

**TOWN OF MINTURN, COLORADO  
RESOLUTION NO. 09 – SERIES 2016**

**A RESOLUTION AUTHORIZING THE MAYOR OF THE TOWN OF MINTURN TO SIGN A LICENSE AGREEMENT WITH MINTURN REALTY COMPANY, LLC FOR IMPROVEMENTS IN THE 100 BLOCK OF MAIN STREET/HWY 24.**

**WHEREAS**, the Town of Minturn desires to enter into a license agreement with Minturn Realty Company, LLC to permit the construction and maintenance of landscaping improvements on property owned by Minturn Realty Company.

**NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO THAT THE MAYOR OR HIS DESIGNEE IS AUTHORIZED TO SIGN ON BEHALF OF THE TOWN OF MINTURN ANY AND ALL NEGOTIATED DOCUMENTS REQUIRED TO EXECUTE SAID AGREEMENT.**

**INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this 20<sup>TH</sup> day of April, 2016.**

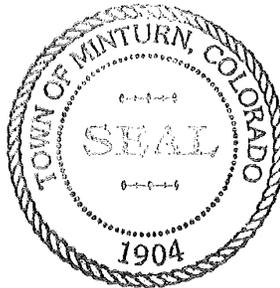
TOWN OF MINTURN

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

Mathew Scherr, Mayor

ATTEST:

\_\_\_\_\_  
Jay Brunvand, Town Clerk



## LICENSE AGREEMENT

THIS LICENSE AGREEMENT (this "Agreement") is made and entered into this \_\_\_ day of \_\_\_\_\_, 2016, by and between the Town of Minturn, Colorado, whose address is P.O. Box 309, Minturn, CO 81645 (the "Town") and Minturn Realty Company, Inc., whose address is P.O. Box 130, Minturn, CO 81645 ("Licensor") (collectively, the "Parties").

**WHEREAS**, the Colorado Department of Transportation ("CDOT") is the owner of certain rights-of-way in the vicinity of State Highway 24 and Main Street in the Town, more accurately depicted on **Exhibit A**, attached and incorporated by this reference; and

**WHEREAS**, the Town desires to place improvements along and within the CDOT rights-of-way, including the placement of planter boxes and vegetation, for the enhancement of the area; and

**WHEREAS**, Licensor is the owner of private property located along the CDOT right of way as depicted on Exhibit A; and

**WHEREAS**, the Town desires to place certain improvements upon Licensor's property for a limited term.

**NOW, THEREFORE**, for and in consideration of the mutual promises and covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Recitals. The foregoing recitals are incorporated by reference herein.
2. License. Licensor hereby grants to the Town a revocable license over that portion of Licensor's property along State Highway 24 to place planter boxes and vegetation for the term of this Agreement. The license herein granted is limited to the placement of such improvements and the necessary and reasonable maintenance and care thereof. The Town agrees to work with Licensor to address Licensor's reasonable needs and desires regarding the improvements added under this Agreement. The Town further agrees to manage and maintain this license in a manner that neither overly burdens nor interferes with Licensor's business.
3. Term. Unless otherwise terminated pursuant to this Agreement, the license granted to the Town shall be for a period of ten (10) years, commencing on the date first written above. The license granted herein shall run with the land, to all of the Town's and Licensor's successors in interests, future owners of the property, tenants, and assignees. Following the initial ten (10) year term, this Agreement shall automatically renew for additional one (1) year terms on the anniversary date of this Agreement, unless an otherwise-approved plan for redevelopment, subject to Section 4, requires removal of such planter boxes and vegetation.

4. Revocability. Licensor, or Licensor's successor in interest, may revoke this Agreement if the improvements made hereunder conflict with an otherwise-approved-of redevelopment plan pertaining to Licensor's property. In such a case, the Town shall have up until ten (10) days prior to the commencement of construction activities to remove any and all improvements remaining on Licensor's property. The Town shall repair or replace asphalt or cement damaged in the course of the removal of the improvements.

