



City of Huntington Beach

Shannon Boon
APPROVED 7-0

File #: 19-882

MEETING DATE: 9/3/2019

REQUEST FOR CITY COUNCIL ACTION

SUBMITTED TO: Honorable Mayor and City Council Members

SUBMITTED BY: Dave Kiff, Interim City Manager

PREPARED BY: Kellee Fritzal, Deputy Director of Economic Development

Subject:

Approve and authorize execution of a License Agreement between the City and Subhash and Sushila Patel DBA One Fine Blend to operate a food concessionaire stand located at the Central Library

Statement of Issue:

Request for City Council to approve the three year Non-Exclusive License Agreement with one (1) three (3) year option to Subhash and Sushila Patel, DBA One Fine Blend to continue the operation of a food concessionaire stand located at the Central Library.

Financial Impact:

The estimated revenue for the City is \$9,000 annually for the base rent. In addition, the City will receive 3% of the monthly gross sales over \$12,000. Revenue will be deposited into the General Fund.

Recommended Action:

Approve and authorize the Mayor and City Clerk to execute a three (3) year "Non-Exclusive License Agreement Between the City of Huntington Beach and Subhash and Sushila Patel, Individuals, Doing Business As One Fine Blend."

Alternative Action(s):

Do not approve the License Agreement and direct staff accordingly

Analysis:

Subhash and Sushila Patel, individuals doing business as One Fine Blend, have operated the concessionaire stand at the Central Library since 2011. The library area used by One Fine Blend is approximately 326 square feet, and they sell various snacks and coffee. They are currently paying \$750.00 per month and 3% of any gross monthly sales that exceed \$12,000, which is consistent with current market rates for comparable concession businesses. The lease is subject to an annual increase based upon the Consumer Price Index with a minimum of 3% but not to exceed 6%. Based upon the Licensee's qualifications and previous experience with the City, the Office of Business

Development and the Library are recommending approval of the License Agreement. The Economic Development Committee (EDC) reviewed and recommended approval of the Agreement at the July 10, 2019, meeting.

Environmental Status:

N/A

Strategic Plan Goal:

Strengthen long-term financial and economic sustainability

Attachment(s):

1. Non-Exclusive License Agreement between the City of Huntington Beach and Subhash and Sushila Patel, DBA One Fine Blend.

**NON-EXCLUSIVE LICENSE AGREEMENT BETWEEN THE
CITY OF HUNTINGTON BEACH AND SUBHASH AND SUSHILA PATEL,
INDIVIDUALS, DOING BUSINESS AS ONE FINE BLEND**

THIS NON-EXCLUSIVE LICENSE AGREEMENT (“Agreement”) is made and entered into this 3rd of September, 2019, by and between the CITY OF HUNTINGTON BEACH, a municipal corporation of the State of California (“City”), and Subhash and Sushila Patel, individuals, doing business as “One Fine Blend (“Licensee”).

WHEREAS, Licensee desires to use a portion of the Lower Fountain Plaza of the Huntington Beach Central Library and Cultural Center for a coffee cart/snack bar; and City desires to allow such use.

NOW, THEREFORE, in consideration of the promises and agreements hereinafter made and exchanged, the parties covenant and agree as follows:

SECTION 1. PREMISES AND PERMISSION TO USE

City owns the real property located at 7111 Talbert Avenue, Huntington Beach, California, commonly known as the Huntington Beach Central Library & Cultural Center (“Library”). City grants to Licensee a non-exclusive license to sell coffee, sandwiches, fruit, snack items and baked goods and other related food and beverage items in a portion of the Lower Fountain Plaza of the Library described in Exhibit “A” (the “Premises”), which is attached hereto and made a part hereof. Licensee shall not use the Premises for any other purposes or business.

The right and permission of Licensee is subordinate to the prior and paramount right of City to use the Library in its entirety for public purposes to which it is now and may, at the option of City, be devoted. Licensee undertakes and agrees to use the Premises and to exercise this license at all times in such manner as will not unreasonably interfere with the full use and enjoyment of the Library by City. City reserves the right to prohibit the sale of any item or article or use of property, all at City’s sole discretion. This Agreement is not intended to confer third-party beneficiary status to any member of the public who is benefited by the terms of this Agreement.

Licensee hereby acknowledges title to the Library is vested in City and agrees never to assail or resist the same, and further agrees that Licensee’s use and occupancy of the Premises shall be referable solely to the permission herein given.

SECTION 2. RENT/CONSIDERATION

Licensee shall pay City Seven Hundred Fifty Dollars (\$750.00) per month ("Base Rent") for six hundred (600) square feet of space, in addition to storage room, appliances, utilities and trash, plus three percent (3%) of Licensee's monthly gross sales over Twelve Thousand Dollars (\$12,000.00) (collectively with Base Rent, "Rent"). Gross sales shall include the total price of all merchandise, food and beverages, or services sold or rendered, whether for cash or on credit, and if on credit, whether paid for or not.

