

LICENSING AGREEMENT

Agreement made, effective as of _____, 20____, by and between the City of North Bonneville, a municipal corporation of the State of Washington, of PO Box 7, North Bonneville, WA, County of Skamania, hereinafter referred to as Licensor, and John and Desi Nelson, proprietors of Nellie's Pies, hereinafter referred to as Licensee.

In consideration of the mutual promises contained in this agreement, the parties agree as follows:

SECTION ONE **Grant of License**

Licensor hereby grants to Licensee a non-exclusive license to occupy and use, subject to all of the terms and conditions of this agreement, certain property owned by City of North Bonneville more specifically described as:

200 square feet of undeveloped ground at
parcel # 02072013470000, 210 CBD Mall, City of North
Bonneville, Skamania County, Washington to operate Nellie's
Pies as an itinerant business selling food.

and sometimes referred to herein as "the Premises".

SECTION TWO **Limitation to Described Purpose**

The above-described property may be used by Licensee solely for constructing and maintaining a mobile facility for the sale of food and for incidental purposes related to such use during the period beginning October 8, 2012 and continuing through March 31, 2013 unless this agreement is terminated at an earlier time as provided for in this agreement.

SECTION THREE **Periodic Payments**

Licensee shall pay Licensor for this license at the rate of thirty dollars (\$30.00) per month payable at the time this Agreement is executed by the parties hereto and on the 1st day of each month thereafter, inclusive of leasehold tax thereon.

SECTION FOUR **Miscellaneous Duties of Parties**

A. Licensor agrees to maintain the Premises in a functional and operational manner, and to keep the area surrounding the Premises free of debris.

B. Licensee shall hold Licensor harmless for a Licensee's activities on the premises and shall obtain access with the assistance of the city staff. The City shall provide Licensee

with telephone numbers of city staff to access the Premises in emergency circumstances at times other than ordinary business hours. Licensee shall endeavor to access the Premises during business hours unless the matter is urgent and cannot reasonably wait until business hours.

SECTION FIVE

Termination and Breach

A. In Licensors sole discretion, Licensee may extend the term of this agreement or license at the end of the original term and at the end of any subsequent term for a period equal to the duration of the original term if licensee shall have promptly and fully complied with all provisions of this agreement for the entire term thereof. All provisions of the agreement will remain the same during the extension period as in the original agreement unless otherwise modified in writing by the parties. This renewal will occur automatically unless licensor or licensee notifies the other party in writing prior to the expiration of the term being extended that they choose not to renew this agreement.

C. If Licensee shall make an assignment for the benefit of creditors, or be placed in receivership or adjudicated a bankrupt, or take advantage of any bankruptcy or insolvency law, Licensor may terminate this agreement by giving written notice to the Licensee, specifying the date of termination, such notice to be given not less than ten (10) days prior to the date specified in such notice for the date of termination.

D. If Licensee shall fail to pay Licensor any fees or interest or fail to perform any of the conditions of this Agreement when such performance becomes due, Licensor, at Licensor's sole discretion, may terminate this agreement by giving written notice to the Licensee, specifying the date of termination. Such notice to be given not less than seventy-two (72) hours prior to the date and time specified in such notice for the date of termination.

E. On any termination of this agreement, Licensee shall quit the above-described premises, and shall immediately remove all personal property belonging to Licensee from the above-described premises.

F. Any termination of this agreement, howsoever caused, shall be entirely without prejudice to the rights of Licensor that have accrued under this agreement prior to the date of such termination.

G. Unless specified otherwise herein Licensor may terminate this agreement without cause after twenty (20) days' written notice to Licensee. Upon expiration of the time fixed this agreement and all rights of Licensee hereunder shall terminate in the same manner and with the same force and effect, except as to Licensee's liability, as if the date fixed in the notice of cancellation is the end of the license term.

H. Upon termination of the Agreement, or upon default by Licensee, Licensor may remove the personal property of Licensee from the premises. Licensor may then store the property in a public warehouse or other place selected by Licensor, at the expense of

Licensee. Upon termination, Licensors may recover from Licensee all damages proximately resulting from any breach, including the cost of recovering the Premises and the worth of the balance of this Agreement over the reasonable fee value of the Premises for the remainder of the Agreement term, which sum shall be immediately due Licensee from Licensors.

SECTION SIX

Inspection

Licensee is utilizing the Premises in an "as is" condition, and Licensors makes no representation or warranties except as set forth herein. Without limiting the generality of the foregoing, Licensee acknowledges that it has made its own independent investigation respecting the Premises and will be relying entirely thereon and on the advice of any consultant it may retain. Licensee may not rely upon any representation of any party, whether or not such party purports to act on behalf of Licensors, unless the representation is expressly set forth herein or in a subsequent document executed by Licensors. All repairs for which Licensee is responsible shall be completed by the date of termination.