5. Termination by Town. Licensor acknowledges that the license and necessary maintenance is subject to annual appropriation by the Town. The Town may, at its sole discretion, terminate the license granted hereunder without cause upon thirty (30) days written notice to Licensor. In the event the Town terminates the license for any reason, the Town will remove all improvements within forty-five (45) days.

6. Maintenance. The Town shall, at its sole expense, plant, water, trim, prune, clean, and otherwise maintain the planter boxes and vegetation in a neat, orderly, and generally attractive manner so as not to limit Licensor's lawful use of its property or cause undue hardship to the functioning of Licensor's business.

7. Removal. Upon termination or revocation of this Agreement, the Town shall remove the planter boxes, vegetation, and any accompanying fixtures at its sole expense.

8. Parking Impacts. The Town agrees that the implementation of the improvements under this Agreement will not require Licensor to alter or provide additional parking for the Minturn Realty Company property holdings. Licensor, Licensor's customers, and Licensor's tenants shall have use of the Town's parking lot without the assessment parking fees unless the Town's lot is closed to the general public for special use or event purposes.

9. Outdoor Seating. The Parties agree and acknowledge that no outside seating will be allowed for Magustos Pizza and Burger Bar on 1<sup>st</sup> Street at any time following the mutual execution of this Agreement.

10. No Adverse Possession. The Parties agree and acknowledge that the use of Licensor's property is permissive in nature, and the Town does not now have and shall not acquire in the future any rights to continued use of Licensor's property except for the limited license specifically granted by this Agreement.

11. Indemnification. To the extent permitted by law, the Town agrees to indemnify, defend, and hold harmless Licensor against any and all claims, liabilities, or demands whatsoever, including reasonable attorney fees related to or arising out of the Town's use of Licensor's property or arising out of or related to this Agreement, including claims by the Town.

12. Severability. Should any portion of this Agreement be declared invalid or unenforceable by a court of competent jurisdiction, then the remainder of this Agreement shall be deemed severable, shall not be affected, and shall remain in force and effect in order to most closely approximate the intent of the Parties before such portion was declared invalid.

13. Entire Agreement. This Agreement is the entire agreement of the Parties, and neither Party has relied on any promises or representations except as expressly described herein. This Agreement may only be modified by a writing signed by all Parties.

14. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Colorado. The District Court in and for Eagle County, Colorado shall be the exclusive venue for any dispute arising hereunder. In the event of such a dispute, the prevailing Party shall be entitled to reasonable costs and expenses, including attorney fees.

15. No Third Party Beneficiary. No third-party is an intended beneficiary to this Agreement. No other party, not being a signatory to this Agreement, may rely on or enforce the provisions of this Agreement.

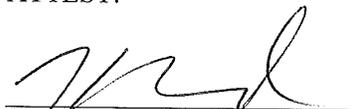
16. Successors. This Agreement shall be a covenant running with Licensor's property, shall be binding upon the Parties' successors and assigns, and shall be recorded in the Office of the Eagle County Clerk and Recorder's Office.

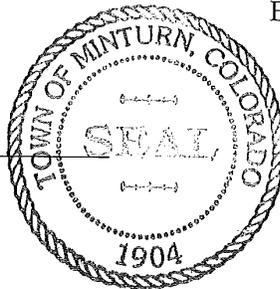
17. Agreement Costs. The Town agrees to pay for any and all costs associated with the drafting of this Agreement.

**WHEREFORE**, the Parties have executed this Agreement to be effective as of the date first written above.

TOWN OF MINTURN:

ATTEST:

  
Town Clerk



By:   
Matthew Scherr Mayor

Town of Minturn, Colorado  
2016 License Agreement  
Minturn Realty Company, Inc. Improvements

MINTURN REALTY COMPANY, INC.:

By: *Dorothy M. Adair*

Title: SECRETARY

Exhibit A

Property Boundaries

