

**LICENSE AGREEMENT
BETWEEN JASON HENDERSON D/B/A/ PFLUGFUN AND CITY OF
PFLUGERVILLE FOR OPERATION OF NON-MOTORIZED WATERCRAFT**

This License Agreement (“License”) is made and entered into by and between the **CITY OF PFLUGERVILLE, TEXAS** (“City”), and **JASON HENDERSON D/B/A PFLUGFUN** (“Licensee”), either of which will be referred to as “party” or collectively referred to as “parties,” as follows:

1. Grant of Exclusive License. In consideration of and subject to the terms, provisions, and covenants herein contained, City grants to Licensee an exclusive license to operate a business for the rental of non-motorized watercraft on the following described real property owned by City (“Licensed Premises”), in the City of Pflugerville, Travis County, Texas:

The Lake Pflugerville Boathouse, northeast of the boat ramp on the northeast side of the lake, or at any other location within the Lake Pflugerville Park boundary that is mutually agreed upon by the Director of Parks and Recreation or designee (“Director”) and Licensee

2. Additional License. In consideration of and subject to the terms, provisions, and covenants herein contained, City grants to Licensee a license to operate a business for the sale of prepackaged consumable foods on the Licensed Premises. This is a nonexclusive license and Licensee understands that City may at any time grant similar licenses to additional persons. Licensee may store concession equipment trailers in designated sites within the designated parks, as approved by the Director.

3. Other Uses. City agrees not to grant another exclusive license agreement for the purpose of the rental of non-motorized watercraft within the Licensed Premises. However, Licensee acknowledges that there will be privately owned and operated watercraft within the Licensed Premises. In addition, special events or activities authorized or performed by the City may impact designated concession locations and operations within the Licensed Premises which could require modification to certain Licensee concessions, up to and including altering the location of the Licensed Premises or ceasing concession operations during an event or activity at a specific site.

4. Operating Hours. Minimum hours of operation during the summer season shall be from 10:00 am 6:00 pm, daily, from Memorial Day weekend until Labor Day weekend each year of the License. During the non-summer season, operations will happen on Saturdays and Sundays from 10:00 a.m. until 6:00 pm. Licensee shall also operate on all holidays and any other days and times that in the opinion of Licensee and Director are appropriate and not in conflict with maintenance of the Licensed Premises. Licensee will notify the Pflugerville Parks and Recreation Department with 24 hours’ notice if they are not able to operate the staffed operations as outlined above. Operations are to be year-round, except when prevented by inclement weather or when otherwise agreed between the Licensee and the Director.

5. Term. This License becomes effective upon May 13, 2026, and will terminate at the end of the day on December 31, 2026 (“Initial Term”), subject to earlier termination as herein provided. Unless terminated by either party as provided below, two additional one-year terms shall automatically occur, each such term to begin on January 1 and end at the end of the day, December 31. With the Initial Term and the addition of both one-year terms, this License shall terminate on January 1, 2029.

6. Termination Election. City and Licensee each shall have the right, either with or without cause and at any time, to terminate this License upon not less than ninety (90) days prior written notice to the other party. Upon such termination, City and Licensee shall be relieved of all further obligations hereunder except only for obligations accruing prior to the effective date of termination.

7. Use. Licensee shall at all times comply with the Texas Water Safety Act (Texas Parks & Wildlife Code Chapter 31, as may be amended), which Licensee affirms it has reviewed and will periodically review. In addition, Licensee has made, and will make, its employees, agents, and and/or representatives aware of these regulations and other water safety protocols. Licensee is prohibited from renting motorized watercraft of any kind. No other use of the Licensed Premises may be made without the prior written consent of Director.

8. Interruption of Business. City shall not be liable or responsible to Licensee in any manner for any interruption, or adverse impact on, Licensee’s business as a result of casualty, flooding, acts of God, utility failure to include lowering of lake preventing its recreational use, or other occurrence. In the event of an act of God that impairs Licensee’s access to the Licensed Premises or Licensee’s operations hereunder, City agrees to exercise reasonable efforts to restore access to the Licensed Premises, but City shall not be responsible for failure to restore access within any particular period of time.