The Rent is due on the first day of each month and shall be considered late if not paid within fifteen (15) calendar days after it is due. The Rent shall be paid to the City Treasurer at P. O. Box 711, Huntington Beach, CA, 92648, or in such other manner as City may from time-to-time designate by written notice delivered to Licensee. A late charge of ten percent (10%) shall be applied to any outstanding balance after any payment hereunder is due but unpaid. In addition, one and a half percent (1 ½%) interest per month shall be added for each month any payment hereunder is due but unpaid.

The Base Rent shall automatically be increased annually on the anniversary date of this Agreement by at least three percent (3%) and not more than six percent (6%), to an amount determined as follows: the base amount as then in effect (*i.e.*, as established by this Section and as subsequently determined increased in accord with this Section) shall be increased by the annual percentage increase in the Consumer Price Index (All Items, Base 1982-84=100, for all urban consumers, CPI-U) as published by the United States Department of Labor Bureau of Labor Statistics, for All Consumers for the Los Angeles, Long Beach, Anaheim, CA Metropolitan Statistical Area for the period ending June 30.

SECTION 3. TERM

This Agreement shall commence at 12:01 a.m. on September 3, 2019, and end at 11:59 p.m. on September 3, 2022, unless extended or sooner terminated as provided for herein. At the end of the term, or any renewal term, City may renew this Agreement for one additional three (3) year term by mutual written agreement of the parties, at which time the Rent may be adjusted by mutual agreement of the parties. This Agreement is contingent upon Licensee obtaining all governmental permits and approvals enabling Licensee to operate Licensee's business on the Premises.

SECTION 4. RECORDS AND AUDIT

Licensee shall, in conjunction with, and in the manner of the submittal of Rent as set forth in Section 2 herein, submit a report to City showing the gross monthly sales of Licensee. Licensee shall maintain cash register tapes, daily sales summaries, general ledger reports and bank statements and include copies of such books and records in monthly sales reports to the City. Monthly sales reports to the City shall be certified by a certified public accountant. Licensee shall retain all cash register tapes for a minimum of five (5) years. Licensee agrees to make available for inspection by City at the Premises a complete and accurate set of Licensee's books and records. Year end financials including, but not limited to, sales receipts, bank deposits and monthly cash flow statements shall be provided to the Real Estate Division of the Economic Development Department on or before the anniversary date of the Agreement for each year. Year end financials shall be certified by a certified public accountant. City shall have the right, upon reasonable notice, during the Term and any extension thereof and within two (2) years after expiration or termination of this Agreement to inspect and audit Licensee's books and records and to make transcripts therefrom to verify the payment due City. Such inspection and audit shall be conducted by appointment scheduled in advance by agreement with a designee of the Licensee. Licensee shall cooperate with City in scheduling and making the inspection. If the audit shows that there is a deficiency in the payment of the Rent, the deficiency shall come immediately due and payable.

The acceptance by City of any monies paid to City by Licensee, as shown by any statement furnished by Licensee shall not be construed as an admission of the accuracy of said statement, or of the sufficiency of the amount of Rent, but City shall be entitled to review the adequacy of such payment as hereinabove set forth.

SECTION 5. NON-POSSESSORY INTEREST

City retains full possession of the Premises and Licensee will not acquire any legal title or interest temporary, permanent, irrevocable, possessory or otherwise, including without limitation any leasehold interest by reason of this Agreement, or by grant of this license or the exercise of the permission given herein. Licensee will make no claim to any such title or interest. Any violation of this provision by Licensee will immediately void and terminate this Agreement.

SECTION 6. ADDITIONS, ALTERCATIONS AND REMOVAL

(a) No modifications, alterations or additions to the Premises, including without limitation construction of improvements or changes or interior or exterior furnishings, shall be constructed or made by Licensee without Licensee first obtaining the prior written approval of City.

(b) Licensee's obligation to obtain City's prior written approval is separate and independent of Licensee's obligation to obtain any permits from City, such as a building permit.

SECTION 7. HOURS OF OPERATION

Operating hours will be: Monday 1:00 p.m. to 8:30 p.m., Tuesday – Thursday 9:00 a.m. – 8:30 p.m., Friday – Saturday 9:00 a.m. – 5:00 p.m., and Sunday 1:00 p.m. – 5:00 p.m. An additional thirty (30) minutes of time to set up and clean up before and after operating hours is also allowed. Use of the library outside the operation times will be prohibited due to security and safety issues, unless approved in advance by the Library Services Director. The inability of the Licensee to leave the Premises by the end of the thirty (30) minute clean-up time will be considered a violation of the Lease Agreement. After two (2) violations, Licensee shall pay twenty-five (25) dollars per hour for any additional costs incurred by the Library. This will also be grounds for termination of the Lease.

