

**CITY OF UPLAND
LICENSE AGREEMENT**

This LICENSE AGREEMENT ("Agreement"), is made effective the 1st day of September, 2024 by and between the City of Upland, a municipal corporation organized and operating under the laws of the State of California with its principal place of business at 460 N. Euclid Ave., Upland, CA 91786 ("CITY" or "LICENSOR"), and NKB Investments, LLC, a California limited liability company and The Storage District-Upland, a Utah limited liability company (collectively, "LICENSEE"). CITY and LICENSEE are sometimes individually referred to as "Party" and collectively as "Parties".

RECITALS

A. CITY is the owner of certain real property known as East entrance of Memorial Park, a certain portion of which is generally depicted in Exhibit "A" attached hereto and incorporated herein by reference (the "Licensed Property").

B. LICENSEE is the owner of certain real property and improvements adjacent to the Licensed Property as more particularly described in "Exhibit B" attached hereto and incorporated herein by reference (the "Licensee Property").

C. LICENSEE desires to obtain CITY'S permission to enter onto the Licensed Property for the purposes specified in Section 1.2 of this Agreement.

D. The Parties wish to enter into this Agreement whereby CITY will allow Licensee to enter onto the Licensed Property for vehicle access as well as to make certain related improvements, and to conduct maintenance and security obligations related to such use.

NOW THEREFORE, CITY and LICENSEE do hereby agree as follows:

AGREEMENT

**ARTICLE I.
BASIC LICENSE PROVISIONS**

1.1 Description of Licensed Property:

The Licensed Property is depicted in the attached Exhibit "A".

1.2 Use of Licensed Property:

For vehicle and pedestrian traffic and access upon, over, across and through the Licensed Property intended for ingress and egress to and from the Licensee Property, and for the installation of an entry driveway and/or bridge over and across the Licensed Property for the foregoing purposes, or other mutually agreed-upon improvements and measures by LICENSEE to protect existing landscaping, trees and channel on the Licensed Property.

1.3 **Commencement Date:**

The Commencement Date shall be September 1, 2024.

1.4 **Term:**

The Term of this Agreement will be indefinite until and unless terminated in accordance with the terms of this Agreement.

1.5 **Licensing Fee:**

For each calendar year, LICENSEE shall pay to CITY in advance on or before the fifteenth (15th) day of January of each year ("Payment Date") the Annual License Fee (as defined below) for use of the Licensed Property. The first Annual License Fee shall be paid to CITY on the Commencement Date.

1.6 **CITY Address:**

City of Upland
460 N. Euclid Ave.
Upland, CA 91786
Attn: City Manager

1.7 **LICENSEE Address:**

NKB Investments LLC
1319 Miraciolo Court
San Marcos, CA 92078
Attn: President and CEO

**ARTICLE II.
GENERAL LICENSE PROVISIONS**

2.1 **General Grant.** Subject to the terms and conditions hereinafter set forth, CITY hereby grants to LICENSEE a non-exclusive license upon, over, across and through the Licensed Property in the scope and for the purposes described in Section 1.2 above. Without limiting the generality of the foregoing, CITY hereby grants to LICENSEE a non-exclusive license upon, over, across and through any entry driveways located on the Licensed Property commencing at Foothill Boulevard to the north to a line that extends from the southerly property line of the Licensee Property due west, as indicated on Exhibit A, including any future reconfiguration thereof ("Entry Driveways"), for ingress and egress to and from the Licensee Property, for the benefit of LICENSEE, its agents, occupants, customers and invitees (collectively "LICENSEE Parties").

2.2 **Term.** The term ("Term") of this Agreement shall commence on the "Commencement Date" specified Section 1.5 above and shall continue in full force and effect indefinitely until terminated as provided in this Agreement.

2.3 **Use.** LICENSEE shall use the Licensed Property solely for the purposes specified in Section 1.2 above and for such lawful purposes as may be directly incidental thereto. No change shall be made by LICENSEE in the use of the Licensed Property without CITY's prior written approval.

2.4 **Condition of Premises.** LICENSEE ACCEPTS THE LICENSED PROPERTY IN ITS "AS IS" CONDITION, WITH ALL FAULTS. LICENSEE ACKNOWLEDGES AND AGREES THAT LICENSEE IS ENTERING THE LICENSED PROPERTY UNDER THIS AGREEMENT BASED ON LICENSEE'S OWN INVESTIGATIONS AND KNOWLEDGE OF THE PROPERTY AND THAT, EXCEPT AS OTHERWISE SPECIFICALLY STATED IN THIS AGREEMENT, NEITHER LICENSOR NOR ANY AGENT OF LICENSOR, HAS MADE ANY REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, WITH REGARD TO THE PHYSICAL CONDITION OF THE PROPERTY OR THE SUITABILITY OF THE PROPERTY FOR ANY PARTICULAR PURPOSE OR USE, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATIONS OR WARRANTIES REGARDING THE APPLICABILITY OR NON-APPLICABILITY OF ANY LAWS, THE SOIL OR SUBSOIL, SURFACE OR SUBSURFACE CONDITIONS, TOPOGRAPHY, POSSIBLE HAZARDOUS SUBSTANCES CONTAMINATION, FILL, DRAINAGE, ACCESS TO PUBLIC ROADS, AVAILABILITY OF UTILITIES, EXISTENCE OF UNDERGROUND STORAGE TANKS, APPLICABILITY OF OR COMPLIANCE WITH ANY ENVIRONMENTAL LAWS OR ANY OTHER MATTER OF ANY NATURE WHATSOEVER. THE LICENSOR IS NOT RESPONSIBLE FOR DAMAGE TO OR LOSS BY THEFT OF LICENSEE'S OR LICENSEE PARTIES' PROPERTY LOCATED IN OR ON THE LICENSED PROPERTY.

