

A-9516  
TC

License Agreement

**THIS AGREEMENT**, made by and among the City of Atlantic City, having an address at 1301 Bacharach Boulevard, Atlantic City, New Jersey 08401 (the "City") and AtlantiCare, having an address at 1401 Atlantic Ave. Atlantic City, NJ 08401 ("Applicant" or "Licensee"); and

**WHEREAS**, the City is a municipal corporation of the State of New Jersey, owning and controlling certain rights of way within its territorial limits, including the portion of Bacharach Boulevard abutting Licensee's business, located between New York and Tennessee Avenues and further described in Exhibit A attached hereto (the "License Area"); and

**WHEREAS**, the Applicant has requested permission from the City to install and maintain gated fencing as well as other minor improvements that will serve to secure and beautify the License Area; and

**WHEREAS**, the improvements would be installed and maintained solely at the Applicant's expense and without cost to the City; and

**WHEREAS**, by Resolution No. 451 of 2017 adopted on May 31, 2017 the City Council authorized the City to enter into a License Agreement with the Applicant; a copy of said Resolution is attached hereto as Exhibit "A" and made a part hereof as if fully set forth herein;

**NOW, THEREFORE**, in order to carry out the intent as expressed above, and in consideration of the payment of **ONE DOLLAR (\$1.00)** and the mutual covenants herein contained, the City and the Applicant hereby agree and covenant as follows:

1. A private, REVOCABLE LICENSE is hereby granted to the Applicant for the purpose of allowing the Applicant to install and maintain certain improvements upon the City's real property and within portions of the City's right-of-way, as follows: installation of fencing with two (2) gated openings to be kept secure by Licensee and access key(s) will be provided to City of Atlantic City Department of Public Works. See site plan of proposed location attached hereto as Exhibit B and made a part hereof.

2. **Specific Conditions.** The within License is expressly subject to the following conditions:

a. The License Area shall be used only as permitted under the terms of this License Agreement and in accordance with any and all permits required by the City of Atlantic City and/or the Casino Reinvestment Development Authority, as may be modified from time to time.

b. Under no circumstances shall the improvements exceed the perimeter of the Licensed Area nor shall the Licensed Area be expanded or embellished without the express permission of the City of Atlantic City. In no event shall any improvements be installed upon the Licensed Area which is materially different in design from that which is described in plans and specifications referred to in Paragraph 1 herein, without the approval of the City of Atlantic City.

c. All improvements within the Licensed Area shall at all times be maintained by the Licensee at the Licensee's sole cost and expense.

3. **Insurance.** At all times during which this License agreement shall be in effect, it is agreed and understood that as a condition hereof, the Licensee, at its own cost and expense, shall extend and maintain the Licensee's existing general liability policy to cover the License

Area, and the Licensee shall name the City of Atlantic City as additional insured, insuring the City against any and all liability or claims of liability arising out of, occasioned by, or resulting from any accident or otherwise in or about the License Area, or for injuries to any person or persons. The Licensee shall supply, as an attachment to this License, a copy of its current General Liability Coverage Policy naming the City as additionally insured. The policy of Liability coverage shall be provided through a comprehensive program of self-insurance and shall be for limits of no less than \$1,000,000 combined Single Bodily Injury and Property Damage and shall include Personal and Products Liability coverage. Said coverage shall include coverage for all liability occurring on or about the License Area. The Licensee shall supply to the Risk Manager, City Hall 4th Floor, 1301 Bacharach Boulevard, Atlantic City, NJ 08401, not later than thirty (30) days prior to the expiration of said insurance policy, evidence of policy renewal. Should said policy be renewable on an annual, semiannual or other basis, the Licensee shall have a continuing obligation to provide proof to the City of such insurance coverage.

4. **Indemnity.** As a condition hereof, the Licensee is bound to hold the City harmless and to defend the City against any and all claims for damages, costs and expenses to persons or property that may arise out of or be occasioned by the use and maintenance of the aforesaid improvements or from any act or omission by any representative, agent or successor of the Applicant. It is the intention of this indemnity agreement on the part of the Licensee, as a condition of this License, that it shall be full and total indemnification against any kind or character of claim whatsoever that may be asserted against the City by reasons of, or as a consequence of having granted permission to the Applicant to maintain the encroachments upon the City's real property or within the City's right-of-way.