SECTION 8. USE OF KITCHEN

Licensee may have access to the kitchen no earlier than 8 a.m. on Tuesday and Friday for up to four (4) hours to allow for food preparation. When there are Library events in which the kitchen is being used or rented, precedence is given to the Library event or kitchen rental over the Licensee's time. In the event of such a conflict, the Library Services Director may grant an alternative time frame for kitchen preparation time. No additional kitchen use is permitted by Licensee outside operating hours. Use of the kitchen by Licensee is prohibited when the Library is rented for public use unless prior written approval is given by the Library Services Director. Use of the kitchen by Licensee for any outside catering or personal use is prohibited unless prior written approval is given by the Library Services Director. All clean up of the kitchen or cart area shall be performed by staff of the Licensee.

SECTION 9. DELIVERIES

All deliveries must take place during the permitted operating hours. Any attempted delivery before or after the permitted operating hours will not be accepted.

SECTION 10. EQUIPMENT AND FURNISHINGS

Licensee shall be responsible for providing any additional equipment or furnishings as well as any repairs of equipment or furnishings. Any equipment or furnishings purchased or repaired may be eligible for a rent credit at the discretion of the City. All replacement appliances must be Energy Star Qualified. Any equipment or furnishings repaired or purchased through a rent credit shall become the property of the City.

SECTION 11. ENERGY PRACTICES

Licensee shall at all times use good energy practices as described in the State of California Flex Your Power Best Practice Guide for Restaurants.

SECTION 12. DISPLAYS

Any display items, furniture or appliances to be used must be approved in advance by the Library Services Director. Displays may not cover or obstruct any entrance to a meeting room.

SECTION 13. FOOD AND BEVERAGE CONTAINERS

All food or beverage shall be offered or sold in recyclable paper or plastic containers. No pull top cans or Styrofoam containers are to be vended or dispensed from the property by Licensee.

SECTION 14. EXCLUSIVITY AGREEMENT

Licensee shall comply with all future exclusivity agreements of the City.

SECTION 15. INDEMNIFICATION, DEFENSE AND HOLD HARMLESS

Licensee hereby agrees to protect, defend, indemnify and hold harmless CITY, its officers, elected or appointed officials, employees, agents and volunteers from and against any and all claims, damages, losses, expenses, judgments, demands and defense costs (including, without limitation, costs and fees of litigation of every nature or liability of any kind or nature) arising out of or in connection with Licensee's (or Licensee's subcontractors, if any) negligent (or alleged negligent) performance of this Agreement or its failure to comply with any of its obligations contained in this Agreement by Licensee, its officers, agents or employees except such loss or damage which was caused by the

sole negligence or willful misconduct of CITY. CITY shall be reimbursed by Licensee for all costs and attorney's fees incurred by CITY in enforcing this obligation. Licensee will conduct all defense at its sole cost and expense and the CITY shall approve selection of Licensee's counsel. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as limitation upon the amount of indemnification to be provided by Licensee.

SECTION 16. WORKERS' COMPENSATION AND EMPLOYER'S
LIABILITY INSURANCE

Pursuant to California Labor Code Section 1861, Licensee acknowledges awareness of Section 3700 *et seq.* of this Code, which requires every employer to be insured against liability for workers' compensation; Licensee covenants that it will comply with such provisions prior to commencing performance of the work hereunder.

Licensee shall obtain and furnish to City workers' compensation and employer's liability insurance in an amount of not less than the State statutory limits.

Licensee shall require all subcontractors to provide such workers' compensation and employer's liability insurance for all of the subcontractors' employees. Licensee shall furnish to City a certificate of waiver of subrogation under the terms of the workers' compensation and employer's liability insurance and Licensee shall similarly require all subcontractors to waive subrogation.

SECTION 17. INSURANCE

In addition to the workers' compensation and employer's liability insurance and Licensee's covenant to defend, hold harmless and indemnify City, Licensee shall obtain and furnish to City, a policy of general public liability insurance. This policy shall indemnify Licensee, its officers, employees and agents while acting within the scope of their duties, against any and all claims arising out or in connection with the Licensee, and shall provide coverage in not less than the following amount: combined single limit bodily injury and property damage, including products/completed operations liability and blanket contractual liability, of One Million Dollars (\$1,000,000) per occurrence. If coverage is provided under a form which includes a designated general aggregate limit, the aggregate limit must be no less than One Million Dollars (\$1,000,000) for this Licensee. This policy shall name City, its officers, elected or appointed officials, employees, agents, and volunteers as Additional Insureds, and shall specifically provide

that any other insurance coverage which may be applicable to this Licensee shall be deemed excess coverage and that Licensee's insurance shall be primary.

Under no circumstances shall said above-mentioned insurance contain a self-insured retention without the express written consent of CITY; however an insurance policy "deductible" of \$5,000.00 is permitted.