9. Maintenance. Licensee shall, at Licensee’s cost and expense, during the term of this License and any renewal thereof, maintain the equipment, Licensed Premises, and all improvements thereon, in a first-class manner, including maintaining the premises free from litter and debris. Any trash or debris as the result of the Licensee or its patrons will be the responsibility of the Licensee.

10. Insurance. Licensee agrees to acquire and maintain in force and effect, during the term hereof, workers’ compensation insurance and also liability and casualty insurance covering all dates when Licensee is in operation on the Licensed Premises. Upon execution of this License, Licensee shall provide City with a copy of the insurance policies required hereby, showing premium prepaid for the period covered. In the event of failure by Licensee to keep such insurance in effect, the License shall terminate without notice from City to Licensee. Insurance must cover the Licensed Premises and all related uses of Lake Pflugerville, City parks, and public property by Licensee and/or Licensee’s patrons. Any use of, or onto, private property by Licensee or Licensee’s patrons must be covered by Licensee’s insurance and approved in advance by the City. This insurance shall include liability and workers’ compensation coverage as follows:

Type of Insurance

Minimum Limits

A. Workers' Compensation covering all employees	Statutory
B. Employer's Liability	\$100,000.00
C. Commercial General Liability	
• Bodily Injury & Property Damage	
Per Occurrence	\$1,000,000.00
• Aggregate	\$1,000,000.00

Premises/Operations, Products/Completed, Operations/Independent, Contractors/Contractual Liability/Water Craft/Property Entrusted to Others/Coverages shall be included.

Any equipment owned by Licensee shall be insured against damage by fire, windstorm, or other casualty under the standard "extended coverage" insurance. Prior to commencement of any construction, Licensee shall furnish City a duplicate original of an extended coverage insurance policy naming City as "additional insured" with "all-risk builders risk" coverage if required by City. Such insurance shall insure both City and Licensee against loss by fire, windstorm, vandalism, theft, or other casualty covered under standard "extended coverage" insurance. Such policy shall be in the amount of full replacement value for all improvements. The commercial general liability and casualty insurance policies shall name City as an "additional insured". All policies shall include a waiver of subrogation provision in favor of City. The policy and any renewal certificate shall ensure that the City must be notified thirty (30) days prior to cancellation or modification of any coverage. Language to the effect that the insurance company will "endeavor" or "attempt" to so notify the City is not sufficient. Renewal certificates must be received by the City at least ten (10) days prior to expiration date. Policies will be in effect for the entire term of this License and any renewals. It shall be the responsibility of the Licensee to insure that all subcontractors for improvements comply with the same insurance requirements as the Licensee. The Licensee will provide the City a copy of current insurance policy if requested by City at any time.

11. Alterations and Improvements. Licensee shall have the right, after first obtaining the written consent of City and at Licensee's sole cost and expense, to make such alterations, additions, and improvements to the Licensed Premises as Licensee may desire and as may have been approved by City. All such alterations, additions, and improvements shall thereafter constitute part of the Licensed Premises and shall not be removed by Licensee upon the termination or expiration of this License or any renewal hereof, except that the Licensee may remove such alterations, additions, and improvements provided that Licensee shall restore the Licensed Premises to the condition existing on the date hereof. Any improvements not removed within thirty (30) days after expiration or termination of this License shall remain with the land.

12. City Access. City shall have access to the Licensed Premises at all reasonable times for the purpose of inspection of the same or for any maintenance or repairs allowed to be made by City hereunder.

