

License Agreement  
By and Between  
The City of Redlands  
And  
David Kramer

This License Agreement (“Agreement”) is made and entered this 15<sup>th</sup> day of December 2015 (“Effective Date”), by and between the City of Redlands, a municipal corporation (“City”), and David Kramer (“Kramer”), owner and operator of the Cope House restaurant. City and Kramer are sometimes individually referred to herein as a “Party” and, together, as the “Parties.”

RECITALS

WHEREAS, Kramer is the owner and operator of a restaurant facility located within the city of Redlands that is commonly known as the Cope House; and

WHEREAS, Kramer desires to provide the public with an outdoor dining venue within City’s Orange Street Alley park (“Park”); and

WHEREAS, City and Kramer desire to cooperate to further the above-stated purpose in a way compatible with the public interest;

NOW, THEREFORE, in consideration of the mutual promises contained herein, the City of Redlands and David Kramer agree as follows:

AGREEMENT

Section 1. Premises. City hereby grants to Kramer a license to provide outdoor dining services within City’s Park in connection with Kramer’s operation of the Cope House restaurant facility located adjacent to the Park. The outdoor dining area subject to this license consists of 301 square feet (the “Premises”) and is more particularly described in Exhibit “A,” which is attached hereto and incorporated herein by this reference.

Section 2. Term/Holdover Rent. The term of this Agreement shall commence on January 1, 2016, and be for a period of three (3) years unless earlier terminated as provided for herein. Either Party may terminate this Agreement by providing written notice of such termination to other Party, thirty (30) days prior to the proposed termination date. If Kramer remains in possession of the Premises after expiration or earlier termination of this Agreement without City’s written consent, Kramer’s continued occupancy of the Premises shall be on the basis of a tenancy at sufferance and Kramer shall pay as monthly rent during the holdover period the sum of one thousand dollars (\$1,000) per month.

Section 3. Rent. Kramer shall pay to City rent in the sum of five hundred dollars (\$500) per month for use and occupancy of the Premises. The initial and final monthly rent payment, and payment of

a security deposit in the amount of two thousand dollars (\$2,000), shall be made to City prior to January 1, 2016. In recognition of Kramer's undertaking of the construction of improvements to the Premises, the second monthly rent payment shall be due and payable to prior to City prior to March 1, 2016. All subsequent rent monthly rent payments shall be made prior to the tenth day of each month for which rent is then due. All payments are to be made payable to the City of Redlands, Finance Department/ Revenue Division, P.O Box 3005, Redlands, California, 92373. A late fee of fifty dollars (\$50) shall be added and due for any payment of rent made after the tenth of the month. Any dishonored check shall be considered as unpaid rent.

Section 4. Security Deposit. The security deposit shall be retained by City secure compliance with the terms and conditions of this Agreement and shall be refunded to Kramer within thirty (30) days after the Premises have been vacated by Kramer, less any amounts necessary to pay City for, (i) cleaning costs, (ii) cost for repair or damages to the Premises above ordinary wear and tear, and (iii) any other amount legally allowable under the terms of this Agreement. A written accounting of said charges shall be presented to Kramer within ten (10) days of the Premises being vacated. If the security deposit does not cover such costs and damages, Kramer shall immediately pay said additional costs for damages to City.

Section 5. Use of Premises.

A. The Premises shall be used by Kramer solely for the purpose of outdoor dining associated with Kramer's operation of the restaurant facility known as the Cope House.

B. During the term of this Agreement, Kramer shall comply with any other license related to the operation of the restaurant facility and outdoor dining services, and all applicable state and local laws, and all applicable rules and regulations established by City including, but not limited to, City's Municipal Code provisions governing parks.

C. During the term of this Agreement, City shall retain the right to close the Premises for up to three (3) events per calendar year, with ninety (90) days prior written notice given to Kramer of each such event.

D. The hours of operation for the Premises shall be limited to 11:00 a.m. to 2:00 a.m., Monday through Sunday.

E. Kramer shall designate an attendee to monitor the Premises between 9:00 p.m. and 2:00 a.m. to ensure security and maintenance is maintained within the Premises.

