

JOINT EASEMENT AGREEMENT

This **JOINT EASEMENT AGREEMENT** ("Easement Agreement") entered into this ____ day of _____, 2021, among the **TOWN OF CORNELIUS** (hereinafter referred to as "Town") and **CORNELIUS ARTS/COMMUNITY CENTER, INC.** ("Cain"), having an address of [insert] (hereinafter referred to as "Cain").

WITNESSETH:

WHEREAS, the Town is the owner of a certain real property located in the County of Mecklenburg, State of North Carolina and described [insert recorded plat reference and title of park lot] (said parcel being hereinafter referred to as "Town Park Lot"); and

WHEREAS, Cain is the owner of a certain tract or parcel of real property located in the County of Mecklenburg, State of North Carolina and described [insert plat reference and title of Cain lot] (said parcel being hereinafter referred to as "Cain Lot"), such property being conveyed by the Town to Cain by deed recorded immediately prior to recordation of this; and

WHEREAS, the Town Park Lot and Cain Lot are adjoining tracts of land; and

WHEREAS, the Town and Cain pursuant to a separate agreement will cooperate in the development of the Town Park Lot as a public park (the "Downtown Park") and the Cain Lot as an art center (the "Art Center") described in the Construction Drawings attached hereto and incorporated herein by reference as Exhibit A (collectively, the "Joint Project") and

WHEREAS, certain permanent cross easement rights are needed for the development and subsequent use of the outdoor portion of the Arts Center (the "Cain Park") and the Downtown Park.

NOW THEREFORE, in consideration of the mutual agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby agree as follows:

1. Joint Access Easements. The Town does hereby establish, give, grant and convey to Cain, and its successors and assigns, a perpetual non-exclusive easement over driveways, parking areas, sidewalks and outdoor space located on the Town Park Lot for vehicular and pedestrian ingress, egress and regress to and from the Cain Lot and for maintenance, repair and other construction activities related to the exterior of the improvements to be constructed on the Cain Lot. Likewise, except as set forth below, Cain does hereby establish, give, grant and convey to the Town, and its successors and assigns, a perpetual non-exclusive easement over driveways, parking areas, sidewalks and outdoor space located on the Cain Park for vehicular and pedestrian ingress, egress and regress to and from the Town Park Lot. These easement rights are limited to use of improvements intended for such purposes (e.g. the sidewalks, driveway, parking, other

outside areas and of the Cain Park, not any indoor areas). The location of such outdoor areas shall be mutually approved by the Town and Cain and shall be located in a manner consistent with Construction Drawings. Except for allowing access to ADA-compliant sidewalks located on the Park Lot at all times, Cain shall have the right to prevent access to the Cain Park when it or its licensee, tenants or assigns are using any of the outdoor portion for events not open to the public.

2. Parking Easements (Town to Cain). The Town does hereby establish, give, grant and convey to the Cain, and its successors and assigns, a perpetual non-exclusive easement over parking areas located on the Town Park Lot for parking. The location of such parking shall be mutually approved by the Town and Cain and shall be located in a manner consistent with Construction Drawings.
3. Signage Easement (Town to Cain). The Town does hereby give, grant and convey to Cain, and its successors and assigns, a perpetual easement on and above the sidewalk abutting Catawba Avenue for the temporary placement of freestanding signage, bollards and related patron control devices placed on such sidewalk. Such temporary placement may not block pedestrian traffic and must otherwise comply with Town Ordinances. Cain may affix temporary and permanent signage to improvements constructed on the Cain Lot in a manner consistent with the zoning ordinances governing the Cain Lot.
4. Joint Use; Cooperation regarding Scheduling and Operational Policies. Town and Cain intend to jointly use the facilities constructed as part of the Downtown Park and Cain Park. For example, Town may use portions of the new Cain Park from time-to-time for Town functions when the Cain Park is not being used for other purposes and Cain may use the Downtown Park for art center events from time-to-time when the Downtown Park is not being used for other purposes. Accordingly, Town staff and Cain staff shall work together in good faith to prepare an annual memorandum of understanding ("Annual MOU") to create a master schedule for joint uses and to confirm joint plans for communication, cost-sharing, marketing (including any shared plans for sponsorships or fundraising) and other operational policies and procedures. The Annual MOU need only be approved by the Town Manager of the Town and the Executive Director of Cain. Failure of the Town and Cain to enter into an annual MOU shall not impair any other provision of this Easement Agreement.
5. Joint Utility Easements. The Town does hereby establish, give, grant and convey to the Cain, and its successors and assigns, perpetual non-exclusive easements over the Town Park Lot for the location, installation and ongoing maintenance of any utilities that may be needed to serve the Cain Lot. Likewise, Cain does hereby establish, give, grant and convey to the Town, and its successors and assigns, perpetual non-exclusive easement over the Cain Park for the location, installation and ongoing maintenance of any utilities that may be needed to serve the Town Park Lot. The location of such utilities shall be mutually approved by the Town and Cain and shall be located in a manner consistent with Construction Drawings.
6. Temporary Construction Easements (Town to Cain). The Town does grant, bargain, sell, and convey to Cain a temporary construction easement over the Town Park Lot for construction of the improvements on the Town Park Lot and Cain Lot ("TCE") in accordance with the Construction Drawings and consistent with the mutual approved design (and the construction contract between Cain and its contractor for construction of the Project).
7. No interference. Town and Cain do further agree that no party hereto shall erect or construct, or cause to be erected or constructed, any fence, wall, curb or other permanent physical barrier, or in any manner interfere with or restrict the full and complete use and enjoyment by any party of the easements herein granted.

8. Ongoing Maintenance and Repair. Cain is responsible for the construction of the Joint Project. After completion of the Joint Project, all improvements on the Town Park Lot shall be maintained in good order and repair by the Town; provided however, Cain shall pay for damage caused by Cain. All improvements on the Cain Lot shall be maintained in good order and repair by Cain; provided however, the Town shall pay for damages caused by the Town.
9. Mutual Indemnity. To the extent permitted by law, each party covenants to indemnify and hold the other party harmless from any and all claims, suits, causes of action, demands, damages, costs, and expenses arising from any act or omission of any of the other indemnifying party's officers, employees, or other agents while asserting, performing, or carrying out any of such indemnifying party's rights, responsibilities, or obligations created by this Easement Agreement.
10. Miscellaneous. The easements provided for herein shall be effective upon execution of this Easement Agreement by the parties hereto. The easement provided for herein shall run with the land and shall inure to the benefit of and be binding upon the respective successors, assigns, heirs and tenants of each party hereto and the customers, employees and invitees of such parties, and shall remain in full force and effect and shall be unaffected by any change in ownership of Town Park Lot or Cain Lot, or any of them, or by any change of use, demolition, reconstruction, expansion or other circumstances, except as specified herein. The agreement and undertakings by each party hereto shall be enforceable by any action in law or equity.
11. So long as the Cain Lot is used for those purposes identified in [Deed, book, etc.], the Town shall not sell, lease or transfer the Town Park Lot or any rights to use the Town Park Lot other than as a public park.

IN WITNESS WHEREOF, the parties have caused this Easement Agreement to be executed by their authorized representatives on the date first written above.

[insert signature blocks]