

ORDINANCE NO. _____

An ordinance granting a private license to TLC Schools, Ltd. to occupy, maintain and utilize a portion of Market Street and Corbin Street rights-of-way located near the intersection of Market and Corbin Streets adjacent to City Block 3/205 within the limits hereinafter more fully described, for the purpose of occupying, maintaining and utilizing a sidewalk café with elevated deck and appurtenance and railings; providing for the terms and conditions of this license; providing for the annual compensation to be paid to the City of Dallas; providing for payment of the publication fee; and providing an effective date of this license and ordinance.

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WHEREAS, on June 10, 1998, City Council of the City of Dallas passed Ordinance No. 23527, thereby granting Landry's Crab Shack, Inc. the right, privilege and franchise to utilize Market Street and Corbin Street rights-of-way for the maintenance and use of a sidewalk café, an elevated deck, stairs, rails, lighting, wheelchair ramp, signs and awnings; and

WHEREAS, the rights granted by said ordinance have expired; and

WHEREAS, TLC Schools, Ltd. is the owner of the real property abutting the license areas and has requested termination of the rights granted by said ordinance; and

WHEREAS, the City Council of the City of Dallas is of the opinion that a new license should be granted TLC Schools, Ltd. to continue to use this public property for a sidewalk café with elevated deck and appurtenance and railings, subject to the conditions hereinafter more fully set out.

Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That the rights granted by said Ordinance No. 23527 are here by terminated. That a private license, hereinafter referred to as "license", subject to the restrictions and conditions of this ordinance, is hereby granted to TLC Schools, Ltd., a Texas limited partnership its successors and assigns, hereinafter referred to as

SECTION 1. (continued)

“**GRANTEE**”, to occupy, maintain and utilize for the purpose set out hereinbelow the tracts of land described in Exhibit A, hereinafter referred to as “licensed area” which is attached hereto and made a part hereof.

SECTION 2. That this license is granted for a term of forty (40) years, unless sooner terminated according to other terms and provisions herein contained.

SECTION 3. That **GRANTEE** shall pay to the City of Dallas the sum of **ONE THOUSAND TWO HUNDRED AND NO/100 DOLLARS (\$1,200.00)** annually for the license herein granted, said sum to become due and payable on the 2nd day of January each year, in advance, during the term hereof; provided, however, that the first payment due hereunder in the sum of **ONE THOUSAND TWO HUNDRED AND NO/100 DOLLARS (\$1,200.00)** shall be paid prior to the final passage of this ordinance and shall cover the consideration for 2023. Such consideration shall be in addition to and exclusive of any other taxes or special assessments required by law to be paid by **GRANTEE**. Should **GRANTEE** fail to pay the above stated annual fee within sixty (60) days of the due date, the Director of the Department of Public Works may terminate this license. All sums payable to the City of Dallas hereunder shall be paid to the Chief Financial Officer of the City of Dallas and deposited in General Fund, Fund 0001, Department PBW, Unit 1181, Revenue Code 8200. In the event **GRANTEE’s** check for the license fee is dishonored, **GRANTEE** shall pay to the City a processing fee of \$25.00 for each dishonored check. Additionally, all monies owed to the City under this license shall be subject to the assessment of interest at a rate of 10 percent a year from the day after any monies become due until it is paid in full, in accordance with Section 2-1.1 of the Dallas City Code.

SECTION 4. That the licensed area shall be used by **GRANTEE** for the following purpose under the direction of the Director of Department of Public Works of the City of Dallas: occupying, maintaining and utilizing a sidewalk café with elevated deck and appurtenance and railings.

SECTION 5. That this license is subject to the provisions set forth in EXHIBIT B, attached hereto and made a part hereof.

