

## **LICENSE AGREEMENT**

THIS AGREEMENT is made by and among the TOWN OF NEW CASTLE, COLORADO (hereinafter "Town"), and Dr. Lauren Roper and Raul Morales (collectively "Licensee") this \_\_\_\_ day of \_\_\_\_\_, 2016.

WHEREAS, the Town is the owner of certain real property in New Castle on which the Town Hall is located described at Block A, Lots 5-8, New Castle Original Townsite, also known as 450 W. Main Street, New Castle, CO (the "Town Property"); and

WHEREAS, Licensee is the owner of property described as Block A, Lot 9, New Castle Original Townsite, also known as 500 W. Main Street, New Castle, CO (the "Odd Fellows Property"); and

WHEREAS, the Odd Fellows Property is immediately adjacent to the Town Property; and

WHEREAS, Licensee desires to remodel the structure on the Odd Fellows Property to create four (4) non-ingress/egress windows on the side of the building adjacent to the Town Property; and

WHEREAS, as of the date of this Agreement, the westernmost five feet of the Town Property adjacent to the Odd Fellows Property is vacant and not used as part of Town Hall except for open space and landscaping purposes; and

WHEREAS, Licensee has requested a license from the Town in order to rely upon the western 5 feet of the Town Property to maintain minimum building separation requirements pursuant to the building code with respect to the four new windows, and the Town is willing to grant the license subject to the terms of this Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

The Town hereby grants a non-exclusive, revocable license to Licensee for the purpose of maintaining minimum building separation requirements pursuant to the building code adopted by the Town, over and across the westerly five (5) feet of the Town Property adjacent to the Odd Fellows Property on the following terms and conditions:

1. Either party may terminate this Agreement for any reason whatsoever by giving the other party (180) days' written notice; provided, the Town agrees not to issue any such notice or revoke this Agreement any sooner January 1, 2022.

2. Licensee will be responsible for any damage that occurs as a result of the use of the Town Property by Licensee or by Licensee's tenants, guests, invitees, heirs, successors, or assigns.
3. This Agreement shall be a covenant running with title to the Town Property and the Odd Fellows Property and shall be binding upon successor owners. In the event that any successor owner, including any foreclosing lender, refuses to abide by or refuses to acknowledge in writing that it is bound by the terms of this Agreement, then the Town shall have the right to terminate this Agreement immediately notwithstanding Paragraph 1, above.
4. This license is for emergency ingress and egress only and is not a license for construction purposes. Licensee shall have no right to install, use or maintain any improvements or to store any personal property on the Town Property.
5. Upon termination, Licensee shall be responsible to comply with all applicable provisions of the building code and other regulations in effect at the time, which may require eliminating the new windows or otherwise reconstructing the wall between the Town Property and the Odd Fellows Property. Licensee shall be solely responsible for any such costs and accepts the risk of such future requirement without any liability to the Town.
6. Licensee agrees to indemnify and hold harmless the Town, and its officers and its employees, from and against any liability, demands, and expenses, including reasonable court costs and attorney fees, on account of any injury, loss, or damage, which arise out of or are in any manner connected with the use of the Town Property or otherwise under this Agreement. This indemnification shall include actual attorneys' fees incurred by the Town in the event that any party brings an action against the Town.
7. Any notices per this Agreement shall be sent as follows:

Town:                   Town of New Castle  
                              P.O. Box 90  
                              New Castle CO 81647

Licensee:             \_\_\_\_\_  
                              \_\_\_\_\_  
                              New Castle, CO 81647

8. The Parties hereto understand and agree that the Town is relying on and does not waive or intend to waive by this Agreement or any provision hereof, the monetary limitations and any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101 *et seq.* as amended from time to time or otherwise available to the Town.

9. This Agreement shall be governed and construed in accordance with the laws of the State of Colorado. In the event of any dispute arising out of this Agreement, the prevailing party shall be entitled to recover her reasonable costs and attorney fees in addition to all other remedies.
10. The Parties agree that this Agreement constitutes the final and entire agreement among the Parties and thereby supersedes and voids any and all prior agreements, letters, or understandings, whether written or oral, which may have existed regarding the subject matter of this Agreement.
11. No provision or term of this Agreement may be amended, modified, revoked, supplemented, waived, or otherwise changed except by written instrument duly executed by the Parties hereto.
12. This Agreement may be executed in counterparts, each of which shall be an original, and all of which together shall constitute the Agreement.
13. If any provision in this Agreement shall be held invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of this Agreement shall not be impaired.
14. In case at any time after the date hereof, any further action is necessary or desirable to give full effect to the intent and purpose of this Agreement, each of the Parties will take such further action (including the execution and delivery of such further instruments and documents) as any other party hereto reasonably may request.
15. This Agreement does not constitute an express or implied land use approval of any type concerning the Odd Fellows Property, nor does it otherwise impact or affect the zoning and entitlements of the Odd Fellows Property.
16. No provision of this Contract shall be construed or interpreted: i) to directly or indirectly obligate Town to make any payment in any year in excess of amounts appropriated for such year; ii) as creating a debt or multiple fiscal year direct or indirect debt or other financial obligation whatsoever within the meaning of Article X, Section 6 or Article X, Section 20 of the Colorado Constitution or any other constitutional or statutory limitation or provision; or iii) as a donation or grant by Town to or in aid of any person, company or corporation within the meaning Colorado law.