13. Termination for Safety Violation or Unlawful Use. Licensee shall not use or occupy nor permit the Licensed Premises or any part thereof to be used or occupied for any unlawful purpose, or for any purpose or in any manner which is in violation of any present or future governmental laws or regulations. Licensee shall comply with all laws, ordinances, orders, rules and regulations of state, federal, municipal, or other agencies or bodies having any jurisdiction thereof relating to the use, condition, or occupancy of the Licensed Premises. Notwithstanding any other provision of this License, any violation of this provision, or a gross violation of any safety-related provision herein, shall entitle the City to terminate this License immediately.

14. **INDEMNIFICATION. LICENSEE AGREES TO INDEMNIFY, DEFEND, AND HOLD CITY HARMLESS OF AND FROM ALL CLAIMS, DEMANDS, LIABILITY, LOSSES, COSTS, AND EXPENSES (INCLUDING ATTORNEY'S FEES AND COSTS OF LITIGATION) IN ANY MANNER ARISING OUT OF OR RESULTING FROM LICENSEE'S OPERATIONS, LICENSEE'S USE OF THE LICENSED PREMISES, OR THE EXISTENCE OF LICENSEE AND LICENSEE'S IMPROVEMENTS AND PERSONALTY ON THE PREMISES, INCLUDING ANY AND ALL LIABILITY, LOSSES, COSTS, AND EXPENSES ARISING FROM CLAIMS OR DEMANDS BY LICENSEE'S OWN EMPLOYEES.**

15. Assignment or Sublicense. Licensee shall not assign or sublicense the Licensed Premises or any of its rights hereunder, in whole or in part, without the express prior written consent of the City.

16. Casualty. In the event of casualty, Licensee shall restore all damaged improvements within thirty (30) days thereafter. Insurance proceeds will be made available for such repairs.

17. Performance by City. If Licensee fails to perform its obligation, City may, at its option, perform such obligations and Licensee shall pay City upon demand all costs and expenses incurred by City.

18. Independent Contractor. This License constitutes the entire agreement between City and Licensee. Nothing contained herein shall be construed to create any principal/agent, employer/employee, joint venture, partnership, or other arrangement between City and Licensee. Licensee shall at all times be an independent contractor and shall maintain full control over the means of conducting the business operations permitted hereby, provided such means are consistent with the provisions of this Agreement.

19. Default. If either party hereto shall fail to perform any obligation of such party as herein set forth, and such failure shall continue for a period of ten (10) days after written notice of default (except for Licensee's insurance obligations or obligation to pay the License fee, for which no notice or opportunity to cure shall be given) the party not in default shall have the right, at such party's option, and in addition to any other remedies available at law or in equity, to terminate this License by notice to the party in default. The failure of either party to declare any default immediately upon the occurrence thereof or delay in taking any action in connection therewith shall not waive such default, but such party shall have the right to declare any such default at any

time and take such action as might be authorized hereunder or that may be available at law or in equity.

20. Notice. Any notice or document required or permitted to be delivered hereunder shall be deemed to be delivered, whether or not actually received, when deposited in the United States mail, postage prepaid, or certified mail, return receipt requested, addressed to the parties hereto at their respective addresses as set forth below or at such other address as they have heretofore specified by written notice delivered in accordance with the terms hereof:

City: City of Pflugerville, Texas
Attention: Director of Parks and Recreation
400 Immanuel Rd .
Pflugerville, Texas 78660

Licensee: Jason Henderson c/o Pflugfun
115 Navidad River Drive, Hutto TX 78634

21. Training and Orientation. Licensee will conduct two (2) training and orientation sessions for Licensee's staff using Licensee's equipment prior to scheduling a staff member to work the first time. Licensee shall insure that Licensee's patrons are capable of proper use of rental equipment, are properly trained on rental equipment use, and that Licensee's patrons operate the rental equipment as designed and authorized and in a safe manner, which may be dependent upon the conditions.