Licensee shall provide before commencement of this Agreement and shall obtain and furnish to City, at Licensee's sole cost and expense, property and fire insurance with extended coverage endorsements thereon, by a company acceptable to City authorized to conduct insurance business in California, in an amount insuring for the full insurable value of the Premises and all Improvements, Trade Fixtures, personal property whether or not owned or leased by Licensee, and all trade inventory in or on the Premises against damage or destruction by fire, theft or the elements. This policy shall contain a full replacement cost endorsement naming Licensee as the insured and shall not contain a coinsurance penalty provision. The policy shall also contain an endorsement naming City as an Additional Insured. The policy shall contain a special endorsement that such proceeds shall be used to repair, rebuild or replace any such Improvements, Trade Fixtures, personal property whether or not owned or leased by Licensee, and all trade inventory so damaged or destroyed; and if not so used, such proceeds (excluding any insurance proceeds for Trade Fixtures, personal property whether or not owned or leased by Licensee, and trade inventory, but only to the extent the insurance proceeds specifically cover those items) shall be paid to City. The policy shall also contain a special endorsement that if the Premises are so destroyed and either party elects to terminate the Agreement, the entire amount of any insurance proceeds shall be paid to City. The proceeds of any such insurance payable to City may be used, in the sole discretion of City, for rebuilding or repair as necessary to restore the Premises or for any such other purpose(s) as City sees fit.

This policy shall also contain the following endorsements:

- (1) The insurer shall not cancel or reduce the insured's coverage without (30) days prior written notice to City;
- (2) City shall not be responsible for premiums or assessments on the policy.

A complete and signed certificate of insurance with all endorsements required by this Section shall be filed with City prior to the execution of this Agreement. At least thirty (30) days prior to the expiration or termination of any such policy, a signed and complete certificate of insurance showing that coverage has been renewed shall be filed with City.

Not more frequently than once every two (2) years, if, in the sole opinion of City, the amount and/or scope of general public liability insurance and/or property insurance coverage above at that time is not adequate, Lessee shall increase the insurance coverage as reasonably required by City.

SECTION 18. CERTIFICATES OF INSURANCE; ADDITIONAL INSURED ENDORSEMENTS

Prior to commencing performance of the work hereunder, Licensee shall furnish to City certificates of insurance subject to approval of the City Attorney evidencing the foregoing insurance coverages as required by this Agreement; the certificates shall:

1. provide the name and policy number of each carrier and policy;
2. state that the policy is currently in force; and
3. promise to provide that such policies will not be canceled or modified without thirty (30) days' prior written notice of City.

Licensee shall maintain the foregoing insurance coverages in force until the work under this Agreement is fully completed and accepted by City.

The requirement for carrying the foregoing insurance coverages shall not derogate from the Licensee's defense, hold harmless and indemnification obligations as set forth under this Agreement. City or its representative shall at all times have the right to demand the original or a copy of all the policies of insurance. Licensee shall pay, in a prompt and timely manner, the premiums on all insurance hereinabove required.

Licensee shall provide a separate copy of the additional insured endorsement to each of Licensee's insurance policies, naming City, its officers, elected and appointed officials, employees, agents and volunteers as Certificate Holder and Additional Insureds by separate attached endorsement, to the City Attorney for approval prior to any payment hereunder.

SECTION 19. MAINTENANCE OF PREMISES

Licensee's obligation includes maintaining and operating the Premises in a clean, safe, wholesome and sanitary condition free of trash, garbage or obstructions of any kind and in compliance with any and all present and future laws, general rules or regulations of any governmental authority now, or at any time during the entire term of this Agreement or any renewals or extensions thereof or during any holdover period, in force, relating to sanitation or public health, safety or welfare, or for the protection of life, limb or property; and Licensee shall at all times faithfully obey and comply with all laws, rules and regulations applicable thereto. Licensee, at its sole cost and expense, shall remedy without delay any defective, dangerous or unsanitary conditions caused by Licensee or anyone related thereto.

Licensee shall comply with all written notices served by City with regard to the care and maintenance of the Premises. Any written notice hereunder shall specify the work to be done and the period of time deemed to be reasonably necessary for completion of such work. Should Licensee fail to commence making the necessary repairs within three (3) days after receiving such notice, or fail to diligently proceed to complete the necessary repairs within the period of time specified in the City's notice, City shall proceed to cause the required work to be performed, and Licensee shall promptly reimburse City for the cost of labor and materials thereof and pay City interest on such costs at the rate of ten percent (10%) per annum from the date the costs were incurred by City to the date they are reimbursed to City by Licensee.

Licensee hereby expressly waives the right to make repairs at the expense of City and the benefit of the provisions of Sections 1941 and 1942 of the *California Civil Code* relating thereto, if any there be.

SECTION 20. WASTE OR NUISANCE

Licensee shall not commit or permit the commission by others of any waste on the Premises. Licensee shall not maintain, commit or permit the maintenance or commission of any nuisance as defined in Section 3479 and/or Section 3480 of the *California Civil Code* on the Premises; and Licensee shall not use or permit the use of the Premises for any unlawful purpose.