2.5 **Termination of License.**

A. Notwithstanding any other term or provision of this Agreement, CITY shall have the right to terminate this Agreement, and shall have no obligation to reimburse LICENSEE for improvements to the Licensed Property under the following circumstance:

i. CITY may terminate this Agreement upon sixty (60) days prior written notice for either (i) the establishment or maintenance by LICENSEE of a nuisance upon the Licensed Property, or (ii) a breach by LICENSEE of any material covenant or term of this Agreement, and such nuisance or breach continues or remains uncured for a period of thirty (30) days following written notice thereof to LICENSEE; provided, however, if any such nuisance or breach (other than a failure to pay the Annual License Fee) is of such a nature that the same cannot reasonably be cured within said thirty (30) day period, then if LICENSEE shall have diligently commenced and continues the curing of such nuisance or breach during said thirty (30) day period, LICENSEE shall have a reasonable amount of time to cure the nuisance or breach.

B. LICENSEE may terminate this Agreement at any time for its convenience by providing written notice to CITY six (6) months prior to the date of termination.

2.6 **Hazardous Materials Use and Related Indemnity.**

A. **Use.** LICENSEE shall operate the Licensed Property in compliance with all, and shall not cause or permit the Licensed Property to be in violation of any federal, state or local environmental, health and/or safety-related laws, regulations, standards, decisions of the courts, permits or permit conditions, currently existing or as amended or adopted in the future which are or become applicable to LICENSEE or the Licensed Property (collectively, "Environmental Laws" and, individually, an "Environmental Law"). Except for Hazardous Materials expressly approved by CITY in writing, LICENSEE shall not cause or permit, or allow any of LICENSEE Parties to cause or permit, any Hazardous Materials to be brought upon, stored, used, generated, handled, transported, treated or disposed of on or about the Licensed Property. Any Hazardous Materials on or about the Licensed Property shall be stored, used, generated, handled, transported, treated or disposed of in accordance with all applicable Environmental Laws. As used herein, "Hazardous Materials" means any chemical, substance or material which is now or becomes in the future listed, defined or regulated in any manner by any Environmental Law based upon, directly or indirectly, its properties or effects.

B. **Indemnity by LICENSEE.** LICENSEE shall indemnify, defend (by counsel acceptable to CITY) and hold harmless the Indemnitees (as defined in Section 14) from and against any and all loss, liability, claim, demand, damage, cost or expense (including without limitation, any fines, penalties, judgments, litigation expenses, attorneys' fees, and consulting, engineering, and construction fees and expenses) incurred by Indemnitees as a result of (a) LICENSEE's breach of any prohibition or provision of this Section, or (b) any release by LICENSEE of Hazardous Materials onto the Licensed Property, or (c) any contamination of the Licensed Property caused by LICENSEE (i) which occurs due to the storage, use, generation, handling, transportation, treatment or disposal of Hazardous Materials on or about the Licensed Property by LICENSEE or LICENSEE Parties, or (ii) which is made worse due to the act or failure to act of LICENSEE or LICENSEE Parties in connection with a legally recognized duty to act or refrain from acting. The foregoing indemnity shall be effective regardless of any negligence (whether active, passive, derivative, joint, concurring or comparative) on the part of Indemnitees, except to the extent, but only to the extent, caused by the gross negligence or willful misconduct of the Indemnitees; shall survive termination of this Agreement; and is in addition to any other rights or remedies which Indemnitees may have under the law or under this Agreement.

C. **Remediation.** In addition, in the event of any release on or contamination of the Licensed Property, LICENSEE, at its sole expense, shall promptly take all actions necessary to clean up the affected property and to return the affected property to the condition existing prior to such release or contamination, to the satisfaction of CITY and any governmental authorities having jurisdiction thereover.

D. **Inapplicability.** It is understood and agreed that a LICENSEE who does not now, or in the future, generate, handle, transport, treat, store or dispose of Hazardous Materials on the Licensed Property within the meaning of this Section, is not subject to the provisions of Section 6.B.

2.7 **Fees.**

A. **Annual License Fee.** LICENSEE shall pay CITY as compensation for this license the amount of \$1,800.00 per calendar year ("Annual License Fee") on the Commencement Date, and thereafter on or before the Payment Date specified at Section 1.5 above. The Annual License Fee shall increase on January 1st of the year following at least a one year period from the Commencement Date, and every twelve (12) months thereafter, by three percent (3%) of the Annual License Fee scheduled to be paid for the year immediately preceding the applicable increase date. For purposes of example only, if the Commencement Date occurs on September 1, 2024, the first increase to the Annual License Fee as provided in this Agreement shall occur on January 1, 2026. In the event the Commencement Date occurs on a date other than January 1st, then the Annual License Fee due upon the Commencement Date shall be prorated accordingly.

B. **Late Payment.** LICENSEE acknowledges that late payment by LICENSEE of any payment owed to CITY under this Agreement will cause CITY to incur costs not contemplated by this Agreement, the exact amount of such costs being extremely difficult and impracticable to fix. Therefore, if any payment due from LICENSEE is not received by CITY by the Payment Date, LICENSEE shall pay to CITY an additional sum of ten percent (10%) of the overdue payment as a late charge,. The Parties agree that this late charge represents a fair and reasonable estimate of the administrative costs that CITY will incur by reason of a late payment by LICENSEE. Acceptance of any late payment charge shall not constitute a waiver from exercising any of the other rights and remedies available to CITY under this Agreement, at law or in equity, including, but not limited to, any interest charges imposed herein.

2.8 **Permits.** Without limiting the generality of any other provision hereunder, LICENSEE, at its sole cost and expense, shall obtain and shall comply with any and all permits which may be required by any law, regulation or ordinance for any activities LICENSEE conducts pursuant to this Agreement.