22. Restraining Devices. Licensee shall, at Licensee's expense, place physical restraining devices (e.g. clearly marked lines and/or boundary markers) as deemed necessary by Licensee and the Director for safety purposes and control of water activities on property of City or upon water surfaces abutting property of City. Any such devices shall be in accordance with all applicable laws, rules, and regulations of state, federal, or local governing authority, and shall be arranged such that the restraining devices do not cause abrasion or other physical damage to trees, fixtures, Licensee's patrons, or the public.

23. Safety Assurances. Licensee agrees that at all times its employees and patrons will be adequately supervised in order to maintain the safety of the public. Licensee agrees to provide all safety equipment, personnel, and procedures to comply with all water safety rules and regulations as required by state and local laws and regulations. Licensee agrees to abide by the Texas Water Safety Act at all times. Licensee shall provide customers with U.S. Coast Guard approved personal flotation devices ("PFD's"). Licensee shall not rent watercraft to any customers unless each such customer agrees in writing to be bound to the following provisions:

- a) All persons utilizing rented watercraft shall abide by all state and local laws, including those prohibiting the possession or consumption of alcohol in Lake Pflugerville Park;
- b) No person under the impairment of any drug or alcohol shall be permitted to rent watercraft;

c) No one under the age of sixteen (16) may rent or utilize any rented watercraft unless accompanied by and/or directly under the continuous supervision of a responsible adult;

d) No person shall be permitted to occupy or utilize any rented watercraft without a signed waiver of any claim against Licensee and City, which waiver shall include an agreement to hold the parties harmless for any property damage or personal injury related directly or indirectly to Licensee's watercraft rental business; and

f) All persons shall wear the PFD's provided by Licensee at all times while using any rented watercraft.

24. License Fee. Licensee shall pay City a License fee as follows: Licensee shall pay to the City one hundred fifty dollars (\$150.00) per month or 5% of its gross revenues, whichever is greater, for the operations period from March 1st through September 30th each year. Licensee shall pay to the City one hundred dollars (\$100.00) per month or 5% of its gross revenues, whichever is greater, for the operations period from October 1st through February 28th each year. Licensee shall pay the City on or before the 5th working day of each month for revenues received for the prior month and late fees shall accrue thereafter at five dollars (\$5.00) per day on all unpaid amounts. For purposes of this License, the term "gross revenue" shall mean all monies received or payments made by check, cash, cashier's check, debt card, digital or electronic payment, or credit card for services provided by Licensee to customers pursuant to this License, excluding that portion of collections which represents local or state sales taxes.

25. Method of Payment. All License fee payments will be made to City at the City's Parks and Recreation Department office, 400 Immanual Rd., Pflugerville, Travis County, Texas, or such other place as City may designate, without deduction, off-set, prior notice, or demand.

26. Accounting and Records. Licensee shall close its books by the last day of each month. Licensee's books, including income, sales, and other tax returns and reports, shall be subject to City's inspection at all reasonable times and for twelve months following the termination of this License. All records shall be maintained for not less than one (1) year following termination of this License. A copy of daily income log sheets with dates, type of rental, time of rental, cost of rental, and revenue shall be submitted to the City by Licensee with the corresponding monthly payments.

27. Approval Authority. In this License, wherever an act requires approval by or consent of the City, such approval or consent may be obtained from the Director.

28. Governing Law and Enforcement. This License is governed by the laws of the State of Texas and is performable in Travis County. Venue for any dispute arising between the parties to this License is Travis County, Texas.

SIGNED and agreed by the authorized representatives of City and Licensee on the dates indicated below.

CITY OF PFLUGERVILLE, TEXAS

JASON HENDERSON D/B/A PFLUGFUN

By: _____
Sereniah Breland , City Manager

By: _____
Jason Henderson, Pflugfun

Date: _____

Date: _____

ATTEST:

APPROVED AS TO INSURANCE:

Trista Evans, City Secretary

Tracy Waldron, Director of Finance

APPROVED AS TO CONTENT:

APPROVED AS TO FORM:

Shane Mize, Director of Parks
and Recreation

Michael C. Hayes, City Attorney