

THIS LICENSE AGREEMENT made this 26 day of April 2023 by and between:

THE COUNTY OF WESTCHESTER, a municipal corporation of the State of New York, having an office and place of business in the Michaelian Office Building, 148 Martine Avenue, White Plains, New York, 10601 (hereinafter the "County"),

and

THE TOWN OF NORTH CASTLE, a municipal corporation of the State of New York, having its principal office at Town Hall, 15 Bedford Road, Armonk, New York 10504 (hereinafter the "Licensee").

WITNESSETH:

WHEREAS, the County desires to make certain facilities available for the accommodation of the public; and

WHEREAS, the Licensee desires to operate such facilities for the County.

NOW, THEREFORE, the parties hereto in consideration of the terms and conditions herein contained do agree as follows:

1. Description: The County hereby grants to the Licensee and the Licensee hereby accepts from the County a license to use the vacant land as described as several parcels in Sheet 28 of the Bronx River Parkway Maps (hereinafter the "Licensed Premises"). The Licensed Premises are shown on the sketch entitled "Plan Showing Proposed Commuter Parking Facilities for North Castle and Greenburgh Residents on Property of Westchester County in the Town of Greenburgh, Westchester County, New York", attached hereto and made a part hereof as Schedule "A". The Licensed Premises shall be used and operated by the Licensee solely and exclusively for commuter parking facilities subject to all the terms, conditions and covenants herein.

2. **Term:** The term of this License shall be for one (1) year commencing April 1, 2023 and terminating on March 31, 2024 (hereinafter the "Term") unless terminated sooner as hereinafter provided.

3. **License Fee:** The Licensee shall pay to the County for the term of this License, upon execution of this License, a sum equal to THIRTY SIX THOUSAND SEVEN HUNDRED TWENTY THREE DOLLARS (\$36,723.00). A certified statement of the gross receipts collected during the Term must be submitted to the County on or before April 30, 2024.

In addition to said License Fee, Licensee shall be solely responsible for and shall pay and discharge, as an additional license fee, when due and payable, any and all real property assessments, water meter and sewer rents, utility charges and all other charges which may become due and payable with respect to the Licensed Premises during the Term.

4. **Maintenance and Repair.** The Licensee, at its sole cost and expense, shall keep the Licensed Premises, and the fixtures and equipment thereon, as well as surrounding areas within a radius of fifteen (15) feet of the boundaries of the Licensed Premises, clean, safe and in good order and shall make all required repairs, it being understood and agreed that such maintenance shall be performed to the complete satisfaction of, and as directed by the Commissioner of Parks, Recreation and Conservation (the "Commissioner"). The Licensee shall properly handle, remove and dispose of all refuse in closed containers and shall provide professional exterminating services as deemed necessary.

5. **Alterations.** Licensee shall not make any alterations, additions or improvements to the Licensed Premises without the prior written approval of the Commissioner. All such alterations, additions and improvements shall be made at the Licensee's sole cost and expense and shall become the property of the County immediately upon their annexation to the Licensed Premises.

6. **Inspection.** The Commissioner or his authorized representative shall be entitled to enter the Licensed Premises at any time for the purpose of inspecting, observing and monitoring

any aspect of the Licensee's operations. The Licensee shall also permit inspection, observation and monitoring of same by any federal, state, county or municipal officer having jurisdiction. The Licensee, at its sole cost and expense, shall promptly remedy any and all violations issued as a result of such inspection.

7. Inflammables. The Licensee shall not use or store any explosives, toxic materials or flammables on or about the Licensed Premises.

8. Personnel. The Licensee shall manage the operations under this License personally or shall employ a manager to supervise and manage said operations. The Licensee shall employ a sufficient number of trained, knowledgeable personnel to insure the safe and proper operation under this License. The Licensee shall provide, and its employees shall wear, appropriate employee identification and uniforms.

The operation of the Licensee shall be conducted in an orderly and proper manner so as not to annoy, disturb, offend or interfere with others using the County's recreational facilities. The Licensee shall immediately remove the cause of any objection made by the Commissioner regarding the demeanor, conduct and appearance of any of Licensee's employees, invitees or business guests.

9. Condemnation. In the event that the Licensed Premises, or such a substantial part thereof so as to render impossible the operation of this License, are taken by eminent domain, this License shall terminate on the date upon which title vests in the condemnor and neither party shall have any liability to the other on account of such termination.