2.9 **Installation, Maintenance, and Repair of Improvements.** CITY shall, at its own cost repair, and maintain the Licensed Property, including any improvements thereon made by LICENSEE, and may install or utilize parking stops or other protective measures to protect existing trees on the Licensed Property as applicable.

2.10 **Standards.** LICENSEE shall comply with all applicable statutes, ordinances, rules, regulations, orders and decisions (hereinafter referred to as "Standards"), issued by any federal, state or local governmental body or agency established thereby including without limitation, the United States Department of Transportation, and the California Public Utilities Commission (hereinafter collectively referred to as "Agency"), relating to LICENSEE's use of the Licensed Property hereunder. In the event LICENSEE fails to be in full compliance with Standards set by any Agency, CITY may, but shall not be obligated to, after giving notice of the failure to LICENSEE, and if LICENSEE, within thirty (30) days following receipt of such notice (unless such period is extended by CITY or unless the non-compliance is of such a nature that it cannot reasonably be corrected within said 30 day period, in which case LICENSEE shall have a reasonable amount of time to correct), fails to correct such non-compliance, take whatever action it determines in its reasonable discretion to be necessary to protect the Licensed Property.

LICENSEE shall reimburse CITY for all reasonable costs (including but not limited to, consulting, engineering, clean-up and disposal, and legal costs) incurred by CITY as a result of the LICENSEE's failure to comply with such Standards, and also such costs incurred by the CITY in abating a violation of such Standards, defending any claim of violation of such Standards in any proceeding before any Agency or court, and paying any fines or penalties imposed for such violations. LICENSEE shall, to the extent permitted by law, assume liability for and shall save and hold harmless Indemnitees (as defined in Section 14 hereof) from any claim of a violation of the Standards regardless of the nature thereof or the Agency or person asserting such claim, which results from LICENSEE's use of the Licensed Property in violation of the Standards. LICENSEE, at its cost, shall assume the defense of all such claims as provided for in this Agreement.

2.11 **Tests and Inspections.** CITY shall have the right at any time to inspect the Licensed Property to monitor compliance with this Agreement. If, in CITY'S reasonable judgment, any installation on, or use or condition of the Licensed Property may have a material adverse effect on the Licensed Property or CITY'S operations, CITY shall be permitted to conduct any tests or assessments, including but not limited to environmental assessments, of, on or about the Licensed Property, as it determines to be necessary or useful to evaluate the condition of the Licensed Property. LICENSEE shall cooperate with CITY in any tests or inspections deemed necessary by CITY.

2.12 **Insurance.** LICENSEE, at its sole cost and expense, shall obtain and maintain, and require its contractors and subcontractors to obtain and maintain, in full force and effect insurance as required by CITY in the amounts and coverage specified and issued by insurance companies as described on Exhibit "C". Prior to entering the Licensed Property, LICENSEE shall furnish CITY with the insurance endorsements and certificates in the form and amounts specified in Exhibit "C", evidencing the existence, amounts and coverage of the insurance required to be maintained hereunder. In most instances, CITY does not allow self-insurance, however, if LICENSEE can demonstrate assets and retention funds meeting CITY's self-insurance requirements, CITY may permit LICENSEE to self-insure; provided, however, that the right to self-insure with respect to any coverage required to be maintained hereunder may be granted or revoked by CITY in its sole and absolute discretion. CITY shall not be liable for the payment of any premiums or assessments for insurance required to be maintained by LICENSEE under this Agreement. CITY may, in its discretion but not more frequently than once in any five (5) year period, review the insurance requirements under this Agreement and determine whether commercially reasonable increases in coverage amounts are warranted. Should CITY determine that commercially reasonable increases in coverage amounts are warranted, it shall deliver to LICENSEE written notice thereof. LICENSEE shall be required to increase the insurance coverage amounts in accordance with CITY's determination effective ninety (90) days from the delivery of said notice. Notwithstanding the foregoing, should LICENSEE disagree with CITY's determination (an "Insurance Dispute"), the Parties shall negotiate in good faith to resolve the Insurance Dispute. If the Parties are unable to resolve the Insurance Dispute within thirty (30) days from CITY's delivery of written notice, the Insurance Dispute shall be referred to and finally settled by binding arbitration. The arbitration shall be held in San Bernardino County, California, and conducted in accordance with the American Arbitration Association's ("AAA") Comprehensive Arbitration Rules and Procedures. The arbitrator's findings as to the commercial reasonableness of CITY's determination shall be final and binding upon the Parties. The cost of the arbitration shall be borne equally between the

Parties. There shall be no “prevailing party” for purposes of any Insurance Dispute such that CITY and LICENSEE shall be responsible for their respective attorney fees and costs incurred in any such arbitration.

2.13 **Subordinate Rights.** This Agreement is subject and subordinate to the prior and future rights and obligations of CITY, its successors and assigns, to use its property in the exercise of its powers and in the performance of its duties. Accordingly, there is reserved and retained unto CITY, its successors, assigns and permittees, the right to construct, reconstruct, maintain and use existing, and facilities and appurtenances and existing and future transportation, communication, pipeline facility and other facilities and appurtenances in, upon, over, under, across and along the Licensed Property, and in connection therewith, the right to grant and convey to others, rights and interests to the Licensed Property in, on and around the Licensed Property; provided, CITY’s use and enjoyment of the Licensed Property as reserved herein shall not interfere with, or adversely affect, any of LICENSEE's rights herein. This Agreement is subject to all licenses, leases, easements, restrictions, conditions, covenants, encumbrances, liens, claims and other matters of title (hereinafter referred to as "Title Exceptions") which may affect the Licensed Property now or hereafter, and the words "grant" or "convey" as used herein shall not be construed as a covenant against the existence of any such Title Exceptions. Notwithstanding the foregoing, CITY shall not erect or permit or maintain any buildings or other improvements which may cause damage to or interfere with LICENSEE’s rights herein or its use of the Licensed Property for the purposes described herein, or the improvements made by LICENSEE, as approved by CITY, on or upon the Licensed Property. CITY shall not grant any other rights within the Licensed Property to any other individual or entity (each, an “Other Interest Holder”) without first obtaining from LICENSEE and Other Interest Holder an indemnity agreement reasonably satisfactory to LICENSEE, which indemnity agreement shall be between CITY, LICENSEE, and Other Interest Holder and shall provide LICENSEE with an indemnification from Other Interest Holder in connection with Other Interest Holder’s use of the Licensed Property.

