

**PIMA COUNTY  
LICENSE  
FOR RIGHT-OF-WAY ENCROACHMENT  
(LIC-0328)**

THIS AGREEMENT is made between Pima County, a political subdivision of the State of Arizona, ("County"), and \_\_\_\_\_, LLC, a \_\_\_\_\_ company/LLC/Other, ("Licensee"). The parties agree as follows:

1. Grant of Permission. In consideration of Licensee's annual payment of any applicable License fee and the promises contained herein, County hereby gives permission, revocable and terminable as provided herein, to Licensee to encroach on that portion of County's right-of-ways described as \_\_\_\_\_ for the purpose of \_\_\_\_\_ (the "Encroachments"). The right-of-way and the Encroachment areas are depicted on the attached **Exhibit "A"**.
2. Licensee's Maintenance Obligation. Licensee shall maintain all landscaping in the Encroachments as required by the Pima County Zoning Code and as proposed in approved Landscape Plans. Licensee's failure to maintain the Encroachments shall be cause for termination of this License, and all terms of Paragraph 12 shall then apply.
3. Hold Harmless. All costs associated with the Encroachments shall be the sole responsibility expense of Licensee. Licensee assumes responsibility and liability for any injury or damage to the above described right-of-way or to any person while using the above described right-of-way caused by or arising out of the exercise of this License. To the fullest extent allowed by law, Licensee indemnifies, defends, and holds harmless County, its officers, departments, employees, and agents from and against any and all suits, actions, legal or administrative proceedings, claims, demands, or damages of any kind or nature arising out of this License, which are attributed, in whole or in part to Licensee's use of the rights of way, or to any act or omission of the Licensee, its agents, employees,

or anyone acting under its direction, control or on its behalf, whether intentional or negligent in connection with or incident to this License. Licensee's responsibilities shall not extend to the negligence of County, its officers, departments, employees and agents. This indemnity shall survive the termination of the License.

4. Insurance. Prior to construction, Licensee shall obtain a commercial general liability insurance policy naming County as Additional Insured to cover the Encroachment within the County's right-of-way. The insurance policy limits shall be a minimum of \$2,000,000 for each occurrence, and \$2,000,000 general aggregate. County reserves the right to require additional insurance at County's sole discretion. The policy shall be maintained throughout the term of this License by the Licensee. This License shall terminate if insurance lapses. A certificate of insurance shall be supplied to County on an annual basis with the stipulation that the insurance company shall notify County in writing of any intent to cancel the liability insurance. This notification shall be required no less than thirty days prior to cancellation, and Licensee shall remove the Encroachment at its expense within thirty days of notification.
5. Annual Fee. Pursuant to Pima County Board of Supervisors Policy Number F54.3, Licensee shall pay an annual fee to County in the amount of \$\_\_\_\_\_ due upon execution of this License and on each anniversary of the date that the Pima County Board of Supervisors executes this License.
6. Permits. This License is not a right of way use permit. Following the granting of this License by County, Licensee shall obtain all applicable permits, which may include a Right-of-Way Use Permit, a County Use Permit, Building Permit or Floodplain Use Permit. Licensee shall construct the proposed Encroachment in accordance with the plans submitted to County with the application for the License.
7. Compliance With Highway Safety. Construction of the Encroachment shall not interfere with the safety of the traveling public or the authorized public use of right-of-way, and may not otherwise interfere with the general health, safety and welfare of the citizens of Pima County. Once constructed, the Encroachment shall be maintained by Licensee so as not to interfere with safe sight distance or safe travel along the right-of-way.
8. Term. This License shall run for a period of 25 (twenty-five) years from the date this License is executed by Pima County Board of Supervisors. Notwithstanding any other condition, this License may be terminated by either party or revoked by County upon ninety days' written notice to the other. County may terminate or revoke by recording a termination or revocation statement executed by the Manager of the Real Property Services of the Public Works Administration. When this License lapses, terminates or is revoked, Licensee shall remove the Encroachment from the right-of-way at no expense to County and to the satisfaction of County within 90 days. Licensee shall restore the right-of-way to the pre-License condition or as may be mutually agreed upon. The indemnifications set forth in Paragraph 2 above shall survive the termination or revocation of this License.

9. Underground Facilities. If Encroachment includes any underground facilities, Licensee or its successors or assignees is required per A.R.S. § 40-360.32 (E) and (C) to maintain a Limited Basis Participation membership with Arizona Blue Stake, Inc. and file contact information with the corporation commission throughout the term of this License. Proof of membership shall be supplied to County on an annual basis with the stipulation that the Licensee shall notify County in writing of any intent to cancel the membership. This notification shall be required no less than thirty days prior to cancellation.
10. Licensee Has No Interest or Estate. Licensee agrees that it has no claim, interest, or estate at any time in the right-of-way by virtue of this License or its use hereunder. Upon termination or revocation of this License, Licensee shall have no right of entry upon the right-of-way.
11. License Runs With the Land. The provisions, conditions, restrictions and covenants of this License are both personal and shall run with the land described on the attached **Exhibit "B"** and shall be binding on all persons owning or occupying any portion of the land. Conveyance of the land will not relieve the prior owner of any obligations that accrued prior to conveyance.
12. Removal of Encroachment. Upon termination or revocation of this License for any reason or in the event partial or total removal of the Encroachment is required by County, Licensee shall promptly remove all or part of the Encroachment as required by County at Licensee's sole expense and to the satisfaction of County. Licensee shall not seek compensation or financial reimbursement for any and all costs associated with the removal or relocation of the Encroachment from County. In the event the Encroachment is not promptly removed by Licensee as directed by County, County shall have the right to remove the Encroachment and Licensee hereby agrees to reimburse the total amount of County's costs incurred for the partial or complete removal of the Encroachment within sixty (60) days of receipt of an invoice from County for said costs. In the event Licensee fails to reimburse County for the costs of removal within the 60-day period, County shall immediately file a lien upon the property described in **Exhibit "B"** herein, which shall be a continuing lien, and Licensee hereby consents to the placement of such a lien on said property. Said lien may be enforced by foreclosure in like manner as a mortgage on real property. County shall be entitled to County's reasonable attorney's fees and interest at the rate established by A.R.S. § 44-1201(A), occurring from the date the costs are incurred.
13. Conflict of Interest. This Agreement is subject to A.R.S. § 38-511 which provides for cancellation of contracts by Pima County for certain conflicts of interest.

**LICENSEE:**

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

Title: \_\_\_\_\_

State of Arizona     )  
                                  )ss  
County of Pima     )

          This instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2020,  
by \_\_\_\_\_, as \_\_\_\_\_ of  
\_\_\_\_\_, a \_\_\_\_\_ company.

\_\_\_\_\_  
Notary Public

My Commission Expires:

(Seal)

**COUNTY: PIMA COUNTY, a political subdivision of the State of Arizona:**

\_\_\_\_\_  
Chair, Board of Supervisors

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Julie Castaneda, Clerk of Board

\_\_\_\_\_  
Date

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Jeffrey Teplitsky, Manager, Real Property Services

\_\_\_\_\_  
Carmine DeBonis, Deputy County Administrator, Public Works

APPROVED AS TO FORM:

\_\_\_\_\_  
, Deputy County Attorney