



# License Agreement

## Use of City Property

1. **Parties.** The parties to this license agreement are Licensor City of Puyallup, a Washington State municipal corporation, hereinafter referred to as the City, and 1124 Valley Ave, LLC., a Washington limited liability company, hereinafter referred to as Licensee.
2. **Premises.** The Premises shall be a portion of the City of Puyallup Right of Way along Valley Ave , which is located at 1036 Valley Ave NW, Puyallup. The Premises is depicted in Exhibit A and Exhibit B with red lines.
3. **License and Related Terms.** On the terms and conditions set forth herein, the City and Licensee agree as follows:
  - a. The City hereby grants to Licensee a nonexclusive revocable license (License) to use the Premises for the purpose of locating an ADA Access Ramp which is currently installed as of the date of this Agreement. The License is not, and shall not be construed as, an assurance, promise, reservation or guarantee of some, or any, available real property for such use. Furthermore, the City shall not be restricted in its full and free use of the Premises.
  - b. Licensee may not reserve, designate or otherwise encumber any portion of the Premises. Licensee shall refrain from engaging in, and shall prevent, modification or alteration of the Premises without the express written consent of the City.
  - c. Licensee shall be responsible for all costs and expenses associated with its use of the Premises.
  - d. Licensee shall comply with any all directives from the City concerning the Premises or use of the Premises.
4. **Term of License.** Licensee shall be entitled to use the Premises so long as it fully complies with the terms of this agreement, and any applicable rules, regulations and laws.
5. **Use of Premises.** Licensee shall use the Premises for the sole purpose of locating an ADA Access Ramp. All other uses are expressly prohibited without the prior written consent of the City.
6. **Termination.** The City may terminate this agreement and revoke the License hereunder if Licensee fails to comply the terms of this agreement. Furthermore, the City reserves the right, at the City's sole discretion, to terminate this agreement and revoke the License hereunder at any time, with or without good cause.
7. **Insurance.** Licensee shall procure and maintain for the duration of Licensee's use of the Premises, insurance against claims for injuries to persons or damage to property which may arise from or occur in connection with operations or activities performed by or on Licensee's behalf with respect to use of the Premises. Licensee's maintenance of insurance as required by the agreement shall not be construed to limit the liability of Licensee to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.
  - a. **Minimum Scope of Insurance.** Licensee shall obtain insurance of the type described below:
    - i. Commercial General Liability insurance shall be written on Insurance Services

Office (ISO) occurrence form CG 00 01 and shall cover products liability. The City shall be named as an insured under Licensee's Commercial General Liability insurance policy using ISO Additional Insured-State or Political Subdivisions-Permits CG 20 12 or a substitute endorsement providing equivalent coverage.

- ii. Not applicable
  - b. Minimum Amounts of Insurance. Licensee shall maintain the following insurance limits:
    - i. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate and a \$2,000,000 products completed operations aggregate limit.
    - ii. Not applicable
  - c. Other Insurance Provision. Licensee's Commercial General Liability insurance is to contain, or be endorsed to contain that it shall be primary insurance with respect the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be in excess of Licensee's insurance and shall not contribute with it.
  - d. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.
  - e. Verification of Coverage. Licensee shall furnish the City with original certificates and a copy of the amendatory endorsements, including the additional insured endorsement, evidencing the insurance requirements of Licensee before the License shall become effective.
  - f. Notice of Cancellation. Licensee shall provide the City with written notice of any policy cancellation, within two business days of their receipt of such notice.
  - g. Failure to Maintain Insurance. Failure on the part of Licensee to maintain the insurance as required shall constitute a material breach of the permit or agreement, upon which the City may, after giving five business days notice to Licensee to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand.
8. **Waiver of Claims, Limitation and Assumption of Liability.** Licensee waives any cause of action or claim, whether it be for damages or equitable or other relief, arising out of this agreement or the subject matter related thereto, or a revocation of the License hereunder. Such claims shall include, but are not limited to, lost opportunities and consequential or incidental damages. THE CITY SHALL NOT BE LIABLE TO LICENSEE, WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE, PRODUCT LIABILITY OR STRICT LIABILITY), OR OTHERWISE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT NECESSARILY LIMITED TO, LOSS OF PROFIT, REVENUE OR USE) ARISING OUT OF THE CITY'S PERFORMANCE OR NONPERFORMANCE OF THIS AGREEMENT, BREACH OR DEFAULT UNDER THIS AGREEMENT, OR THE USE OF, INABILITY TO USE OR RESULTS OF USE OF THE LICENSE UNDER THIS AGREEMENT, EVEN IF THE CITY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. LICENSEE ASSUMES ALL RISK OF LOSS, DAMAGE OR INJURY AND LIABILITY FOR ANY CLAIM ARISING FROM OR RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT.