2.14 **Defense and Indemnity.** LICENSEE shall at all times indemnify, defend (with legal counsel approved by CITY) and save harmless CITY and its subsidiaries, officials, officers, employees, agents, contractors, successors and assigns ("Indemnitees") against and pay in full all losses, damages, or expenses that the Indemnitees may sustain, incur or become liable for, resulting in any manner from the use of the Licensed Property by LICENSEE, LICENSEE Parties or any person or entity claiming, using or occupying the Licensed Property by, under or through LICENSEE, or anyone directly or indirectly employed by or for whose acts LICENSEE is liable, including, but not limited to, any such losses, damages or expenses arising out of (a) loss of or damage to property, (b) injury to or death of persons, (c) mechanics' or other liens of any character, (d) taxes or assessments of any kind, or (e) interference with the use of the CITY's property.

2.15 **Defense.** Upon written notice from CITY, LICENSEE agrees to assume the defense of any lawsuit, administrative action or other proceeding brought against the Indemnitees by any public body, individual, partnership, corporation, or legal entity, relating to any matter covered by this Agreement for which LICENSEE has an obligation to assume liability for and/or to indemnify or save and hold harmless the Indemnitees. LICENSEE shall pay all the costs incident to such defense, including, but not limited to, attorneys' fees, investigators' fees, litigation expenses, settlement payments, and amounts paid in satisfaction of judgments. Any and all lawsuits or

administrative actions brought or threatened on any theory of relief available at law, in equity or under the rules of any administrative agency shall be covered by this Section 16, including, but not limited to, the theories of intentional misconduct, negligence, breach of statute or ordinance, or upon any theory created by statute or ordinance, state or federal.

ARTICLE III. MISCELLANEOUS

3.1 **Attorneys' Fees.** In any judicial or arbitration proceeding involving performance under this Agreement, or interpretation, default or breach thereof, the prevailing Party shall be entitled to its reasonable attorneys' fees and costs.

3.2 **Remedies.** The Parties acknowledge and agree that it would be difficult to measure the economic loss that would occur as a result of the breach of any of the provisions of this Agreement, and that such a breach would cause immediate and irreparable harm for which there would be no adequate remedy at law. The Parties further acknowledge and agree that the provisions herein may be enforced by injunction, specific performance and/or restraining order. Accordingly, the Parties agree that any breach of this Agreement will cause substantial and irreparable damage and therefore, in the event of any such breach, in addition to such other remedies that may be available, the Parties shall have the right to seek specific performance and injunctive relief without posting bond.

3.3 **Successors and Assigns.** All the covenants and provisions of this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the CITY and LICENSEE to the same extent and effect as the same are binding upon and insure to the benefit of the Parties hereto.

3.4 **Survival of Obligations.** All obligations of LICENSEE hereunder not fully performed as of the termination or cessation of this Agreement in any manner shall survive the termination of this Agreement, including without limitation, all payment obligations with respect to fees and all obligations concerning the condition of the CITY Property.

3.5 **Assignment.** This Agreement and the license granted herein are personal to the LICENSEE. LICENSEE may assign or transfer (whether voluntary or involuntary) this Agreement, or permit any other person or entity to use the rights or privileges hereby conveyed, without the prior written consent of CITY, provided that such assignment, transfer or sub-license be made in connection with the management, sale, transfer or leasing of the Licensee Property or any portion thereof. All other assignments, transfers or sub-licenses by LICENSEE shall require the prior written consent of CITY, and any attempted act in violation of this Section shall be void and without effect.

3.6 **Waiver of Covenants or Conditions.** The waiver by CITY of the performance of any covenant or condition under this Agreement shall not invalidate this Agreement nor shall it be considered a waiver by it of any other covenant or condition under this Agreement.

3.7 **Amendment.** This Agreement may be amended at any time by the written agreement of CITY and LICENSEE. All amendments to this Agreement shall be binding upon the Parties despite any lack of legal consideration, so long as the same shall be in writing and executed by the Parties hereto.

3.8 **Restoration of CITY's Property, Claims for Costs.** Upon the termination of this Agreement within ten (10) years from the Commencement Date, LICENSEE, upon demand of CITY and at LICENSEE's own cost and expense, shall restore the Licensed Property of CITY to the same condition in which they were prior to the Commencement Date of this Agreement, reasonable wear and tear excepted. In case LICENSEE shall fail to restore Licensed Property as aforesaid, CITY may proceed with such work at the expense of LICENSEE. No termination hereof shall release LICENSEE from any liability or obligation hereunder, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date the Licensed Property restored as above provided.

3.9 **Notice.** Any notice hereunder to be given by by a Party hereto shall be deemed to be properly served on the date it is deposited in the United States Mail, postage prepaid, addressed to such party at its address set forth in the Basic License Provisions. Either CITY or LICENSEE may change its address for the receipt of notice by giving written notice thereof to the other party of such change. Notices shall be effective on the date delivered to custody of the U.S. Postal Service.