5. **Term.** The term of this Agreement shall be ten (10) years, commencing

September 1, 2017 and expiring August 31, 2027 unless sooner terminated as provided for below.

6. **Termination.**

a. **Termination.** Either party may, upon thirty (30) days written notice to the Licensee, terminate this Agreement. Upon receipt of the notice by the Licensee, this Agreement shall automatically terminate and be of no effect, and control of the License Area shall automatically revert back to the City.

b. **Ownership of Improvements.** Upon the termination or expiration of this Agreement, ownership of all improvements to the License Area contemplated by this Agreement shall belong to the City.

c. **Reimbursement.** In the event this Agreement is terminated by the City, the City will reimburse Licensee for the value of the security fencing less depreciation. In the event that this Agreement is terminated by the Licensee, the City is not responsible or liable to reimburse the Licensee for the value of the security fencing or any other improvements or beautification. For purposes of this agreement, the value of the security fencing shall depreciate based on the following straight line method/schedule:

<b>Asset Depreciation Information</b>	
Asset Description	
Category	
Purchase Price (P)	22,000
Salvage Value (Sn)	0
Depreciation Period (n)	10
Depreciation Method	SL

<b>Depreciation Schedule</b>			
Year	Depreciation	Cumulative	Book Value
1	2,200.00	2,200.00	19,800.00
2	2,200.00	4,400.00	17,600.00
3	2,200.00	6,600.00	15,400.00
4	2,200.00	8,800.00	13,200.00
5	2,200.00	11,000.00	11,000.00
6	2,200.00	13,200.00	8,800.00
7	2,200.00	15,400.00	6,600.00
8	2,200.00	17,600.00	4,400.00
9	2,200.00	19,800.00	2,200.00
10	2,200.00	22,000.00	-

7. **Signage.** The Licensee shall not place nor allow to be placed any signs of any kind, upon, in or about the License Area except as may be approved by the City.

8. **Subject to Law.** The Licensee and this Agreement are subject to all Federal and State laws and the Ordinances of the City of Atlantic City as they now exist or may be hereafter adopted or amended and the Resolutions of the City now in effect or which may be hereafter passed and adopted.

9. **Assignment.** This Agreement may not be assigned by the Licensee without the express written consent of the City.

10. **Condition of License Area.** The Licensee has examined the License Area and has entered into this Agreement without any representation on the part of the City as to the condition thereof. The City is not responsible to the Licensee for any condition existing on or affecting the License Area.

11. **City's Right to Inspect.** The Licensee agrees that the City and the City's agents, employees or other representatives, shall have the right to enter into and upon the License Area or any part thereof, at all reasonable hours, for the purpose of examining same, inspecting any operations thereon, and making such repairs or alterations as may be necessary for the safety and preservation of the License Area. This clause shall not be deemed to create an obligation on the part of the City to make such inspection or repairs.

12. **City's Rights and Remedies Cumulative.** The various rights, remedies, options and elections of the City, expressed herein, are cumulative, and the failure of the City to enforce strict performance by the Licensee of the conditions and covenants of this Lease or have recourse to any remedy herein conferred or the acceptance by the City of any payment after any breach by the Licensee, shall not be deemed as a waiver or a relinquishment of any such conditions and covenants, options, elections or remedies, but the same shall continue in full force and effect.

13. **Provisions Severable.** The terms, conditions, covenants and provisions of this Agreement shall be deemed to be severable. If any clause or provision herein contained shall be adjudged to be invalid or unenforceable by a court of competent jurisdiction or by operation of

any applicable law, it shall not affect the validity of any other clause or provision herein, but such other clauses or provisions shall remain in full force and effect.

14. **Notices.** All notices required under the terms of this Agreement shall be complete upon the mailing of such notices by certified or registered mail, return receipt requested, to the mailing address set forth above. If the party's mailing address is different from its physical address, the mailing address shall be used unless it becomes necessary to serve the party at its physical address, or to such other address as such party may designate in writing, which notice of change of address shall be given in the same manner.