10. Fire Damage, Destruction. In the event that, due to damage by fire or other casualty, the County elects to discontinue the operation of this License, this License shall terminate and the County shall have no liability to the Licensee hereunder provided, however, that should such damage result from any act or omission of the Licensee, then this License shall continue in full force and effect and the Licensee, at its sole cost and expense, shall repair the

damage. Upon the failure of the Licensee to make such repairs, the County may repair such damage at the Licensee's cost and expense.

11. Termination. (a) The County, upon thirty (30) days' notice to the Licensee, may terminate this Agreement in whole or in part when the County deems it to be in its best interest, without liability, and in such event, the County shall be compensated and the Licensee shall be liable to the County for the money due to the County covering all operations under this License, including without limitation all payments on account of real estate taxes, all prorated to the effective date of such termination.

(b) In the event that the Licensee defaults in the performance of any term, condition or covenant herein contained, the County, at its option and in addition to any other remedy it may have to seek damages, judicial enforcement or any other lawful remedy, may terminate this License upon ten (10) days' notice to the Licensee; provided, however, that the Licensee may defeat such notice by curing the default complained of within such notice period, or, if any such default is not curable within such notice period, by promptly commencing to cure the default and diligently pursuing all necessary and appropriate action to effect such cure. Upon a second default by the Licensee, the County, at its option and in addition to any other remedy it may have to seek damages, judicial enforcement or any other lawful remedy, may terminate this License upon written notice to the Licensee, such notice to be effective immediately upon delivery thereof.

12. Compliance with Laws: Licensee shall comply with all statutes, ordinances, rules, orders, regulations, codes and requirements of the Federal, State, County and municipal governments and of the Westchester County Department of Parks, Recreation and Conservation, including, without limitation, those applicable to the prevention and abatement of nuisances and other grievances in or upon the Licensed Premises, and shall also comply with all sanitary rules and regulations of the State and County Health Departments.

13. **No Sales:** Licensee shall not sell, offer for sale, nor permit the sale of any food, commodity, ware or merchandise of any kind, nature or description on the Licensed Premises without the prior written consent of the Commissioner.

14. **Advertising:** Licensee shall not erect nor allow the erection of any advertising signs in or on the Licensed Premises without obtaining the prior written approval of the Commissioner.

15. **Security:** Licensee shall be responsible for the security of the Licensed Premises and shall, continuously throughout the Term, police the area of the Licensed Premises within its municipal jurisdiction.

16. **Surrender of Premises:** Upon expiration or termination of this License, the Licensee shall surrender possession of the Licensed Premises to the County in good condition, normal wear and tear excepted.

17. **Insurance and Indemnification:** The Licensee agrees to procure and maintain insurance naming the County as additional insured, as provided and described in Schedule "B", entitled "Standard Insurance Provisions", which is attached hereto and made a part hereof. In addition to, and not in limitation of the insurance provisions contained in Schedule "B", the Licensee agrees:

(a) that except for the amount, if any, of damage contributed to, caused by, or resulting from the sole negligence of the County, the Licensee shall indemnify and hold harmless the County, its officers, employees, agents, and elected officials from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorney's fees or loss arising directly or indirectly out of the performance or failure to perform hereunder by the Licensee or third parties under the direction or control of the Licensee; and

(b) to provide defense for and defend, at its sole expense, any and all claims, demands or causes of action directly or indirectly arising out of this Agreement and to bear all

other costs and expenses related thereto from April 1, 2023 through March 31, 2024. In no event shall the County be liable for any indirect, consequential, special or punitive damages; and

(c) In the event the Licensee does not provide the above defense and indemnification to the County, and such refusal or denial to provide the above defense and indemnification is found to be in breach of this provision, then the Licensee shall reimburse the County's reasonable attorney's fees incurred in connection with the defense of any action, and in connection with enforcing this provision of the Agreement.

18. Notices: All notices of any nature referred to in this Agreement shall be in writing and either sent by registered or certified mail postage pre-paid, or delivered by hand or overnight courier, or sent by facsimile (with acknowledgment received and a copy of the notice sent by registered or certified mail, postage pre-paid), as set forth below or to such other addresses as the respective parties hereto may designate in writing. Notice shall be effective on the date of receipt. Notices shall be sent to the following:

To the County:

Commissioner
Department of Parks, Recreation & Conservation
450 Saw Mill River Road
Ardsley, New York 10502

with a copy to:

County Attorney
Michaelian Office Building, Room 600
148 Martine Avenue
White Plains, New York 10601

To the Licensee:

Supervisor
Town of North Castle
Town Hall
15 Bedford Road
Armonk, New York 10504

19. Assignment: The Licensee shall not assign, sublet, subcontract or otherwise dispose of this License, or any right, duty or interest herein, without the prior written consent of the Commissioner, nor shall this License be transferred by operation of law, it being the purpose and

spirit of this instrument to grant this License and privilege personally and solely to the Licensee named herein. No assignment, subcontracting, subletting or other such disposition of this License, either with or without such consent of the Commissioner, shall serve to relieve the Licensee of its obligations hereunder.