3.10 **Interest on Past-Due Obligations.** Except as expressly herein provided, any undisputed amount due to CITY which is not paid when due shall bear interest, from the date due, at the rate of three percent (3%) per annum. Such interest will be due CITY as it accrues. Payment of such interest shall not excuse or cure any default by LICENSEE under this Agreement, provided, however, that interest shall not be payable on late charges incurred by LICENSEE.

3.11 **Joint and Several.** In the event that two or more parties execute this Agreement as LICENSEE, all the covenants and agreements of LICENSEE in this Agreement shall be the joint and several covenants and agreements of such parties.

3.12 **Nondiscrimination.** LICENSEE certifies and agrees that all persons employed thereby and/or the affiliates, subsidiaries, or holding companies thereof and any contractors retained thereby with respect to the Licensed Property are and shall be treated equally without regard to or because of race, religion, ancestry, national origin, or sex, and in compliance with all federal and state laws prohibiting discrimination in employment, including but not limited to the Civil Rights Act of 1964; the Unruh Civil Rights Act; the Cartwright Act; and the California Fair Employment Practices Act.

3.13 **Taxes.** LICENSEE shall be liable for and agrees to pay promptly and prior to delinquency, any tax or assessment, including but not limited to any taxes levied on account of personal property, fixtures or equipment of LICENSEE used in connection with the Licensed Property.

3.14 **Liens.** LICENSEE will fully and promptly pay for all materials whether or not joined or affixed to the Licensed Property, and fully and promptly pay all persons who perform labor whether or not upon said Licensed Property. LICENSEE shall not suffer or permit to be filed or

enforced against the Licensed Property or any part thereof, or adjacent property owned by CITY, any mechanics', materialmen's, contractors', or subcontractors' liens or stop notices arising from, or any claim for damage growing out of, any testing, investigation, maintenance or work, or out of any other claim or demand of any kind. LICENSEE shall pay or cause to be paid all such liens, claims or demands, including sums due with respect to stop notices, together with attorneys' fees incurred by CITY with respect thereto, within ten (10) business days after notice thereof (unless contested) and shall indemnify, hold harmless and defend Indemnitees from all obligations and claims made against CITY for and with respect to the above described work, including attorneys' fees. LICENSEE shall furnish evidence of payment upon request of CITY. LICENSEE may contest any lien, claim or demand by furnishing a statutory lien bond or equivalent with respect to stop notices to CITY in compliance with applicable California law. If LICENSEE does not discharge any mechanic's lien or stop notice for works performed for LICENSEE, CITY shall have the right to discharge same (including by paying the claimant) and LICENSEE shall reimburse CITY for the cost of such discharge within ten (10) business days after billing. CITY reserves the right at any time to post and maintain on the CITY Property such notices as may be necessary to protect CITY against liability for all such liens and claims. The provisions of this Section shall survive the termination of this Agreement.

3.15 **Further Acts.** The Parties agree to perform any further acts and to execute and deliver in recordable form any documents which may be reasonably necessary to carry out the provisions of this Agreement.

3.16 **Waiver of Relocation Rights.** In the event this Agreement is terminated by CITY in accordance with the terms herein, LICENSEE HEREBY WAIVES ANY RIGHT TO RELOCATION ASSISTANCE, MOVING EXPENSES, GOODWILL OR OTHER PAYMENTS TO WHICH LICENSEE MIGHT OTHERWISE BE ENTITLED, BUT FOR THIS WAIVER AND CITY'S EXPRESS RIGHT OF TERMINATION, UNDER THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970, AS AMENDED, 42 UNITED STATE CODE SECTION 4601 ET SEQ. AND/OR THE CALIFORNIA RELOCATION ASSISTANCE LAW, AS AMENDED, GOVERNMENT CODE SECTION 7260 ET SEQ.

3.17 **Non-Exclusive License.** Unless as provided in this Agreement, the license granted by this Agreement is not exclusive and CITY specifically reserves the right to grant other licenses to the Licensed Premises subject to the terms of Section 2.13 hereof. In no event shall LICENSEE be responsible for or have any liability or obligations in connection with the use of the Licensed Premises by any other licensee.

3.18 **Counterparts; Facsimile Signatures.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Facsimile signatures shall be considered original signatures.

3.19 **Severability.** If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions, or provisions of this Agreement, or the application thereof to any person or

circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

3.20 **Captions.** The Captions included in this Agreement are for convenience only and in no way define, limit, or otherwise describe the scope or intent of this Agreement or any provision hereof, or in any way affect the interpretation of this Agreement.

3.21 **Time of Essence.** Time is of the essence in this Agreement.

3.22 **Recording.** Contemporaneously with execution of this Agreement, CITY and LICENSEE will execute and acknowledge a Memorandum of License Agreement in the form of Exhibit D attached hereto setting forth certain provisions of this Agreement, and either party may choose to record such Memorandum in which event it shall be recorded against both the Licensee Property and the Licensed Property in the San Bernardino County Recorder's Office, and both Parties hereby consent to such recordation.

3.23 **Entire Agreement.** This Agreement and the Exhibits hereto constitute the entire agreement between the CITY and LICENSEE with respect to the subject matter hereof and supersede all prior verbal or written agreements and understandings between the Parties with respect to the items set forth herein.

3.24 **Governing Law.** This Agreement shall be governed by the laws of the State of California. Venue shall be in San Bernardino County.

3.25 **Electronic Signature.** Each Party acknowledges and agrees that this Agreement may be executed by electronic or digital signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature.

