

This Privilege Agreement (“Agreement”) is made as of \_\_\_\_\_, 2022, between the City of West Allis, having a mailing address of 7525 West Greenfield Avenue, West Allis, WI 53214 (the “City”), and Walter Holtz, an individual resident of Wisconsin, with a mailing address of 7140 West Greenfield Avenue, West Allis, WI 53214) (“Holtz”). The City and Holtz are collectively referred to as “Parties” and individually as “Party.”

WHEREAS, the West Allis Common Council has designated a portion of South 72nd Street as a pedestrian mall under Wis. Stat. § 66.0905 and prohibited vehicular traffic in that pedestrian mall; and

WHEREAS, Holtz owns The Deco, which is located east of and adjacent to that pedestrian mall at 7140 West Greenfield Avenue; and

WHEREAS, the Parties desire to allow Holtz to use the pedestrian mall for private events hosted at The Deco in exchange for Holtz providing amenities to the pedestrian mall for others to use when no private events are occurring;

For good and valuable consideration, the parties agree to the following:

1. The term of this Agreement shall commence on May 1, 2023 and end on October 31, 2023 (“Term”).
2. Between the date of this Agreement and the beginning of the Term, Holtz shall provide improvements to the pedestrian mall by installing seating, tables, decorations, umbrellas and lighting (“Amenities”) in a manner consistent with the diagram attached and marked as **Exhibit A**.
3. During the Term, Holtz shall maintain the pedestrian mall and all Amenities by fixing or replacing damaged or non-functioning Amenities, removing refuse, cleaning, storing or securing items that are not permanently affixed to the ground, removal of ice and snow, and keeping the space tidy and available for use by the public.
4. During the Term, Holtz shall cause barriers to be installed at the north and south ends of the pedestrian mall of a type approved by the City’s engineer as the engineer’s discretion.
5. Holtz may apply for an appropriate license to serve alcohol at the pedestrian mall. Holtz may only serve alcohol at the pedestrian mall to the extent authorized under an issued alcohol license.
6. During the Term, Holtz may utilize the pedestrian mall for private events that exclude the general public (“Special Event”) under the following conditions:
  - a. The private event is held in conjunction with an event held at The Deco.
  - b. Holtz has obtained a special event permit for the date and time of the event that lists the pedestrian mall as the premises for that permit.
  - c. Holtz has commercially reasonable general liability insurance coverage that extends to the pedestrian mall.
  - d. The events are held on Fridays or Saturdays.
  - e. The events may not start prior to 8 a.m. and must end by 10 p.m.
7. When Holtz is not utilizing the pedestrian mall for a Special Event, the pedestrian mall and all Amenities shall remain open for use by:
  - a. The general public
  - b. City-sponsored events, and/or

- c. The West Allis Downtown Business Improvement District
8. Termination
- a. The City may terminate this Agreement only upon approval of the West Allis Board of Public Works and the West Allis Common Council. If the City terminates this Agreement:
    - i. The City shall provide notice to Holtz that the Agreement has been terminated.
    - ii. Holtz shall remove all Amenities provided by him to the pedestrian mall within 10 days after the date of notice.
  - b. Holtz may terminate this Agreement at any time. If Holtz terminates this Agreement:
    - i. Holtz shall provide notice to the City that the Agreement has been terminated.
    - ii. Holtz shall remove all Amenities provided by him to the pedestrian mall within 10 days after the date of notice.
9. The Parties acknowledge that this agreement constitutes a privilege under Wis. Stat. § 66.0425, and consequentially:
- a. Holtz assumes primary liability for damages to person or property by reason of the granting of the privilege.
  - b. The provision in this Agreement constitute the conditions on the privilege imposed by the common council.
  - c. Holtz is not entitled to damages for removal of Amenities, and if Holtz does not remove the Amenities upon due notice, they shall be removed at the Holtz's expense and the cost thereof shall be imposed upon The Deco as a special charge.
  - d. Third parties whose rights are interfered with by the granting of a privilege have a right of action against Holtz only.

By signing below, the Parties agree to the terms above.

CITY OF WEST ALLIS

WALTER HOLTZ

\_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

\_\_\_\_\_  
 Date: \_\_\_\_\_

Exhibit A