20. Force Majeure: No Party shall be liable for any default or delay in the performance of its obligations under this Agreement (i) if and to the extent such default or delay is caused, directly or indirectly, by: fire, flood, earthquake, elements of nature or acts of God; riots, civil disorders, rebellions or revolutions in any country; a court order which substantially interferes with the County's ability to enjoy the benefits of this agreement; or any other cause beyond the reasonable control of such Party, (ii) provided the non-performing Party is without fault in causing such default or delay, and such default or delay could not have been prevented by reasonable precautions and cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, work-around plans or other means.

In such event the non-performing Party shall be excused from further performance or observance of the obligation(s) so affected for as long as such circumstances prevail and such Party continues to use diligent, reasonable efforts to recommence performance or observance whenever and to whatever extent possible without delay. Any Party so delayed in its performance shall immediately notify the Party to whom performance is due by telephone (to be confirmed in writing within 2 days of the inception of such delay) and describe at a reasonable level of detail the circumstances causing such delay.

21. No Lease: It is expressly understood and agreed that no building, structure, equipment or space is leased to the Licensee, and no greater privilege for the use and occupancy of the Licensed Premises is granted by the County, except as expressly set forth herein. The Licensee's privilege to use and occupy the Licensed Premises shall continue only so long as the Licensee shall comply with each and every term and condition of this License and the County does not elect to terminate this License earlier.

22. Risk of Operation: The Licensee assumes all risks in the operation of this License.

23. Non-Discrimination: The Licensee expressly agrees that neither it nor any Licensee, subconsultant, employee, or any other person acting on its behalf shall discriminate against or intimidate any employee or other individual on the basis of race, creed, religion, color, gender, age, national origin, ethnicity, alienage or citizenship status, disability, marital status, sexual orientation, familial status, genetic predisposition or carrier status during the term of or in connection with this Agreement, as those terms may be defined in Chapter 700 of the Laws of Westchester County. The Licensee acknowledges and understands that the County maintains a zero tolerance policy prohibiting all forms of harassment or discrimination against its employees by co-workers, supervisors, vendors, contractors, or others.

24. Required Disclosure of Relationships to County: Attached hereto and forming a part hereof as Schedule "C" is a questionnaire entitled "Required Disclosure of Relationships to County". The Licensee agrees to complete and sign said questionnaire as part of this Agreement. In the event that any information provided in the completed questionnaire changes during the term of this Agreement, Licensee agrees to notify County in writing within ten (10) business days of such event.

25. Remedies Cumulative: The failure of the County to insist, in any one or more instances, upon strict performance of any term or condition herein contained shall not be deemed a waiver or relinquishment for the future of such term or condition, but the same shall remain in full force and effect. Acceptance by the County of payment of any fee due hereunder with knowledge of a breach of any term or condition hereof, shall not be deemed a waiver of any such breach and no waiver by the County of any provision hereof shall be implied.

26. Entire Agreement: This License and its attachments constitute the entire agreement between the parties with respect to the subject matter hereof and shall supersede all previous negotiations, commitments and writings. It shall not be released, discharged, changed or modified except by an instrument in writing signed by a duly authorized representative of each of the parties.

27. **Choice of Law/Venue:** This License and any disputes hereunder shall be governed by the laws of the State of New York. Westchester County, New York shall be the venue for any legal disputes arising under this License.

28. **Invalidity of Provisions:** In the event that any one or more provisions, sections, subsections, clauses or words of this Agreement are for any reason held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement, but this Agreement shall be construed and enforced as if such illegal or invalid section, subsection, clause or word has not been contained herein.

29. **No Recourse Against Officers/Employees:** It is expressly understood and agreed by and between the parties hereto that all covenants, stipulations, promises, agreements and obligations of the County contained herein shall be deemed to be stipulations, promises, agreements and obligations of the County and not of any member, officer or employee of the County in his/her individual capacity and no recourse shall be had for any obligation or liability herein or any claim based thereon against any member, officer or employee of the County or any natural person executing this Agreement on behalf of the County.

30. **Approval:** This License shall not be enforceable until signed by both parties and approved by the Office of the County Attorney.

IN WITNESS WHEREOF, the parties hereto have executed this License on the day and year first above written.

