

WARRENTON FOOD POD LICENSE APPLICATION PACKET 2023

MONTHLY RENTAL LIMITED ACCESS



WARRENTON FOOD CART PODS: PREFERRED DESIGN OPTION

APRIL 2021

Thank you for your interest in a license to operate your food cart at the Warrenton Main Street Food Pod. Attached is the license agreement for a Month-to-Month Food Cart including limited utilities option. Once signed by both parties, the agreement will be in effect until one year from date of signing. A two-week notice is required to cancel the agreement.

Included in this license agreement is the following:

What you will provide

- **License fee: \$450/month**
- **Insurance**
- **Food Cart Permit**
- **Food Handlers License**

(All of the above licenses, permits, and insurance are to be displayed at the food cart in the front window of the cart or food cart dashboard window)

- **Food Cart**
- **Portable Plants**
- **Seating**
- **Keep area neat and clean**

What the Warrenton Urban Renewal Agency will provide: (Please circle those that show a request option)

- **Electricity \$10 Requested: Yes/No**
- **Water/Graywater \$10 Requested: Yes/No**
- **Garbage receptacle \$5 per month**
- **Space for food cart**
- **Parking for customers**
- **Restrooms**

Total cost per month: _____

FOOD TRUCK LICENSE AGREEMENT

This License Agreement (“Agreement”) is made this ____ day of _____, 2023, by and between (Grantee Name Here) (“Grantee”), and The City of Warrenton, an Oregon municipal corporation (“Grantor”), collectively referred to as the “Parties” in this Agreement

Recitals

WHEREAS, Grantor owns a public parking lot in which Grantee would like to park and operate “(Grantee Name Here)” Food Truck;

WHEREAS, Grantor’s property (the “Property”) is described as follows: “Public Parking Lot”, at 267 S Main Avenue has city utilities and is available for use under certain conditions described below; and

WHEREAS, Grantor will permit Grantee to use the Property in accordance with the terms of this Agreement. Grantee acknowledges the use of the lot as public parking and its periodic use by the Fire Department for training purposes. No passenger vehicle parking is allowed in this area.

Agreement

NOW, THEREFORE, the Parties agree as follows:

1. License. Grantor grants to Grantee a non-exclusive, temporary license (“License”) on and across the Property for vehicular access and Food Truck operations purposes. The actual consideration for the License is \$450 monthly, due on or before the 1st day of each month before the month of occupancy. It does not include internet connectivity cable, trash, utilities for electricity, water, or gray water hookups. Water, gray water hookups, and electricity may be requested for an additional fee. This Agreement shall automatically renew on a monthly basis until terminated by either Party as provided in this Agreement. The agreement is up for renewal 12 months from the date of signing by the City Manager. If at 12 months, both parties agree to continue, an addition of new signatures and dates will be added to the license. If either party elects to terminate, said party shall provide written notice two weeks prior to termination. *If the Food Cart takes up more than one 10’x20’ space, and additional fee of \$400 for the second space shall be charged on a monthly basis.*
2. Rights Granted for License Area. The License Area is that portion of the Property depicted in the attached cover page diagram. Grantee and Grantee’s agents, employees, contractors, and other authorized parties will have the right to enter upon and use the License Area for Food Truck operation purposes, including all customary uses that may arise out of or be necessitated by that use. Grantor reserves the right to use the Property for all purposes that do not unreasonably interfere with Grantee’s rights under this Agreement, including but not limited to issuance of licenses to others for use of the Property outside of the License Area. Grantee may not pave, tar, asphalt, grade, place rock, or fill any part of the Property, remove any vegetation, or construct any improvements within the License Area or elsewhere on the Property without Grantor’s prior written authorization, which Grantor

may authorize in its sole discretion. Grantor does not grant Grantee any mineral or subsurface rights to the Property.