F. Kramer shall ensure that all customers have vacated the Premises upon closure of the restaurant facility at 2:00 a.m. Kramer shall also be responsible for the securing and vacating of the adjacent Park facility.

G. Kramer shall provide adequate security to ensure the safety of the public which includes coordinating with the police department to provide officers, corporals, or sergeants on billed overtime status to work any event planned within the Premises starting thirty (30) minutes prior to opening and for up to one hour after closing for each day of any planned event, or providing the same coverage using private security officers as approved by the City.

H. The Premises shall not result in adverse effects to the health, welfare, peace or safety of persons visiting, residing, working, or conducting business in the surrounding area.

I. The Premises shall not jeopardize or endanger the public health or safety of person visiting, residing, working, or conducting business in the surrounding area.

J. The Premises shall not result in repeated nuisance activities within the Premises or in close proximity of the Premises, including but not limited to disturbance of the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, littering, loitering, graffiti, illegal parking, excessive loud noises, especially in the late night or early morning hours, traffic violations, curfew violations, lewd conduct, or police detentions and arrests.

K. That the Premises complies with all provisions of local, state and/or federal laws, regulations or orders, including but not limited to those of the ABC, California Business and Professions Code sections 24200, 24200.6, and 25612.5, as well as any condition imposed on any permits issued pursuant to applicable laws, regulations or orders. This includes compliance with annual City business license taxes.

L. That the Premises upkeep and operating characteristics are compatible with, and will not adversely affect, the livability or appropriate development of abutting properties and the surrounding neighborhood.

M. That Kramer and all employees of the restaurant facility complete an approved course in "Responsible Beverage Sales" (RBS) or equivalent as approved by the City, within sixty (60) days of hire for employees hired after City's approval of this Agreement or within six (6) months of City's approval of this Agreement for existing employees. To satisfy this requirement, a certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service (CCC/RBS) or other certifying/licensing body designated by the State of California.

Section 6. Alterations and Repairs. Kramer accepts the Premises in its "as-is" condition as of the Effective Date of this Agreement, without any warranty, express or implied.

Section 7. Maintenance of Premises. Kramer shall, at his own cost, maintain the Premises in good order and repair. City shall also have the right to enter the Premises, at reasonable times, for inspection and maintenance purposes. Should an inspection disclose the need for maintenance or repairs, City shall provide Kramer with written notice of the items requiring repair or maintenance. If action is not taken on such items by Kramer within fifteen (15) days from the provision of such notice, City may enter the Premises and take whatever action is necessary to perform such maintenance or repairs at Kramer's expense.

Section 8. Improvements. Kramer shall not make any improvements to the Premises without the prior written consent of City except, that after making reasonable attempts to contact City for its approval, Kramer may undertake minor maintenance and repairs to the Premises which Kramer determines are immediately necessary to protect against injury to persons or property. Within three (3) days of performing any minor maintenance or repairs not verbally approved by City, Kramer shall provide written notification to City of the same. All proposals for improvements shall be submitted in writing to City for its consideration and prior approval. City shall approve or disapprove such proposals within twenty (20) days of their submission. Kramer shall have the right to remove all improvements made by him to the Premises provided such removal results in no damage to the Premises. Improvements not removed by Kramer shall, on expiration or earlier termination of this Agreement, remain on the Premises and become the property of City.

Section 9. Indemnity. Kramer shall defend, indemnify and hold harmless City, and its elected officials, officers, employees and agents from and against any and all claims, causes of action, damages and liability resulting from Kramer's negligent acts or omissions, and willful misconduct of Kramer, and his agents, employees and invitees during Kramer's occupation and use of the Premises during the term of this Agreement. This section shall survive any termination of this Agreement.