THE COUNTY OF WESTCHESTER

By:

Kathleen M. O'Connor
Kathleen M. O'Connor
Commissioner of Parks,
Recreation and Conservation

THE TOWN OF NORTH CASTLE

By:

Michael J. Schiliro
Michael J. Schiliro,
Town Supervisor

Approved by the Board of Acquisition and Contract of the County of Westchester on the 16th day of March, 2023.

Approved as to form and
manner of execution:

David L. Yutera


Assistant Sr. Assistant County Attorney
The County of Westchester 5/10/23

s. Iannace PRC/N. Castle License Agt. 3.25.20

MUNICIPALITY'S ACKNOWLEDGEMENT

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

On this 26th day of April, 2023, before me personally came
Michael Schiliro, to me known, and known to me to be the
Supervisor of Town of North Castle,
the municipal corporation described in and which executed the within instrument, who being by
me duly sworn did depose and say that he, the said Michael Schiliro
resides at Orchard Dr., Armonk and that he is
Supervisor of said municipal corporation.



Notary Public County Westchester

ALISON D. SIMON NOTARY PUBLIC, STATE OF NEW YORK Registration No. 02SI6255240 Qualified in Westchester County Commission Expires January 30, 2024

CERTIFICATE OF AUTHORITY

I, **Alison Simon**

(Officer other than officer signing contract)

certify that I am the Town Clerk of
(Title)
the Town of North Castle
(the "Municipality")

a municipal corporation duly organized and in good standing under the (Law under which organized, e.g., the New York Business Corporate Law) named in the foregoing agreement; that
Michael Schiliro

(Person executing agreement)

who signed said agreement on behalf of the Municipality was, at the time of execution

 Town Supervisor
 (Title of such person)

of the Municipality and that said agreement was duly signed for and on behalf of said Municipality by authority of its governing board, thereunto duly authorized and that such authority is in full force and effect at the date hereof.

(Signature)

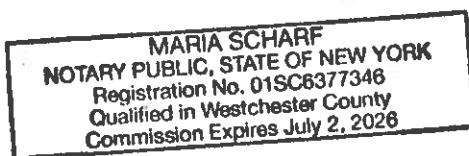
STATE OF NEW YORK)

SS.:

COUNTY OF WESTCHESTER)

On this 26th day of April, 2023, before me personally came Alison Simon, whose signature appears above, to me known, and known to me to be the Town Clerk of Town of North Castle (Title)

_____, the Municipality described in and which executed the above certificate, who being by me duly sworn did depose and say that he/she, the said _____ Town Clerk of said Municipality resides at _____ 15 Bedford Rd, Armonk, NY 10504 _____, and that he/she signed his/her name hereto by order of the governing board of said Municipality.



Notary Public

County Westchester

SCHEDULE 'A'
LICENSED AREA



SCHEDULE "B"

STANDARD INSURANCE PROVISIONS

Municipality

Prior to commencing work, and throughout the term of the Agreement, the Municipality shall obtain at its own cost and expense the required insurance as delineated below from insurance companies licensed in the State of New York, carrying a Best's financial rating of A or better. Municipality shall provide evidence of such insurance to the County of Westchester ("County"), either by providing a copy of policies and/or certificates as may be required and approved by the Director of Risk Management of the County ("Director"). The policies or certificates thereof shall provide that ten (10) days prior to cancellation or material change in the policy, notices of same shall be given to the Director either by overnight mail or personal delivery for all of the following stated insurance policies. All notices shall name the Municipality and identify the Agreement.

If at any time any of the policies required herein shall be or become unsatisfactory to the Director, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the Director, the Municipality shall upon notice to that effect from the County, promptly obtain a new policy, and submit the policy or the certificate as requested by the Director to the Office of Risk Management of the County for approval by the Director. Upon failure of the Municipality to furnish, deliver and maintain such insurance, the Agreement, at the election of the County, may be declared suspended, discontinued or terminated.

Failure of the Municipality to take out, maintain, or the taking out or maintenance of any required insurance, shall not relieve the Municipality from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the contractual obligations of the Municipality concerning indemnification.

All property losses shall be made payable to the "County of Westchester" and adjusted with the appropriate County personnel.

In the event that claims, for which the County may be liable, in excess of the insured amounts provided herein are filed by reason of Municipality's negligent acts or omissions under the Agreement or by virtue of the provisions of the labor law or other statute or any other reason, the amount of excess of such claims or any portion thereof, may be withheld from payment due or to become due the Municipality until such time as the Municipality shall furnish such additional security covering such claims in form satisfactory to the Director.