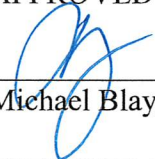
[SIGNATURES ON FOLLOWING PAGE]

**SIGNATURE PAGE FOR LICENSE AGREEMENT BETWEEN
THE CITY OF UPLAND
AND
NKB INVESTMENTS, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY
AND
THE STORAGE DISTRICT-UPLAND, LLC, A UTAH LIMITED LIABILITY
COMPANY**

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first written above.

**CITY:
CITY OF UPLAND**

APPROVED BY:



Michael Blay, City Manager

ATTESTED BY:



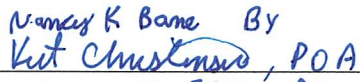
Keri Johnson, CMC, CPMC, City Clerk

APPROVED AS TO FORM:



Best Best & Krieger LLP, City Attorney

**LICENSEE:
NKB INVESTMENTS LLC**

By: ^{Nancy K Bane By} 

NANCY K BANE BY
Print: KENT CHAISTENSEN, POA

Title: MANAGER

**THE STORAGE DISTRICT-UPLAND
LLC**

By: 

Print: KENT CHAISTENSEN

Title: MANAGER

EXHIBIT "A"

**LEGAL DESCRIPTION
FOR
LICENSE AREA**

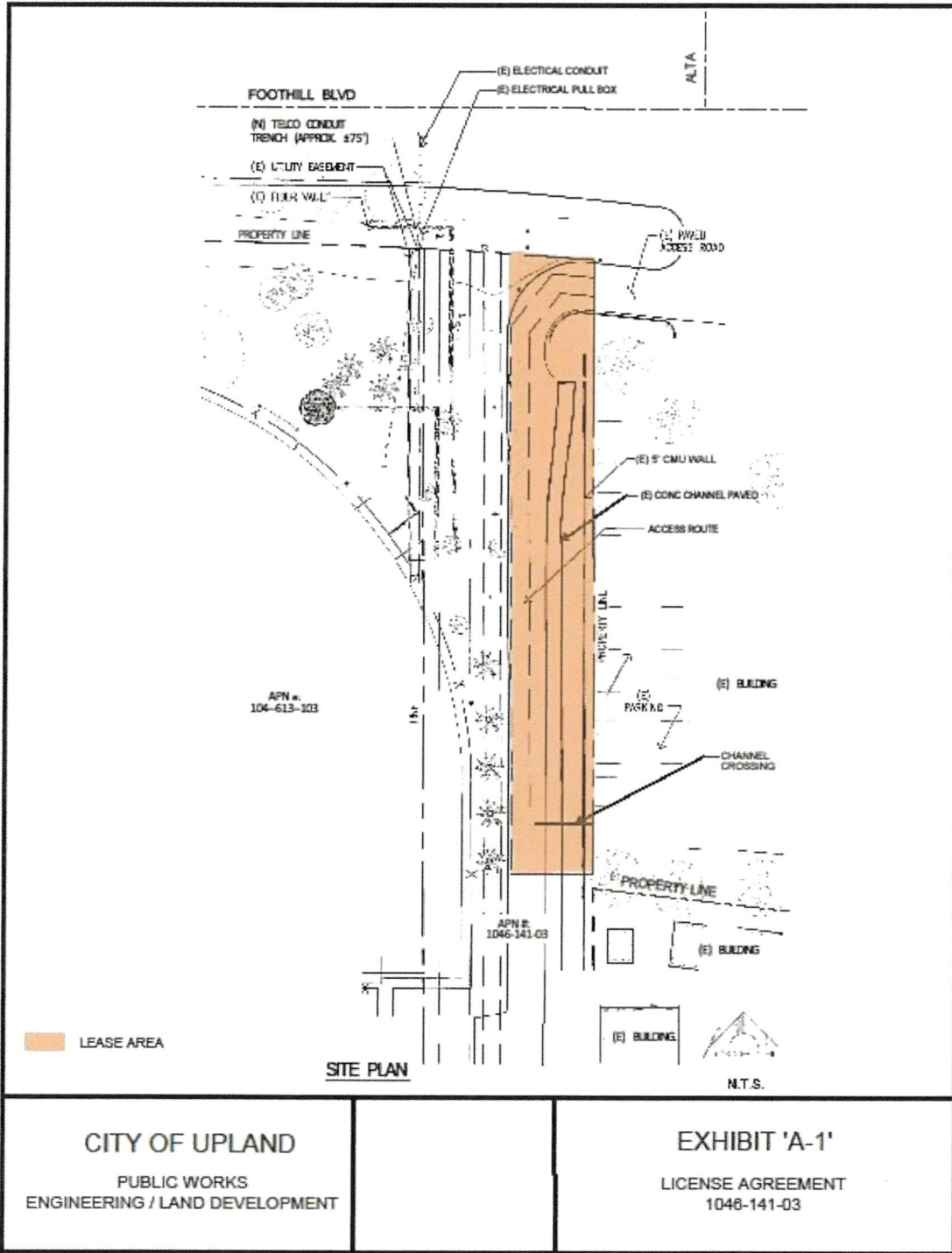
COMMENCING AT THE CENTERLINE INTERSECTION OF FOOTHILL BOULEVARD AND ALTA AVENUE AS SHOWN ON PARCEL MAP 5101 FILED IN PARCEL MAP BOOK 61 PAGES 88 AND 89 IN THE OFFICE OF THE SAN BERNARDINO COUNTY RECORDER. THEN PROCEEDING NORTH 84° 00' 00" WEST, 94.32 FEET TO A POINT ON THE FOOTHILL CENTERLINE INTERSECTING THE PROJECTION OF THE WESTER PROPERTY LINE OF PARCEL MAP 20269; THENCE SOUTH 0° 01' 37" EAST, 95.53 FEET TO THE SOUTH RIGHT OF WAY OF FOOTHILL BOULEVARD AND THE NORTH EAST CORNER OF THE CITY PARCEL AND TRUE POINT OF BEGINNING OF THE DESCRIPTION OF THE AREA OVER THE CITY PROPERTY COVERED BY THIS LICENSE AGREEMENT; THENCE SOUTH 0° 01' 37" EAST, 41.23 FEET TO THE NORTH WEST CORNER OF PARCEL 1 OF PARCEL MAP 5101; THENCE ALONG WEST PROPERTY LINE OF SAID PARCEL MAP SOUTH 0° 01' 37" EAST, 350.34 FEET TO THE SOUTH WEST CORNER OF SAID PARCEL 1; THENCE NORTH 83° 56' 36" WEST, 55 FEET TO THE WEST EDGE OF THE EXISTING PAVEMENT; THENCE NORTH 0° 01' 37" WEST, TO THE NORTH PROPERTY LINE OF THE CITY PARCEL, THENCE SOUTH 84° 00' 00" EAST ALONG NORTH PROPERTY LINE OF THE CITY PARCEL TO THE NORTH EAST CORNER OF PARCEL 1 OF PARCEL MAP 5101 AND THE TRUE POINT OF BEGINNING.