3. Compliance with Laws and Regulations. Grantee, at Grantee's sole expense, must comply with all laws, rules, orders, ordinances, directions, regulations, and requirements of federal, state, county and municipal authorities pertaining to Grantee's use of the Property and License Area, and with any recorded covenants, conditions, and restrictions, regardless of when they become effective. These include, without limitation, any required alteration of the License Area or the Property because of Grantee's specific use, and all applicable federal, state, local laws, regulations or ordinances pertaining to air and water quality, Hazardous Materials as defined in this Agreement, food safety regulations, waste disposal, air emissions and other environmental matters, and all zoning and other land use matters. Grantee shall obtain all necessary permits and other authorizations required for Grantee's use of the License Area, and any other related activities undertaken by Grantee on the Property. Grantee shall remain in compliance with all such permits and authorizations granted.
4. Maintenance. While the Agreement is in effect, Grantee must keep the License Area in good condition at its sole expense and maintain the Property free of trash and other debris. To this end, Grantee will provide restroom and garbage receptacles as provided by the URA. Grantees shall provide their own garbage bags. Grantee will provide portable landscaping, and seating area. Grantee will comply with all applicable rules, laws, ordinances, and requirements regarding Grantee's use of the License Area. Prior to vacating the License Area, Grantee must remove all personal property, any improvements and return the License Area to the condition that existed prior to Grantee's use of the License Area, to Grantor's satisfaction, unless otherwise agreed to in writing by the Grantor. Any maintenance of the Property by Grantor is at the sole discretion of Grantor and is not required under the terms of this Agreement.
5. Environmental Contamination. Grantee shall be responsible for any and all spills, releases, discharges, or leaks of (or from) environmental pollutants or hazardous substances or materials which the Grantee, its agents, employees, contractors, or invitees has brought or caused to be brought onto the Property; and promptly clean up, without cost to the Grantor, such spills, releases, discharges, or leaks to the Grantor's satisfaction and in compliance with all applicable federal, state, or local statutes, rules or ordinances. Grantee shall not cause or knowingly permit any Hazardous Materials to be brought upon, kept or used in or about the Property by Grantee, its agents, employees, contractors, or invitees without the prior written consent of Grantor. Grantee shall indemnify, defend and hold Grantor and its officers, employees, agents and representatives harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses (including without limitation, diminution in value of the Property, attorneys' fees, consultant fees, and expert fees) that arise during or after the term of this Agreement term as a result of contamination by Hazardous Materials. This indemnification of Grantor by Grantee includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state, or local

governmental agency or political subdivision because of Hazardous Materials present in the soil or groundwater on or under the Property. Without limiting the foregoing, if the presence of any Hazardous Materials on the Property caused or permitted by the acts or omissions of Grantee or its agents, employees, contractors or invitees results in any contamination of the Property during the term of this Agreement, Grantee shall promptly take all actions at its sole expense as necessary to return the Property to the condition existing prior to the release of any such Hazardous Materials to the Property, provided that Grantor's approval of such actions shall first be obtained. The foregoing indemnity shall survive the expiration or earlier termination of this Agreement, and is in addition to all other indemnifications provided by Grantee under the terms of this Agreement. As used in this Agreement, the term "Hazardous Materials" means any hazardous or toxic substance, material, or waste, including, but not limited to, those substances, materials and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101) or by the United States Environmental Protection Agency as hazardous substances (40 CFR Part 302) and amendments thereto, ORS Chapter 465, petroleum products or such other similar substances, materials or wastes that are or become regulated under any applicable local, state, or federal laws.

6. No Assignment or Sub-Licensing. Grantee may not sublicense the License Area or any part thereof and may not transfer or assign the License granted by this Agreement without obtaining the advance written consent of Grantor in each case. Grantor's consent may be granted or denied at Grantor's sole discretion. Grantor retains the right to transfer the Property and has the option to assign this Agreement to the transferee.
7. No Liens on the Property. Grantee will not suffer or permit any construction liens to attach in all or any part of the Property by reason of any work, labor, services, or materials done for, or supplied to, or claimed to have been done for or supplied to, Grantee or anyone occupying or holding an interest in all or any part of any improvements on the Property through or under Grantee. If any such lien at any time is filed against the Property, Grantee will cause the lien to be discharged of record within 10 business days after the date of filing the same, by payment, deposit, or bond. Nothing in this Agreement shall be construed in any way as constituting the consent or request, express or implied, by inference or otherwise, to any person, firm, or corporation for the performance of any labor or the furnishing of any materials for any construction, rebuilding, alteration, or repair of or to the Property, or as giving any right, power, or authority to contract for or permit the rendering of any services or the furnishing of any materials that might in any way give rise to the right to file any lien against the Property.
8. Indemnity. To the extent allowed under the Oregon Tort Claims Act and the Oregon Constitution, Grantee will indemnify, defend, and hold Grantor harmless from and against any injury, expense, damage, liability, or claim including but not limited to attorney fees incurred by Grantor arising directly or indirectly from the rights granted by Grantor to Grantee in this Agreement or any act or omission by Grantee, its agents and assigns or any