In the event of any loss, if the Municipality maintains broader coverage and/or higher limits than the minimums identified herein, the County shall be entitled to the broader coverage and/or higher limits maintained by the Municipality. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

2 The Municipality shall provide proof of the following coverage (if additional coverage is required for a specific agreement, those requirements will be described in the Agreement):

- a) Workers' Compensation and Employer's Liability. Certificate form C-105.2 or State Fund Insurance Company form U-26.3 is required for proof of compliance with the New York State Workers' Compensation Law. State Workers' Compensation Board form DB-120.1 is required for proof of compliance with the New York State Disability Benefits Law. Location of operation shall be "All locations in Westchester County, New York."

Where an applicant claims to not be required to carry either a Workers' Compensation Policy or Disability Benefits Policy, or both, the employer must complete NYS form CE-200, available to download at: <http://www.wcb.ny.gov>.

If the employer is self-insured for Workers' Compensation, he/she should present a certificate from the New York State Worker's Compensation Board evidencing that fact (Either SI-12, Certificate of Workers' Compensation Self-Insurance, or GSI-105.2, Certificate of Participation in Workers' Compensation Group Self-Insurance).

- b) Commercial General Liability Insurance with a combined single limit of \$1,000,000 (c.s.1) per occurrence and a \$2,000,000 aggregate limit naming the "County of Westchester" as an additional insured on a primary and non-contributory basis. This insurance shall include the following coverages:
 - i. Premises - Operations.
 - ii. Broad Form Contractual.
 - iii. Independent Contractor and Sub-Contractor.
 - iv. Products and Completed Operations.
- c) Commercial Umbrella/Excess Insurance: \$2,000,000 each Occurrence and Aggregate naming the "County of Westchester" as additional insured, written on a "follow the form" basis.

NOTE: Additional insured status shall be provided by standard or other endorsement that extends coverage to the County of Westchester for both on-going and completed operations.

- d) Automobile Liability Insurance with a minimum limit of liability per occurrence of \$1,000,000 for bodily injury and a minimum limit of \$100,000 per occurrence for property damage or a combined single limit of \$1,000,000 unless otherwise indicated in the contract specifications. This insurance shall include for bodily injury and property damage the following coverages and name the "County of Westchester" as additional insured:
 - (i) Owned automobiles.
 - (ii) Hired automobiles.
 - (iii) Non-owned automobiles.

3. All policies of the Municipality shall be endorsed to contain the following clauses:

(a) Insurers shall have no right to recovery or subrogation against the County (including its employees and other agents and agencies), it being the intention of the parties that the insurance policies so effected shall protect both parties and be primary coverage for any and all losses covered by the above-described insurance.

(b) The clause "other insurance provisions" in a policy in which the County is named as an insured, shall not apply to the County.

(c) The insurance companies issuing the policy or policies shall have no recourse against the County (including its agents and agencies as aforesaid) for payment of any premiums or for assessments under any form of policy.

(d) Any and all deductibles in the above described insurance policies shall be assumed by and be for the account of, and at the sole risk of, the Municipality.

SCHEDULE "C"

REQUIRED DISCLOSURE OF RELATIONSHIPS TO COUNTY

(Prior to execution of a contract by the County, a potential County contractor must complete, sign and return this form to the County)

Contract Name and/or ID No.:

(To be filled in by County)

Name of Contractor:

(To be filled in by Contractor)

A.) Related Employees:

1. Are any of the employees that you will use to carry out this contract with Westchester County also an officer or employee of the County, or the spouse, or the child or dependent of such County officer or employee?

Yes _____ No x

If yes, please provide details: _____

B.) Related Owners:

1. If you are the owner of the Contractor, are you or your spouse, an officer or employee of the County?

Yes _____ No x

If yes, please provide details: _____

To answer the following question, the following definition of the word "interest" shall be used:

Interest means a direct or indirect pecuniary or material benefit accruing to a county officer or employee, his or her spouse, child or dependent, whether as the result of a contract with the county or otherwise. For the purpose of this chapter, a county officer or employee shall be deemed to have an "interest" in the contract of:

- i. His/her spouse, children and dependents, except a contract of employment with the county;**
- ii. A firm, partnership or association of which such officer or employee is a member or employee;**
- iii. A corporation of which such officer or employee is an officer, director or employee; and**

iv. A corporation of which more than five (5) percent of the outstanding capital stock is owned by any of the aforesaid parties.

2. Do any officers or employees of the County have an **interest** in the Contractor or in any subcontractor that will be used for this contract?

Yes _____ No x

If yes, please provide details: _____

Authorized Company Official shall sign below and type or print information below the signature line:



Name: Michael Schiliro

Title: Town Supervisor

Date: April 26, 2023