

AGREEMENT REGARDING TEMPORARY CONSTRUCTION EASEMENT

THIS AGREEMENT REGARDING TEMPORARY CONSTRUCTION EASEMENT (this "Agreement") is executed as of the ____ day of _____, 2025 (the "Effective Date"), by and between CITY OF CHANDLER, an Arizona municipal corporation ("Grantor") and S Arizona Avenue, LLC, an Arizona limited liability company, ("Grantee," together with Grantor, the "Parties").

RECITALS

A. On the Effective Date, Grantor has granted to Grantee that certain Temporary Construction Easement of even date herewith (the "TCE") concerning construction of structural footings on the Parties' property. The TCE contains a description of those portions of Grantor's property that is governed by the TCE (the "TCE Property").

B. Under the TCE, Grantee will install structural concrete footings to support the façade of the structure that sits on Grantee's property (the "TCE Work"). Grantor agreed to grant the TCE upon the condition that Grantee perform the TCE Work in accordance with the terms and conditions of this Agreement.

C. The purpose of this Agreement is to set forth certain agreements between the Parties concerning the TCE Work, all as further set forth herein.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Notice of Commencement.** Grantee shall give Grantor not less than five (5) days advance written notice prior to Grantee's entry upon the TCE Property to the commencement of the TCE Work.

2. **Preservation and Restoration of Landscaping.** Grantee must exercise the highest degree of care in performing any work within the TCE Property to preserve all existing vegetation and landscaping facilities, including but not limited to trees, bushes, landscaping rock, and irrigation systems. Grantee shall not remove, damage, or disturb any trees present in the TCE Property. Upon completion of the construction, Grantee shall restore all disturbed landscaping to its original condition, including the reinstallation of landscaping features and irrigation systems. If any trees, bushes, or other plants are damaged or killed because of Grantee's activities, Grantee shall replace such vegetation with a plant of the same species, size, and height as the plant that was damaged or destroyed. Grantee shall be responsible for the maintenance and care of any replacement trees, bushes, or other landscaping facilities for a period of one (1) year following installation. All work under this clause shall be performed at Grantee's sole cost and expense.

3. **Preservation and Restoration of Paving and Hardscape.** Grantee shall exercise the highest degree of care in performing any work within the TCE Property to preserve all existing paving and hardscape features, including but not limited to concrete sidewalks, pavers, underground utilities, and any other paved surfaces. Grantee shall not remove, damage, or disturb any paving unless necessary for the completion of the authorized construction. If removal of any paving is required, Grantee shall replace such features with materials of the same type, color, pattern, and quality as those removed, ensuring that the restoration matches the original condition.

All restored paving shall meet applicable engineering and safety standards. Grantee shall not be responsible for pre-existing conditions or deterioration. Grantee may document conditions of the TCE Property via video or photography before beginning any work. Grantee shall repair and restore the TCE Property to a like or equivalent condition as existed prior to the commencement of the TCE Work and shall be responsible for any damages, claims, or losses occurring on the TCE Property during the term of the TCE caused by Grantee's use of the TCE Property or by the acts or conduct of Grantee's employees, agents, contractors, or assigns, including any damage to underground utilities or other subsurface facilities. All work under this clause shall be performed at Grantee's sole cost and expense.

4. Third Party Approvals. Grantee represents and warrants that it has obtained all required approvals from all applicable third parties, including without limitation any applicable utility companies, for the use of the TCE Property (including without limitation the areas thereof located within any utility easements encumbering the TCE Property, if any) and performance of the TCE Work, and that Grantee shall perform the TCE Work in strict compliance with all conditions and requirements of such third parties, for the granting of such approvals. Grantor shall reasonably cooperate with Grantee in obtaining any such approvals.