The land described herein contains approximately 0.49 acres.

Affecting: APN 1046-141-03

See (Exhibit "A-1") for a plat depicting the above-described property.

EXHIBIT "A-1"



CITY OF UPLAND
 PUBLIC WORKS
 ENGINEERING / LAND DEVELOPMENT

EXHIBIT 'A-1'
 LICENSE AGREEMENT
 1046-141-03

EXHIBIT "B"

**LEGAL DESCRIPTION
FOR
PROPERTY**

All that certain real property situated in the County of San Bernardino, State of California, described as follows:

PARCEL A:

PARCEL 1 OF PARCEL MAP NO. 5101, IN THE CITY OF UPLAND, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 61, PAGES 88 AND 89 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL B:

A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS PARKING AND PASSAGE OF MOTOR VEHICLES AND FOR PEDESTRIAN TRAFFIC AND INCIDENTAL PURPOSES AND DESCRIBED IN RECIPROCAL EASEMENT AGREEMENT RECORDED DECEMBER 14, 1988 AS INSTRUMENT NO. 88-436538 OF OFFICIAL RECORDS.

Assessor's Parcel Number: 1046-141-08

The land described herein contains approximately 2.576 acres.

EXHIBIT C

INSURANCE REQUIREMENTS

LICENSEE shall obtain, and shall require any consultant or contractor entering the Licensed Property on its behalf to obtain insurance of the types and in the amounts described below and satisfactory to the CITY.

A. Commercial General Liability Insurance. LICENSEE shall maintain occurrence version commercial general liability insurance or equivalent form with a combined single limit of not less than \$2,000,000 per occurrence, with a general aggregate limit no less than \$4,000,000. Such insurance shall include coverage for, but not be limited to: (i) bodily injury and property damage; (ii) personal injury and advertising injury; (iii) fire legal liability; and (iv) products and completed operations. Such insurance policy or policy endorsement shall:

1. Include the CITY, its officials, officers, employees, agents, and consultants as additional insureds with respect to the Licensed Property and LICENSEE's use, installation, construction, operation, maintenance, repair, reconstruction, alteration, removal or any other work that LICENSEE undertakes with respect to the Licensed Property;

2. Not contain special limitations on the scope of coverage or the protection afforded to CITY, its officials, officers, employees, agents and consultants as additional insureds;

3. Be primary with respect to any insurance or self-insurance programs covering CITY, its officials, officers, employees, agents and consultants;

4. Contain standard separation of insured provisions; and

5. Contain a waiver of subrogation that waives any right the insurer has against CITY for any claims or suits.

B. Automobile Liability. LICENSEE shall acquire and maintain during the period of the Agreement, automobile liability with a combined single limit of \$1,000,000.

C. Workers' Compensation Insurance. LICENSEE shall maintain workers' compensation insurance with statutory limits and employers' liability insurance with limits of not less than \$1,000,000 each accident.

D. Certificates of Insurance. LICENSEE shall, prior to (i) entering the Licensed Property or (ii) performing any installation, construction, operation, maintenance, repair, reconstruction, alteration, removal or any other work that LICENSEE undertakes with respect to the licensed Property, furnish CITY with properly executed certificates of insurance and, if requested by CITY, certified copies of endorsements and policies, which clearly evidence all insurance required under this Agreement and provide that such insurance shall not be canceled, allowed to expire or be materially reduced in coverage, except on thirty (30) days' prior written notice to CITY. CITY shall have the sole discretion to determine whether the certificates and endorsements presented comply with the provisions of this Agreement.

E. Coverage Maintenance. LICENSEE shall replace certificates, policies and endorsements for any insurance expiring prior to the termination of this Agreement and shall not allow any lapse in coverage. Further, LICENSEE shall maintain such insurance from the Commencement Date hereof until termination.

F. Licensed Insurer. LICENSEE shall place such insurance with insurers having A.M. Best Company ratings of no less than A:VIII and licensed to do business in California.

EXHIBIT D

MEMORANDUM OF LICENSE AGREEMENT

RECORDING REQUESTED BY:

NKB Investments, LLC
The Storage District-Upland, LLC

WHEN RECORDED MAIL TO:

Briggs & Alexander, APLC
Attn: Lev Zartarian
4300 Campus Drive, Ste 210
Newport Beach, CA 92660

MEMORANDUM OF LICENSE AGREEMENT

THIS MEMORANDUM OF LICENSE AGREEMENT (“Memorandum”) is entered into as of September 1, 2024, by and between the City of Upland, a municipal corporation, (collectively, “City”) and NKB Investments, LLC, a California limited liability company and The Storage District-Upland, LLC, a Utah limited liability company (collectively, “Licensee”).