9. **Duties of Licensee.** Licensee shall:
- a. Maintain the Premises in a neat, clean, and sanitary condition, including the portion of the Premises north of the Fence;
  - b. Properly dispose of all rubbish, garbage, and other organic or flammable waste in a clean and sanitary manner at reasonable and regular intervals;
  - c. Properly use and operate all equipment on or about the Premises;
  - d. Refrain from intentionally or negligently destroying, defacing, damaging, impairing or removing any part of the Premises; Refrain from committing nuisance or waste; Refrain from engaging in any unlawful activity at the Premises; Refrain from altering or improving the Premises, without the City's prior written consent, and prohibit any person or entity affiliated with Licensee, including invitees, licensees, or any person or entity under Licensee's control, from so doing; Refrain from attempting to adversely possess the Premises;
  - e. Immediately notify the City of, and then promptly repair, at Licensee's expense, any destruction, defacement, damage, impairment, or removal of any part of the Premises caused by Licensee's acts or omissions, or the acts or omissions of any person or entity affiliated with Licensee, including invitees, licensees, or any person or entity under Licensee's control, upon receipt of notice from the City of Puyallup requiring such repairs, or within a shorter time if made necessary by emergency;
  - f. Upon termination of this agreement and vacation of the Premises, restore the Premises to the same condition as the Premises was in at the time of initial use by Licensee, except for reasonable wear and tear; and
  - g. Use reasonable care to ensure that its use does not create unsafe conditions or endanger persons or property.

The execution of this Agreement and grant of the License shall create no City duty, burden or obligation with respect to Licensee or use of the Premises.

10. **Right of Use and Entry.** The City may use and enter the Premises without restriction. Such right of entry shall not be limited to the right to inspect the Premises, make repairs, alterations, or improvements, supply services, or engage in other similar activities. The City may use and enter the Premises even in the absence of emergency or abandonment.
11. **Compliance with Laws and Regulations.** In using the Premises, Licensee shall comply with all applicable laws, ordinances, and regulations from any and all authorities having jurisdiction.
12. **Non-waiver.** The failure of the City to require Licensee's strict compliance with the terms of this agreement shall not constitute or be construed as a waiver or relinquishment of the City's right thereafter to enforce any such term, but the same shall continue in full force and effect.
13. **Time.** Time is of the essence for the performance of every term of this agreement.
14. **Law/Venue.** The venue for any legal action arising from this agreement shall be Pierce County, Washington, and that this agreement shall be governed, construed, and interpreted according to the laws of the State of Washington.
15. **Assignment.** This agreement and License cannot be transferred without the express written consent of the City.
16. **Hold Harmless & Indemnity.** Licensee shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with

activities or operations, performed by Licensee or on Licensee's behalf, that relate to the subject matter of this Agreement, except for injuries and damages caused by the sole negligence of the City.

17. **Notices.** Any notice that is required or permitted to be given by the Parties under this agreement shall be sent by mail through the US Postal Service to, or personally served on:

	City Manager City of Puyallup 333 South Meridian Puyallup, WA 98371	Licensee	Manager 1124 Valley Ave LLC 550 S Michigan St Seattle, WA 98108
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18. **Integration.** This document constitutes the entire agreement between the parties. Except as provided for herein, there are no other verbal or written contracts or understandings which modify or add to this agreement.
19. **Equal Opportunity to Draft.** The parties have participated and had an equal opportunity to participate in the drafting of this License, and the incorporated documents, if any. No ambiguity shall be construed against any party upon a claim that that party drafted the ambiguous language.
20. **Severability.** The invalidity or unenforceability of any particular provision of this contract shall not affect the other provisions, and this contract shall be construed as if such invalid or unenforceable provisions were omitted, unless such invalidity or unenforceability destroys the purpose and intent of this contract.
21. **Counterparts.** This agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument.