SECTION 21. TAXES

Licensee also agrees to pay, at its sole cost and expense, before they become delinquent all lawful taxes, assessments or charges, which at any time may be levied by any governmental agency including the State, County, City or any tax or assessment levying body upon any interest in its Agreement, as well as all taxes, assessments, and charges on goods, merchandise. Trade Fixtures and personal property owned by Licensee in, on, or about the Premises. Licensee must become and remain compliant with Sales and Use Tax Regulation 1603. In order to prove compliance, Licensee must maintain separate accounting records by sales category and sub-category (*i.e.*, beverages, soda, water, food, chip, candy, etc.) and tax will remain applicable to the sale of food products that are taxable under Regulation 1603.

SECTION 22. BUSINESS LICENSE

Licensee shall maintain a business license from City during the entire term of this Agreement or any renewals or extensions thereof or during any holdover period.

SECTION 23. SIGNS, ADVERTISING AND APPROVAL OF NAME

City shall have the right to approve in its sole discretion and at any time require Licensee to change or remove signs, names, placards, decorations or advertising placed on, or inscribed, painted or affixed upon the Premises. Should City approve of any sign, name, placard, decoration or advertising, Licensee shall maintain the same at all times during the entire term of this Agreement or any renewals or extensions thereof or during any holdover period in good appearance and repair.

SECTION 24. TERMINATION

Licensor may terminate this Agreement at any time with or without cause, upon thirty (30) days prior written notice to Licensee.

SECTION 25. NO ASSIGNMENT

This Agreement is personal to Licensee, and Licensee shall not assign, sublicense, sell or otherwise transfer this Agreement or any privilege hereunder in whole or in part or allow any other person or entity to occupy or use all or any part of the Premises without the prior written consent of City, which consent shall not be unreasonably withheld.

SECTION 26. TERMS BINDING ON SUCCESSORS

All the terms, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon the parties and their successors and assigns, if any. The provisions of this Section shall not be deemed as a waiver of any of the prohibitions and conditions against assignment, sublicensing, sale or other transfer of the Agreement or occupations of the Premises by others hereinbefore set forth.

SECTION 27. HOLDOVER

Should Licensee hold over and continue in possession of the Premises after expiration or termination of this Agreement, with or without the express written consent of City, Licensee's continued occupancy of the Premises shall constitute a month-to-month license and not a renewal or extension of the Agreement term, subject to all the terms and conditions of this Agreement.

SECTION 28. WAIVER OF CLAIMS

Licensee hereby waives any claim against City, its officers, elected or appointed officials, agents or employees for damage or loss caused by any suit or proceeding directly or indirectly attacking the validity of this Agreement, or any part thereof, or caused by any judgment or award in any suit or proceeding.

SECTION 29. NONDISCRIMINATION

Licensee and its employees shall not discriminate because of race, religion, color, ancestry, sex, age, national origin or physical handicap against any person by refusing to furnish such person any accommodation, facility, rental, service or privilege offered to or enjoyed by the general public. Nor shall Licensee or its employees publicize the accommodation, facilities, rentals, services or privileges in any manner that would directly or inferentially reflect upon or question the acceptability of the patronage of any person because of race, religion, color, ancestry, sex, age, national origin or physical handicap.

In the performance of this Agreement, Licensee shall not discriminate against any employee or applicant for employment, because of race, religion, color, ancestry, sex, age, national origin or physical handicap. Licensee shall take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to their race, religion, color, ancestry, sex, age, national origin or physical handicap. Such action shall include, but not be limited to, the following: employment,

upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Licensee shall post in conspicuous places, available to all employees and applicants for employment, notices setting forth the provisions of this Section.

Licensee shall permit access to its records of employment, employment advertisements, application forms, and other pertinent data and records by City, the State Fair Employment Practices Commission, or any other agency with jurisdiction over these matters, for the purpose of investigation to ascertain compliance with this Section.

City may determine a violation of this Section to have occurred upon receipt of a final judgment having that effect from a court in an action to which Licensee was a party, or upon receipt of a written notice from the State Fair Employment Practices Act or other applicable discrimination.

SECTION 30. SALE OF ALCOHOLIC BEVERAGES AND ENTERTAINMENT PROHIBITED

Notwithstanding anything to the contrary, the sale or provision of alcoholic beverages and/or live entertainment in, on, or from the Premises is expressly forbidden, unless expressly permitted in writing by City in advance. For any proposed sale or provision of alcoholic beverages, Licensee must first obtain written City approval prior to submitting any request for approval to the Alcoholic Beverage Commission.