RECITALS:

A. City and Licensee entered into that certain License Agreement dated as of September 1, 2024 (the “Agreement”). City and Licensee desire to execute and record this Memorandum for the purpose of placing third parties on record notice of a right created and granted to Licensee with respect to the property described herein.

NOW THEREFORE, for and in consideration of the Recital, the covenants set forth herein and in the Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Licensee hereby agree as follows:

1. Licensee represents and warrants that Licensee is the fee owner of that certain real property more particularly described in **Exhibit A** attached hereto and incorporated herein by reference (the “Licensee Property”). Pursuant to the Agreement, City grants to Licensee a non-exclusive license upon, over, across and through certain real property (the “License”) located in the County of San Bernardino, State of California, and more particularly described in **Exhibits B and B-1** attached hereto and incorporated herein by reference (the “Licensed Property”).

2. The term of the License commences September 1, 2024 and continues in force indefinitely until and unless otherwise terminated in accordance with the terms of the Agreement.

3. The parties have executed and recorded this instrument against both the Licensee Property and the Licensed Property to give notice of the Agreement and the respective rights and obligations of City and Licensee. The licensee fee and other terms are in the unrecorded Agreement, which is incorporated by reference in its entirety in this Memorandum. In the event of any inconsistency between this Memorandum and the Agreement, the Agreement shall control.

4. This Memorandum and the Agreement shall bind and inure to the benefit of the parties and their respective heirs, successors, and assigns, subject, however, to the provisions of the Agreement on assignment.

5. This Memorandum may be executed in one or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.

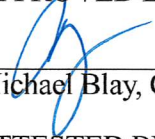
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6. This Memorandum and the Agreement are governed by California law.

IN WITNESS WHEREOF, the undersigned have executed this Memorandum as of the day and year first above written.

CITY:
CITY OF UPLAND

APPROVED BY:



Michael Blay, City Manager

ATTESTED BY:



Keri Johnson, CMC, CPMC, City Clerk

LICENSEE:

NKB INVESTMENTS LLC

Nancy K Bang By
By: *Kent Christensen, POA*

Print: *NANCY K BANG BY*
KENT CHRISTENSEN, POA

Title: *MANAGER*

THE STORAGE DISTRICT-UPLAND, LLC

By: *Kent Christensen*

Print: *KENT CHRISTENSEN*

Title: *MANAGER*

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF ~~CALIFORNIA~~ UTAH §

COUNTY OF SALT LAKE §

On AUGUST 23, 2024 before me, Luci Manchado, a Notary Public, personally appeared KENT CHRISTENSEN, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of ^{UTAH}~~California~~ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature *Luci Manchado* (Seal)



EXHIBIT A
DESCRIPTION OF LICENSEE PROPERTY

All that certain real property situated in the County of San Bernardino, State of California, described as follows:

PARCEL A:

PARCEL 1 OF PARCEL MAP NO. 5101, IN THE CITY OF UPLAND, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 61, PAGES 88 AND 89 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL B:

A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS PARKING AND PASSAGE OF MOTOR VEHICLES AND FOR PEDESTRIAN TRAFFIC AND INCIDENTAL PURPOSES AND DESCRIBED IN RECIPROCAL EASEMENT AGREEMENT RECORDED DECEMBER 14, 1988 AS INSTRUMENT NO. 88-436538 OF OFFICIAL RECORDS.

Assessor's Parcel Number: 1046-141-08

The land described herein contains approximately 2.576 acres.

EXHIBIT B
DESCRIPTION OF LICENSED PROPERTY

COMMENCING AT THE CENTERLINE INTERSECTION OF FOOTHILL BOULEVARD AND ALTA AVENUE AS SHOWN ON PARCEL MAP 5101 FILED IN PARCEL MAP BOOK 61 PAGES 88 AND 89 IN THE OFFICE OF THE SAN BERNARDINO COUNTY RECORDER. THEN PROCEEDING NORTH $84^{\circ} 00' 00''$ WEST, 94.32 FEET TO A POINT ON THE FOOTHILL CENTERLINE INTERSECTING THE PROJECTION OF THE WESTER PROPERTY LINE OF PARCEL MAP 20269; THENCE SOUTH $0^{\circ} 01' 37''$ EAST, 95.53 FEET TO THE SOUTH RIGHT OF WAY OF FOOTHILL BOULEVARD AND THE NORTH EAST CORNER OF THE CITY PARCEL AND TRUE POINT OF BEGINNING OF THE DESCRIPTION OF THE AREA OVER THE CITY PROPERTY COVERED BY THIS LICENSE AGREEMENT; THENCE SOUTH $0^{\circ} 01' 37''$ EAST, 41.23 FEET TO THE NORTH WEST CORNER OF PARCEL 1 OF PARCEL MAP 5101; THENCE ALONG WEST PROPERTY LINE OF SAID PARCEL MAP SOUTH $0^{\circ} 01' 37''$ EAST, 350.34 FEET TO THE SOUTH WEST CORNER OF SAID PARCEL 1; THENCE NORTH $83^{\circ} 56' 36''$ WEST, 55 FEET TO THE WEST EDGE OF THE EXISTING PAVEMENT; THENCE NORTH $0^{\circ} 01' 37''$ WEST, TO THE NORTH PROPERTY LINE OF THE CITY PARCEL, THENCE SOUTH $84^{\circ} 00' 00''$ EAST ALONG NORTH PROPERTY LINE OF THE CITY PARCEL TO THE NORTH EAST CORNER OF PARCEL 1 OF PARCEL MAP 5101 AND THE TRUE POINT OF BEGINNING.

The land described herein contains approximately 0.49 acres.

Affecting: APN 1046-141-03

See (Exhibit "B-1") for a plat depicting the above-described property.

