibit "B" attached hereto and made a part hereof.

DATED this 29th day of July, 2002.

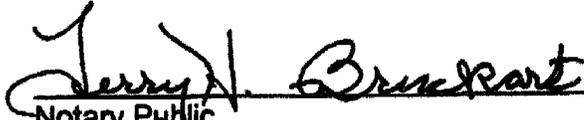
HICKMAN LAND COMPANY, L.L.C.,
an Arizona limited liability company

By:


Glenn M. Hickman, Manager

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 29th day of July, 2002, by Glenn M. Hickman, the Manager of HICKMAN LAND COMPANY, L.L.C., an Arizona limited liability company, for and on behalf thereof.



Notary Public

My Commission Expires:

 Notary Public State of Arizona
Maricopa County
Terry H Bruckart
Expires July 10, 2005

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EXHIBIT "A"**NO. 201-800-1338864**

That portion of the Northeast quarter of Section 4, Township 2 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

COMMENCING at the Northeast corner of said Section 4;

thence West along the North line of said Section a distance of 715.49 feet;

thence South 01 degrees 45 minutes 56 seconds West 40.02 feet to a point on the South right-of-way line of Northern Avenue and the POINT OF BEGINNING;

thence continuing South 01 degrees 45 minutes 56 seconds West 362.00 feet;

thence East 50.00 feet to a point on the East line of the West half of the Northeast quarter of the Northeast quarter of said Section 4;

thence South 01 degrees 45 minutes 56 seconds West along said East line 864.48 feet to the Southeast corner of said West half of the Northeast quarter of the Northeast quarter;

thence South 89 degrees 50 minutes 32 seconds West 10.00 feet;

thence South 01 degrees 45 minutes 56 seconds West 92.05 feet;

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thence South 89 degrees 50 minutes 32 seconds West 376.11 feet;

thence North 01 degrees 44 minutes 12 seconds East 1319.58 feet to a point 40.02 feet South of the North Section line and on the South right-of-way line of said Northern Avenue;

thence East along said right-of-way line 336.74 feet to the POINT OF BEGINNING;

EXCEPT that portion described as follows:

COMMENCING at the Northeast corner of said Section 4;

thence South 88 degrees 40 minutes 25 seconds West along the North line of said Northeast quarter 1052.24 feet;

thence South 00 degrees 24 minutes 37 seconds West 40.02 feet to the Northwest corner of said parcel on the South line of the North 40.00 feet of said Northeast quarter and the POINT OF BEGINNING;

Continued

EXHIBIT "A"**NO.201-800-1338864**

thence North 88 degrees 40 minutes 25 seconds East along said South line 337.05 feet to a point on the East line of said parcel;

thence South 00 degrees 01 minutes 25 seconds West along the East line of said parcel 18.15 feet;

thence North 68 degrees 30 minutes 19 seconds West 16.78 feet to a point on the South line of the North 51.64 feet of said Northeast quarter;

thence South 88 degrees 40 minutes 25 seconds West along said South line 321.51 feet to a point on the West line of said parcel;

thence North 00 degrees 24 minutes 37 seconds East along the West line of said parcel 11.65 feet to the POINT OF BEGINNING.

7. Any and all conditions, easements, encroachments, rights-of-way, or restrictions which a physical inspection, or accurate ALTA survey, of the Property would reveal; and the applicable zoning and use regulations of any municipality, county, state, or the United States affecting the Property.

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