Section 10. Public Liability and Property Damage Insurance. Kramer shall maintain at his own cost for the term of this Agreement, public liability insurance in the amount of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate, issued by an insurance company acceptable to City. Kramer shall provide Licensor with a certificate of insurance and endorsements showing City as an additional insured on the policy prior to Kramer's use and occupancy of the Premises. Such insurance shall be primary with respect to City and non-contributory to any insurance or self-insurance maintained by City. The policy shall require that before amending or canceling the policy, the issuing insurance company shall give City at least thirty (30) days prior written notice. City and Kramer acknowledge and agree that the insurance required of Kramer is subject to annual review by City and subject to increases in the amount and scope of coverage, as reasonably determined by City.

Section 11. Assignment Prohibited. Kramer shall not encumber, assign, sublease or otherwise transfer this Agreement, or any right or interest therein, without the prior written consent of City. Any such encumbrance, assignment, sublease or transfer without such prior consent and approval of City shall constitute a breach of this Agreement and may, at the sole discretion of City, result in the immediate termination of this Agreement.

Section 12. Attorneys' Fees. In the event any action is commenced to enforce or interpret the terms or conditions of this Agreement, the prevailing Party shall, in addition to any costs and other relief, be entitled to the recovery of its reasonable attorneys' fees, including fees for use of in-house counsel by a Party.

Section 13. Notices. Any notice or other communication required, or which may be given, pursuant to this Agreement, shall be in writing. Any such notice shall be deemed delivered (i) on the day of delivery in person; (ii) five (5) days after deposit in first class registered mail, with return receipt requested; (iii) on the actual delivery date if deposited with an overnight courier; or (iv) on the date sent by facsimile, if confirmed with a copy sent contemporaneously by first class, certified, registered or express mail; in each case properly posted and fully prepaid to the appropriate address set forth below, or such other address as a party may provide notice of in accordance with this section:

CITY:

Quality of Life  
Chris Boatman, Director  
City of Redlands  
P.O. Box 3005  
Redlands, CA 92373

KRAMER:

The Cope House  
David Kramer, Owner  
1554 Barton Rd Ste 410  
Redlands, CA 92373

Section 14. Entire Agreement/Amendment. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof. Any prior verbal or written representations or agreements respecting the Premises not expressly set forth herein are null and void. Any and all amendments to this Agreement shall be in writing and executed by the Parties.

Section 15. Breach and Default by Kramer. All covenants and agreements contained in this Agreement are declared to be conditions of this Agreement, and to the term for which the Premises are licensed to Kramer. Should Kramer fail to perform any covenant, condition or agreement contained in this Agreement and the default not be cured within fifteen (15) days after written notice of the default is served on Kramer by City, then Kramer shall be in default under this Agreement; provided, however, that if the default is one not capable of cure within such fifteen (15) days, Kramer shall so notify City in writing, shall commence action to cure within such fifteen (15) days and prosecute such cure diligently until completion

within a reasonable time. Kramer's failure to complete such cure within a reasonable time shall also constitute a default by Kramer.

Section 16. Termination. In the event of any default of this Agreement by Kramer, in addition to any other rights or remedies City may have, City shall have the immediate right of reentry and may remove all property from the Premises. Such property may be removed and stored in a public warehouse or elsewhere at the cost of Kramer. Further, in the event of a default of this Agreement by Kramer, City shall have the option of immediately terminating this Agreement. All remedies of City under this section shall be cumulative and in addition to any other legal or equitable rights and remedies which City may have.

Section 17. Waiver. No waiver by either Party of any provision of this Agreement, or waiver of any breach of this Agreement, shall be deemed to be a waiver of any other provision of this Agreement, or of any subsequent breach by either Party of the same or any other provision of this Agreement.

Section 18. Severability. If any particular provision of this Agreement is held invalid or unenforceable for any reason by a court of competent jurisdiction, this Agreement shall otherwise remain in full force and effect and shall be construed in all respects as if such invalid or unenforceable provision was omitted.

Executed on the 15th day of December, 2015, at Redlands, California

CITY OF REDLANDS

DAVID KRAMER

\_\_\_\_\_  
Paul W. Foster, Mayor

\_\_\_\_\_  
David Kramer

ATTEST:

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Sam Irwin, City Clerk