SECTION 31. RESTORATION AND SURRENDER OF PREMISES

On expiration or termination of this Agreement, Licensee shall promptly surrender and deliver the Premises to City in as good condition as they are now at the commencement date of this Agreement, reasonable wear and tear excepted. City may, in its sole discretion, accept all or any portion of the Premises, as then improved with improvements, and equipment; or City may require Licensee to remove all or any portion of such improvements, and equipment, at Licensee's own risk and cost and expense; or City may itself remove or have removed all or any portion of such improvements, and equipment, at Licensee's own risk and cost and expense. If required by City to do so, in removing any such improvements, and equipment, Licensee shall restore the Premises as nearly as possible to the conditions existing prior to their installation or construction. All

such removal and restoration shall be to the satisfaction of City and shall be completed within thirty (30) days of the expiration or termination of this Agreement.

SECTION 32. CITY'S OPTION TO CLOSE THE PREMISES

City may close the Premises without liability and without advance notice to Licensee therefore at any time as City in its sole discretion deems necessary for the protection of life, limb or property, or for public health, safety or welfare purposes, or upon reasonable notice to effect any repair, remodeling or rebuilding deemed necessary by City in its sole discretion.

SECTION 33. CONFLICT OF INTEREST

Licensee warrants and covenants that no official or employee of City, nor any business entity in which an official or employee of City is interested, (1) has been employed or retained by Licensee in the performance of this Agreement without the immediate written divulgence of such fact to City. In the event City determines that the employment of any such official, employee or business entity is not compatible with such official's or employee's duties as an official or employee of City, Licensee, upon request of City, shall terminate such employment immediately. For breaches or violation of this Section, City shall have the right both to annul this Agreement without liability and, in its discretion, recover the full amount of any such compensation paid to such official, employee or business entity. No official or employee of City shall have any financial interest in this Agreement in violation of the applicable provisions of the *California Government Code*.

SECTION 34. NOTICE

All notices, certificates, or other communications required to be given hereunder shall be made in the following manner, and shall be sufficiently given and deemed received when (a) personally delivered; or (b) three (3) business days after being sent via United States certified mail; or (c) one (1) business day after being sent by reputable overnight courier, in each case to the addresses specified below; provided that City and Licensee, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent:

TO CITY:

Director of Library Services
City of Huntington Beach
7111 Talbert Street
Huntington Beach, CA 92648

TO LICENSEE:

Subhash and Sushila Patel
dba One Fine Blend
10205 Bunting Avenue
Fountain Valley, CA 92708

SECTION 35. COMPLIANCE WITH LAWS

Licensee, at its sole cost and expense, shall comply with all statutes, ordinances, regulations and requirements of all governmental entities, both Federal and State and county or municipal, relating to Licensee's use and occupancy of the Premises and operation of its business whether such statutes, ordinances, regulations and requirements be now in force or hereinafter enacted. This Agreement is expressly subject to the laws, regulations and policies of City. The judgment of any court of competent jurisdiction, or the admission by Licensee in a proceeding brought against Licensee by any government entity, that Licensee has violated any such statute, ordinance, regulation or requirement shall be conclusive as between City and Licensee and shall be grounds for termination of this Agreement by City.

SECTION 36. MODIFICATION

No waiver or modification of any language in this Agreement shall be valid unless in writing and duly executed by both parties.

SECTION 37. ATTORNEY'S FEES

Except as expressly set forth herein, in the event suit is brought by either party to construe, interpret and/or enforce the terms and/or provisions of this Agreement or to secure the performance hereof, each party shall bear its own attorney's fees, such that the prevailing party shall not be entitled to recover its attorney's fees from the non-prevailing party.

SECTION 38. GOVERNING LAW

This Agreement shall be governed and construed in accordance with the laws of the State of California.

SECTION 39. DUPLICATE ORIGINAL

The original of this Agreement and one or more copies hereto have been prepared and signed in counterparts as duplicate originals, each of which so executed shall, irrespective of the date of its execution and delivery, be deemed an original. Each duplicate original shall be deemed an original instrument as against any party who signed it.

SECTION 40. ENTIRETY

The parties acknowledge and agree that they are entering into this Agreement freely and voluntarily following extensive arm's length negotiations, and that each has had the opportunity to consult with legal counsel prior to executing this Agreement. The parties also acknowledge and agree that no representations, inducements, promises, agreements or warranties, oral or otherwise, have been made by that party, or anyone acting on that party's behalf, which are not embodied in this Agreement, and that that party has not executed this Agreement in reliance on any representation, inducement, promise, agreement, warranty, fact or circumstance not expressly set forth in this Agreement. The Agreement, and the attached exhibits, contain the entire agreement between the parties respecting the subject matter of this Agreement and supersede all prior understanding and agreements, whether oral or in writing between the parties respecting the subject matter hereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their authorized officers the day, month and year first written above.