15. **Entire Agreement.** This Lease contains the entire contract between the parties. No representative, agent, or employee of the City has been authorized to make any representations or promises with reference to the within letting or to vary, alter or modify the terms hereof. No additions, changes or modifications, renewals or extensions hereof, shall be binding unless reduced to writing and signed by the City and the Licensee

16. **Licensee's Waiver of Subrogation.** The Licensee waives all rights of recovery against the City or City's agents, employees or other representatives, for any loss, damages or injury of any nature whatsoever to property or persons for which the Licensee is insured unless barred by state law. The Licensee shall obtain from Licensee's insurance carriers and will deliver to the City, waivers of the subrogation rights under the respective policies.

17. **Recordation.** This Agreement may not be recorded by the Licensee.

18. **Counterparts.** This License Agreement and any amendment or addendum thereto may be executed in counterparts each of which when executed by the requisite parties shall be deemed to be a complete original document. An electronic or facsimile copy thereof shall be deemed, and shall have the same legal force and effect as, an original document.

IN WITNESS WHEREOF, said parties have set their hands and seals on this day and year first below written.

ATTEST:

By: Paula Geletei  
Paula Geletei  
City Clerk

Dated:

CITY OF ATLANTIC CITY

By: Donald A. Guardian  
Donald A. Guardian  
Mayor

Dated:

8/14/17

ATTEST:

By: \_\_\_\_\_

[Atlanticare]

By: Margaret Belfield

Name: Margaret Belfield  
Title: Executive Vice President & COO

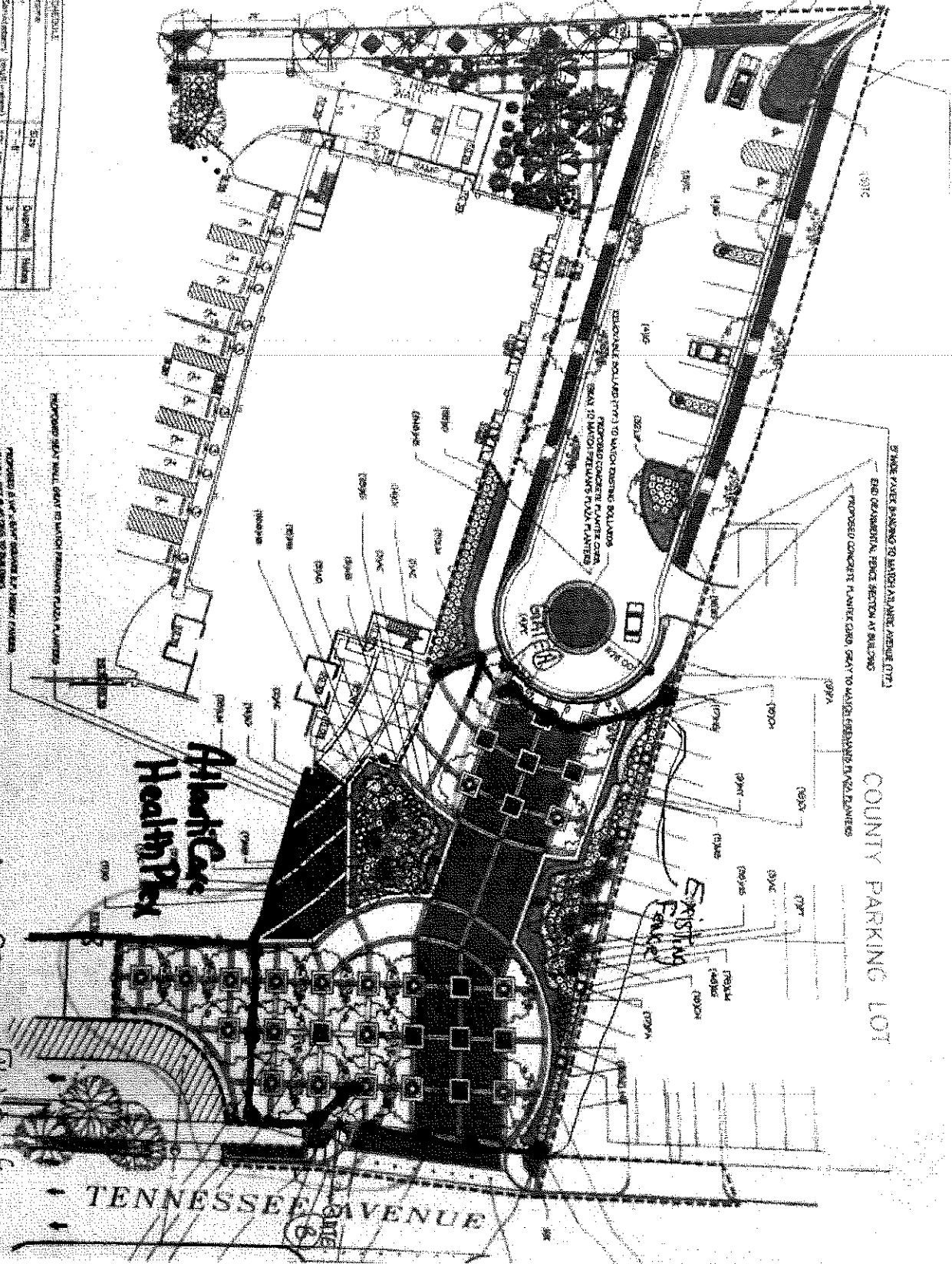
The Within Agreement Approved as to Form and Execution