SECTION 6. That this license is nonexclusive and is made expressly subject and subordinate to the right of the City to use the licensed area for any public purpose. The

SECTION 6. (continued)

Governing Body of the City of Dallas reserves the right by Resolution duly passed by said Governing Body, to terminate and cancel this license upon giving **GRANTEE** sixty (60) days notice of its intent to cancel. Upon termination, all rights granted hereunder shall thereupon be considered fully terminated and cancelled and the City of Dallas shall not be held liable by reason thereof. Said Resolution shall be final and shall not be subject to review by the Courts. **GRANTEE** shall have the right of cancellation upon giving the City of Dallas sixty (60) days written notice of its intention to cancel, and in either event upon the termination or cancellation by the City or **GRANTEE**, as the case may be, this license shall become null and void and **GRANTEE** or anyone claiming any rights under this instrument shall remove, to the extent required by the Director of Department of Public Works, any improvements and encroachments from the licensed area at **GRANTEE's** expense. Failure to do so shall subject **GRANTEE** to the provisions contained in EXHIBIT B, Subsection (a). All work shall be done at the sole cost of **GRANTEE** and to the satisfaction of the Director of Department of Public Works.

SECTION 7. That the license is subject to the following conditions, terms and reservations:

- (a) **GRANTEE** shall comply with the Certificate of Appropriateness (CA223-341(RD) as approved by May 1, 2023 or as amended) conditions.
- (b) **GRANTEE** shall provide an eight foot sidewalk free of obstructions.
- (c) **GRANTEE** shall assure that Americans with Disability Act and Texas Accessibility Standard Requirements (ADA/TDLR) Compliance is achieved for the sidewalk area that remains unobstructed.
- (d) **GRANTEE** shall obtain a Right-Of-Way Permit prior to any work performed within the right-of-way.
- (e) **GRANTEE** shall ensure that all AT&T facilities must be located and/or potholed before any digging begins.

SECTION 8. That upon the effectiveness of this ordinance, the Director of Department of Public Works, or designee, is hereby authorized to execute a NOTICE OF LICENSE and to file same in the deed records of Dallas County, Texas. Additionally, the Director of Department of Public Works, or designee, is hereby authorized to execute a cancellation

SECTION 8. (continued)

of Notice of License upon termination by the City or **GRANTEE** and to file such cancellation of Notice of License in the deed records of Dallas County, Texas.

SECTION 9. That the terms and conditions contained in this ordinance shall be binding upon **GRANTEE**, its successors and assigns.

SECTION 10. That this license may not be assigned without prior written approval from the Director of Department of Public Works, or designee. Such assignment shall recite that it is subject to the terms, restrictions and conditions contained in this ordinance. The assignee shall deliver evidence of ownership of property abutting the licensed area, and a copy of the assignment, along with the assignee's written acceptance of the provisions of this ordinance, to the Director of Department of Public Works within 10 days of such assignment; said assignment and written acceptance shall be forwarded to the City Secretary of the City of Dallas. Should **GRANTEE** fail to obtain prior written approval for assignment of this license or fail to provide the City of Dallas with the required written acceptance and a copy of the assignment, the Director of Department of Public Works, or designee, may terminate this license.

SECTION 11. That the City Secretary is hereby authorized and directed to certify a copy of this ordinance for recordation in the Deed Records of Dallas County, Texas, which certified copy shall be delivered to the Director of Department of Public Works, or designee. Upon receipt of the fee pursuant to Section 3 of this ordinance, an acceptable certificate of insurance and the fee for publishing this ordinance which **GRANTEE** shall likewise pay, the Director of Department of Public Works, or designee, shall deliver to **GRANTEE** the certified copy of this ordinance. The Director of Department of Public Works, or designee, shall be the sole source for receiving certified copies of this ordinance for one year after its passage.

SECTION 12. That this ordinance is also designated for City purposes as Contract No. PBW-2022-00019083.

SECTION 13. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:
TAMMY L. PALOMINO,
Interim City Attorney

ALI HATEFI, Director
Department of Public Works

BY 
Assistant City Attorney

BY 
Assistant Director

Passed _____.