LICENSEE:

SUBHASH PATEL, an individual,
doing business as ONE FINE BLEND

By: _____

Subhash Patel

8/6/2019

SUSHILA PATEL, an individual,
doing business as ONE FINE BLEND

By: _____

Sushila Patel

8/6/2019

CITY:

CITY OF HUNTINGTON BEACH,
a municipal corporation of the State
of California

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney *mu/*

REVIEWED AND APPROVED:

City Manager

INITIATED AND APPROVED:

Stephanie Buege

Director of Library Services

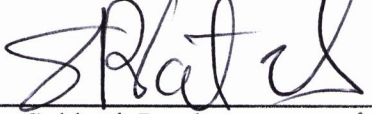
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COUNTERPART

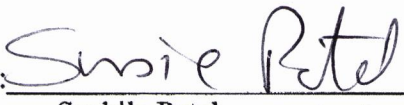
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their authorized officers the day, month and year first written above.

LICENSEE:

SUBHASH PATEL, an individual,
doing business as ONE FINE BLEND

By: 
Subhash Patel 8/6/2019

SUSHILA PATEL, an individual,
doing business as ONE FINE BLEND

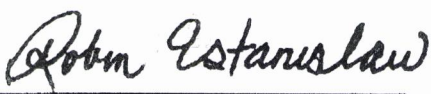
By: 
Sushila Patel 8/6/2019

CITY:

CITY OF HUNTINGTON BEACH,
a municipal corporation of the State
of California


Mayor

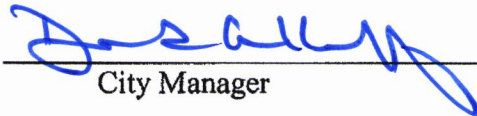
ATTEST:


City Clerk 9/10/19 JS

APPROVED AS TO FORM:


City Attorney MJ/

REVIEWED AND APPROVED:

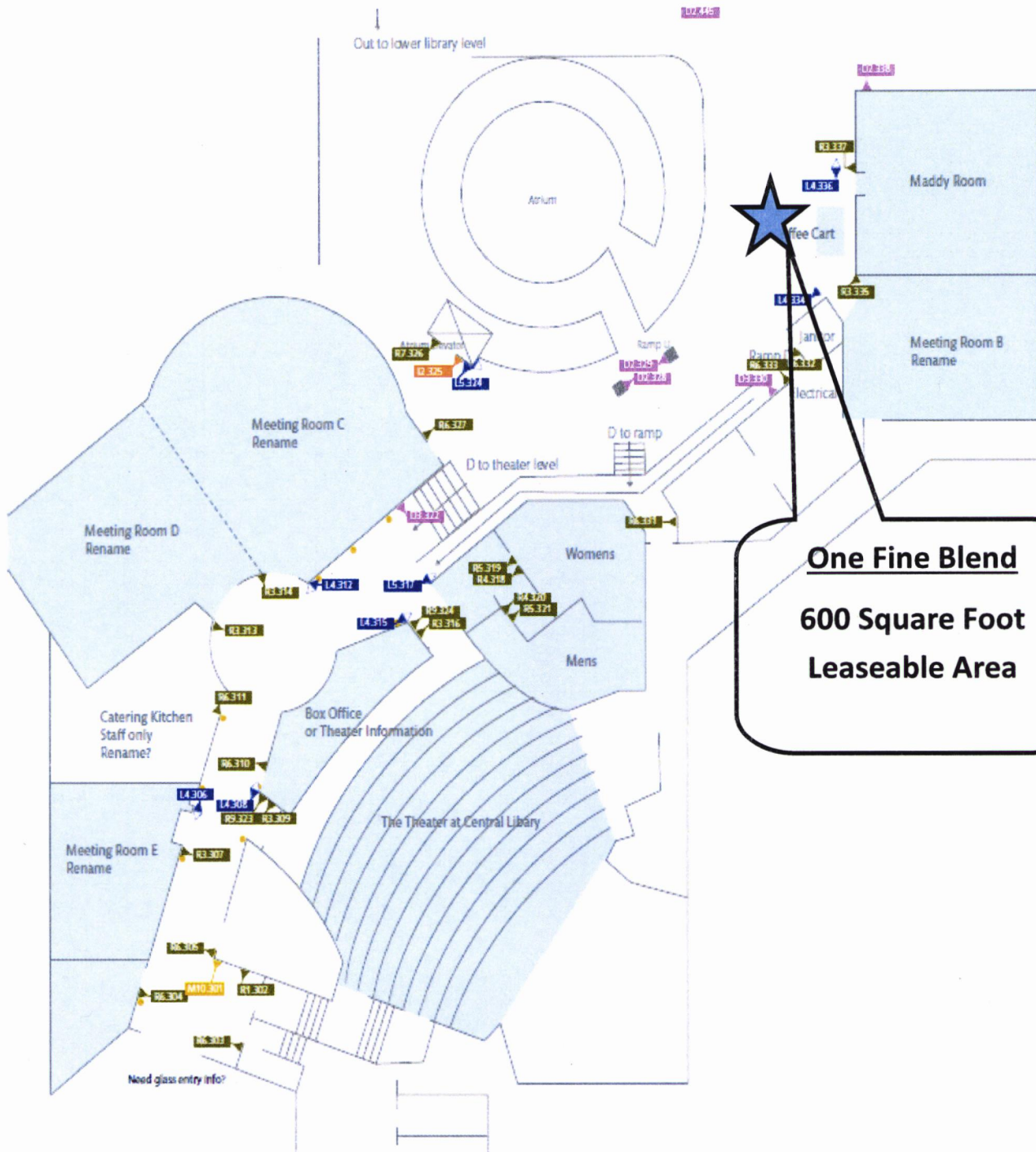

City Manager

INITIATED AND APPROVED:

Director of Library Services

COUNTERPART

Exhibit A



One Fine Blend
600 Square Foot
Leaseable Area



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
07/16/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER  CHRISTOPHER FERRARO JR 25909 PALA STE 160 MISSION VIEJO CA 92691	CONTACT NAME: CHRIS FERRARO JR		
	PHONE (A/C, No, Ext): 949-586-7060	FAX (A/C, No): 949-586-1227	
	E-MAIL ADDRESS: natasha@chrisferrarojr.com		
INSURED PATEL, SUBHASH & SUSHILADBA DBA ONE FINE BLEND 711 TALBERT AVE HUNTINGTON BEACH, CA. 92648	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: State Farm General Insurance Company		25151
	INSURER B:		
	INSURER C:		
	INSURER D:		
	INSURER E:		
INSURER F:			

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PROJECT ☐ LOC ☐ OTHER: AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☐ HIRED AUTOS ☐ 1,000,000 ☐ SCHEDULED AUTOS ☐ NON-OWNED AUTOS ☐ 1,000,000 UMBRELLA LIAB ☐ EXCESS LIAB ☐ DED ☐ RETENTION \$ ☐ OCCUR ☐ CLAIMS-MADE WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below ☐ Y / N ☐ N / A			92-B4-K359-2	03-02-2018	03/02/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 BUSINESS PROPERTY \$ 40,600 COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ EACH OCCURRENCE \$ AGGREGATE \$ PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
APPROVED AS TO FORM By:  MICHAEL E. GATES CITY ATTORNEY CITY OF HUNTINGTON BEACH							

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER **CANCELLATION**

ADDITIONAL INSURED CITY OF HUNTINGTON BEACH 2000 MAIN STREET HUNTINGTON BEACH, CA. 92648-2763	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Chris Ferraro Jr Digitally signed by Chris Ferraro Jr DN: cn=Chris Ferraro Jr, o, ou, email=chris.ferraro-jr.rktf@statefarm.com, c=US Date: 2016.06.07 15:20:09 -07'00'
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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CMP-4788.1 ADDITIONAL INSURED — MANAGERS OR LESSORS OF PREMISES

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Policy Number: 92 B4K359 2

Named Insured:

PATEL, SUBHASH & SUSHILA
DBA ONE FINE BLEND
7111 TALBERT AVE
HUNTINGTN BCH CA
92648-1232

Name And Address Of Additional Insured Person Or Organization:

CITY OF HUNTINGTON BEACH CITY OF HUNTINGTON BEACH, ITS OFFICERS,
ELECTED OR APPOINTED OFFICIALS, EMPLOYEES, AGENTS & VOLUNTEERS
2000 MAIN ST
HUNTINGTN BCH CA 92648 2763

Location Of Premises (Part Leased To You):

7111 TALBERT AVE, HUNTINGTON BCH CA 92648-1232

1. **SECTION II — WHO IS AN INSURED** of **SECTION II — LIABILITY** is amended to include, as an additional insured, any person or organization shown in the Schedule, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Schedule.
2. With respect to the insurance afforded the additional insured, this insurance does not apply to:
 - a. Any "occurrence" or offense which takes place after you cease to be a tenant in the premises shown in the Schedule.
 - b. Structural alterations, new construction or demolition operations performed by or for that additional insured.
3. Any insurance provided to the additional insured shall only apply with respect to a claim made or a "suit" brought for damages for which you are provided coverage.
4. Primary Insurance. This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that the additional insured is a named insured under such other insurance.

All other policy provisions apply.



City of Huntington Beach

2000 Main Street ♦ Huntington Beach, CA 92648

(714) 536-5227 ♦ www.huntingtonbeachca.gov

Office of the City Clerk
Robin Estanislau, City Clerk

September 10, 2019

Subhash and Sushila Patel
dba One Fine Blend
10205 Bunting Avenue
Fountain Valley, CA 92708

Dear Mr. and Mrs. Patel:

Enclosed is a fully executed copy of the "Non-Exclusive License Agreement between the City of Huntington Beach and Subhash and Sushila Patel, Individuals, Doing Business As One Fine Blend" approved by the Huntington Beach City Council on September 3, 2019.

Sincerely,

Robin Estanislau, CMC
City Clerk

RE:ds

Enclosure