SECTION SEVEN

Insurance

A. During the term of this Agreement and for any further time that Licensee shall utilize the demised Premises, Licensee shall obtain and maintain, at its sole expense, personal injury and liability insurance in an amount not less than Five Hundred Thousand dollars, (\$500,000.00) and shall name Licensors as additional insured.

B. All insurance provided by Licensee as required by this section shall be carried in favor of Licensors and Licensee, as their respective interests may appear, and, in the case of insurance against damage to the Premises by fire or other casualty, shall provide that loss, if any, shall be adjusted with and be payable to Licensors. All insurance shall be written with responsible companies authorized to conduct business in the State of Washington. Licensee shall provide the names of all of Licensee's insurance carriers to Licensors and shall provide copies of all insurance policies to Licensors. All policies shall show Licensors as an additional insured and shall require thirty (30) days notice by registered mail to Licensors of any cancellation or change affecting any interest of Licensors.

SECTION EIGHT

Unlawful or Dangerous Activity

Licensee shall neither use nor occupy the Premises, or any part thereof, for any unlawful, disreputable or ultra-hazardous purpose, nor operate or conduct business in a manner constituting a nuisance of any kind. Upon discovery of any unlawful, disreputable or ultra-hazardous use, Licensee shall immediately halt such activities.

SECTION NINE

Indemnity

License shall indemnify Licensor against all expenses, liabilities and claims by or on behalf of any person or entity to the extent that Licensee has caused damage to person or property as a result of fault on the part of Licensee, Licensee's failure to perform any of the terms or conditions of this agreement, or Licensee's failure to comply with any law or government authority. Licensee will hold Licensor harmless from any mechanic's lien or security interest filed against the premises or any buildings or improvements thereon, as a result of Licensee's activities.

SECTION TEN

Governing Law

It is agreed that this agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Washington.

SECTION ELEVEN

Entire Agreement

This agreement shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this agreement shall not be binding upon either party except to the extent incorporated in this agreement.

SECTION TWELVE

Waiver

Whenever either party's consent or approval is required under this Agreement, the party shall promptly exercise its judgment in a reasonable manner. Failure of a party to insist on a strict performance of any of the terms and conditions hereof shall be deemed a waiver of the rights or remedies that the party may have regarding that specific instance only, and shall not be deemed a waiver of any subsequent breach or default in any terms and conditions.

SECTION THIRTEEN

Modification of Agreement

Any modification of this agreement or additional obligation assumed by either party in connection with this agreement shall be binding only if evidenced in writing signed by each party or an authorized representative of each party.

SECTION FOURTEEN

Notices

All notices to be given with respect to this Agreement shall be in writing. Each notice shall be sent by registered or certified mail, postage prepaid and return receipt requested, to the party to be notified at the address set forth herein or at such other address as either party may from time to time designate in writing.

Every notice shall be deemed to have been given at the time it shall be deposited in the United States mail in the manner prescribed herein.

Licensors:

City of North Bonneville
P.O. Box 7
North Bonneville, WA 98639

Licensee:

John and Desi Nelson
Nellie's Pies
PO Box 418
Carson, WA 98610

SECTION FIFTEEN **Costs and Attorney Fees**

If either party shall be in default under this Agreement, the nondefaulting party shall have the right, at the defaulting party's expense, to retain an attorney to make demand, enforce any remedy, or otherwise protect or enforce its rights under this Agreement. The defaulting party hereby promises to pay all costs and expenses so incurred by the nondefaulting party, including, without limitation, reasonable attorneys' costs and fees and the failure of the defaulting party to promptly pay the same shall constitute a further and additional default. In the event either party hereto institutes, defends, or is involved with any action to enforce the provisions of this Agreement, the prevailing party in such action shall be entitled to reimbursement by the losing party for its court costs and reasonable attorney costs and fees.

SECTION SIXTEEN **Assignment of Rights**

The rights of each party under this agreement are personal to that party and may not be assigned or transferred to any other person, form, corporation, or other entity without the prior, express, and written consent of the other party.

SECTION SEVENTEEN **Compliance With Laws**

Licensee agrees to comply with all applicable federal, state and municipal laws, ordinances, and regulations. Any fees for any inspection of the Premises during or for the Agreement term by any federal, state or municipal officer and the fees for any so-called "Certificate of Occupancy" shall be paid by Licensee.

SECTION EIGHTEEN **Venue**

In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action or litigation shall be in the Superior Court of the State of Washington in and for the County of Skamania.

In witness whereof, each party to this agreement has caused it to be executed at Stevenson, Washington on the date indicated below.

Dated this _____ day of _____, 1998.

LICENSOR:

CITY OF NORTH BONNEVILLE

By _____
DON STEVENS, Mayor

LICENSEE:

By _____

Approved as to form:

**Kenneth B. Woodrich, Attorney
for City of North Bonneville**