5. Insurance; Indemnity. Prior to entering the TCE Property, Grantee shall deliver to Grantor a certificate of insurance from Grantee's Contractor naming Grantor as an additional insured and evidencing not less than the following insurance coverage: (i) Commercial General Liability insurance with limits of liability not less than \$1,000,000 per occurrence and \$3,000,000 aggregate, which may be satisfied by Excess and/or Umbrella policies; (ii) Commercial Auto Liability insurance with combined single limits of liability not less than \$1,000,000; and (iii) Workers' Compensation insurance in accordance with applicable statutory requirements. Grantee shall indemnify, hold harmless, pay, and reimburse Grantor, its agents, employees, and contractors, from, for, and against any and all suits, actions, claims, costs, fees, sums, amounts, losses, causes of action, damages, liabilities, and expenses (including reasonable attorneys' fees, court costs, and alternative dispute resolution expenses) caused by or arising out of Grantee or its agents, employees, and contractors entering upon the TCE Property and/or the performance of the TCE Work, or of any breach of this Agreement or the representations and warranties of Grantee contained herein.

6. Notices. All communications, notices, consents, approvals, and waivers required or permitted hereunder shall be given in writing and shall be effective upon personal delivery or direct facsimile transmission, or two (2) business days after being deposited with the U.S. Postal Service, registered or certified, return receipt requested, postage prepaid, or one (1) business day after being deposited with any commercial air courier or express service to the parties at their addresses set forth below:

Grantor:

City of Chandler, an Arizona municipal corporation
Mail Stop 407
P.O. Box 4008
Chandler, Arizona 85244-4008
Attn: Erich Kuntze, Real Estate Manager
Phone: (480) 782-3397
Fax: (480) 782-3365

Grantee:

Joshua Martinez
1846 E. Innovation Park Dr., Suite 100
Oro Valley, Arizona 85755
Phone: 602-820-3755

7. Litigation Expenses and Attorneys' Fees. In the event of litigation involving this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its costs and expenses incurred in such action from the other party, including reasonable attorneys' fees as determined by the judge of the court.

8. Miscellaneous. Time is of the essence with respect to this Agreement. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the TCE. This Agreement may not be modified unless it is in writing and signed by all parties hereto. The provisions of this Agreement shall survive the expiration or earlier termination of the TCE. This Agreement and the TCE constitute the entire agreement between the parties written and verbal concerning the Temporary Construction Easement and the TCE Work. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be valid under applicable law, but if any provision shall be deemed invalid or prohibited thereunder, such provision shall be deemed severed from this Agreement and this Agreement shall otherwise remain in full force and effect. This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Arizona. This Agreement may be executed by the signing in counterparts. The execution of this instrument by each of the parties signing a counterpart hereof shall constitute a valid execution, and this instrument and all its counterparts so executed shall be deemed for all purposes to be a single instrument. This Agreement is valid, binding, and enforceable against a party only when executed by an authorized individual on behalf of a party by means of (i) an electronic signature that complies with the federal Electronic Signatures in Global and National Commerce Act, state enactments of the Uniform Electronic Transactions Act, or any other relevant and applicable electronic signatures law; (ii) an original manual signature; or (iii) a faxed, scanned, or photocopied manual signature. Each electronic signature or faxed, scanned, or photocopied manual signature has for all purposes the same validity, legal effect, and admissibility in evidence as an original manual signature. This Agreement is effective upon delivery of one executed counterpart from each party to the other parties. In proving this Agreement, a party must produce or account only for the executed counterpart of the party to be charged.

The Parties have executed this Agreement as of the Effective Date above.

GRANTOR:

CITY OF CHANDLER, an Arizona municipal corporation

By: _____
Name: _____
Title: _____

Attest:

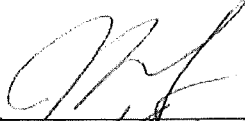
By: _____
City Clerk

Approved as to form:

By: _____
(Asst.) City Attorney TA

GRANTEE:

S ARIZONA AVENUE, LLC, an Arizona limited liability company

By:  _____
Name: Joshua Martinez
Title: Manager