1124 Valley Ave, LLC

Dated: \_\_\_\_\_

\_\_\_\_\_  
 By:  
 Its:

City of Puyallup

Dated: \_\_\_\_\_

\_\_\_\_\_  
 Steve Kirkelie  
 City Manager

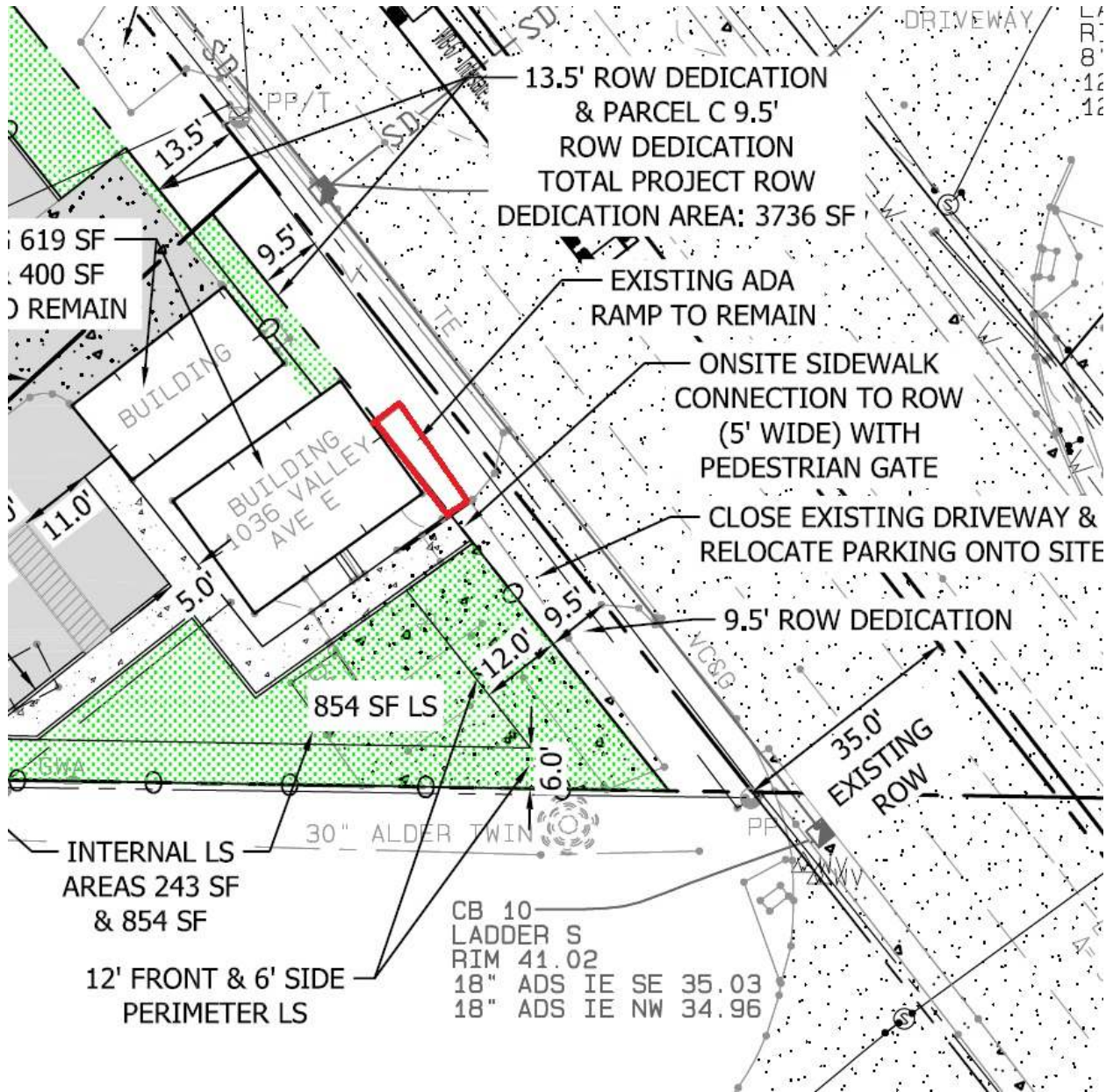
Approved as to form:

Attest:

\_\_\_\_\_  
 Joseph N. Beck  
 City Attorney

\_\_\_\_\_  
 Dan Vessels  
 City Clerk

Exhibit A



**Exhibit B**