other person entering upon or using the License Area with Grantee's express or implied invitation or consent, except for those acts occurring solely because of Grantor's negligence.

9. Insurance. Grantee acknowledges and assumes responsibility for any and all liability arising out of Grantee's operations undertaken pursuant to the terms of this Agreement, and shall maintain occurrence form commercial general liability and automobile liability insurance for the protection of Grantee and Grantor, Grantor's Commissioners, officers, agents and employees. Coverage shall include personal injury, bodily injury (including death) and broad form property damage, including loss of use of property, occurring in the course of or in any way related to Grantee's operations, in an amount not less than Two Million Dollars (\$2,000,000.00) combined single limit per occurrence. Such insurance shall name the Warrenton Urban Renewal Agency and the City of Warrenton as additional insured. Grantee shall furnish Grantor certificates evidencing the date, amount, and type of insurance required by this Agreement. All policies will provide for not less than thirty (30) days' written notice to Grantor before they may be canceled. The coverage provided by insurance required under this Agreement shall be primary, and any other insurance carried by Grantor shall be excess. Grantee shall require its agents and contractors to carry commercially reasonable comprehensive liability coverage for injury to or death of a person and for damage to property occasioned by or arising out of any use of the License Area or Property.
10. Default. If Grantee violates any of the terms, covenants, or conditions of this Agreement or fails to perform any of its obligations under this Agreement in a timely fashion, Grantor may declare in writing to Grantee that the License is null and void and of no further force and effect, provided Grantee will have five (5) business days to cure the default, or such additional time as Grantor may in writing and in its sole discretion permit.
11. Notices. Notices required by this Agreement must be in writing and are deemed given and received upon deposit in the United States mail, certified or registered mail, postage prepaid, return receipt requested, addressed to the parties at their respective addresses listed herein.

Notices to Grantor:

City of Warrenton
Warrenton Urban Renewal Agency
Attn: City Manager
P.O. Box 250
Warrenton, Oregon 97146
503-791-5888

Notices to Grantee:

(Grantee Name, Address & Phone # Here)

12. General. Grantee's obligation to indemnify Grantor and return the License Area to its original condition survives the termination of this Agreement. Time is of the essence under this Agreement. There are no third-party beneficiaries to this Agreement. This Agreement represents the entire agreement and understanding between the Parties. It is not effective

until both Parties sign it. Any amendments to it must be in a separate writing signed by both Parties. The waiver of one breach of any term, condition, covenant, or obligation herein is not a waiver of that or any other term, condition, covenant, or obligation or of any subsequent breach thereof. This Agreement shall be construed so that the plural includes the singular and the singular includes the plural. This Agreement is binding upon the parties, their successors and assigns. This Agreement shall be governed by the laws of the State of Oregon. Venue shall be Clatsop County, Oregon. The prevailing party in any lawsuit arising out of this agreement is entitled to attorney fees, costs and disbursements, both at trial and on appeal.

13. Exhibits. All exhibits, including a site plan illustrating the location of the License Area and food truck, to this Agreement are incorporated by reference into the Agreement as if they were set out in full within this document.

GRANTEE

Food Cart Owner Signature:

Print Your Name Here:

Title: _____

GRANTOR

City of Warrenton

Signature of Authorized Grantor:

Name: Esther Moberg

Title: **City Manager**

Date: _____