Dated: 8-16-17

By: [Signature]  
Deputy CITY SOLICITOR

NO.	DESCRIPTION	QTY	UNIT	AMOUNT
1	Excavation	100	sq. yd.	100
2	Foundation	100	sq. yd.	100
3	Structure	100	sq. yd.	100
4	Roofing	100	sq. yd.	100
5	Interior	100	sq. yd.	100
6	Exterior	100	sq. yd.	100
7	Site Work	100	sq. yd.	100
8	Utilities	100	sq. yd.	100
9	Landscaping	100	sq. yd.	100
10	Other	100	sq. yd.	100
11	Permit	1	set	100
12	Contingency	10	%	100
13	Subtotal			1000
14	Grand Total			1000

50' WIDE  
**NEW YORK AVENUE**  
 ASSANCE PLAZA



**GATES A & B**  
 2 1/2" x 2 1/2" Posts  
 1 1/2" Rickets  
 3 Rail Flat Top w/ Circle Industrial Gask  
 5' High Ornamental Aluminum Fence (Back)  
 Approx 230 LF (Based on Conf. from Measurement)



# Resolution of the City of Atlantic City

No. 451

Approved as to Form and Legality on Basis of Facts Set Forth

Factual contents certified to by

Assistant City Solicitor /s/ Karl Timbers

Prepared by City Solicitor's Office

Council Member SHABAZZ presents the following Resolution:

## RESOLUTION AUTHORIZING A LICENSE AGREEMENT WITH ATLANTICARE

**WHEREAS**, Atlanticare is the owner and operator of the William L. Gormley Atlanticare Healthplex (the "Healthplex") located at 1401 Atlantic Avenue; and

**WHEREAS**, the City of Atlantic City (the "City") is the owner of certain real property designated as the paper street located adjacent to the Healthplex between Block 294 and Block 293, formerly known as Bacharach Boulevard and further described in Exhibit A attached hereto (the "License Area"); and

**WHEREAS**, Atlanticare seeks to make certain improvements which will serve to beautify and secure the licensed area for the benefit of families and individuals patronizing the Healthplex facility; and

**WHEREAS**, Atlanticare has requested that the City grant a ten (10) year license agreement permitting the installation of security gates as well as other improvements designed to beautify the License Area; and

**WHEREAS**, Atlanticare will maintain the License Area and bear the full cost of the improvements which are estimated to exceed \$25,000.00; and

**WHEREAS**, City Council finds and declares that the public interest of the City will be served by the granting of the license agreement.

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Atlantic City, that for the consideration set forth above, the Mayor is hereby authorized to execute, and the City Clerk to attest to, a LICENSE to authorize Atlanticare to access, maintain and improve the Licensed Area consistent with this Resolution.

**BE IT FURTHER RESOLVED**, that Atlanticare shall enter into a ten (10) year License Agreement subject to the following terms and conditions:

