

MUNICIPAL SERVICES AGREEMENT

This Municipal Services Agreement is entered into this ____ day of _____, 2022, by and between the CITY OF SAN BRUNO (the "City") and ARTICHOKE JOE'S, a California corporation ("Artichoke Joe's"), together referred to as the "Parties."

RECITALS

A. Artichoke Joe's owns and operates a cardroom at 659 Huntington Avenue in the City of San Bruno. The cardroom currently operates up to 43 gaming tables, 24 hours a day, 365 days per year.

B. The City regulates the cardroom operation. The City licenses the card room and requires approval of anyone with a financial interest in the cardroom. In addition the City requires that all gaming employees hold work permits issued by the City. Issuance of licenses and work permits and administration of all the regulations is handled by the Police Department.

C. The State of California also regulates the cardroom, including licensing owners and key employees, imposing internal controls, and requiring approval of all games and gaming activities.

D. In 2012, the Parties entered into an agreement entitled Cost Recovery Agreement based on the observation that over the years, gaming issues have become more complex and monitoring of the operations at the cardroom and staying abreast of state law and regulation has become more and more time consuming. Therefore, the parties agreed that the City would assign a police detective primarily to handle issues involving Artichoke Joe's, and Artichoke Joe's would reimburse the City for the cost of the police detective.

E. This arrangement has remained in place since 2012, and has been beneficial to both Parties. Since 2012, gaming law has become even more complex and the effort needed both to stay abreast of state law and regulations and to monitor the operations of the cardroom is even greater. The state continues to widen its regulation of the industry, and the federal Bank Secrecy Act has become a major component of regulation. Further, concerns for safety of places where people congregate has also become a greater concern, and requires the coordination of private businesses and government.

F. Therefore, the Parties seek to enter into this agreement, in place of the Cost Recovery Agreement, in order to augment their working relationship to meet current conditions.

TERMS AND CONDITIONS

NOW, THEREFORE, the parties agree as follows:

1. **Assignment of Police Detective.** The City shall assign a police detective primarily to handle issues related to Artichoke Joe's. These issues will include licensing and issuance of work permits, calls for service, ongoing monitoring of the legality of gaming activities, monitoring of any issues regarding regulation of cardroom operation, and coordination of efforts to provide safety and security to the public.

2. **Assistance in Training Detective.** Artichoke Joe's shall, to the extent requested, assist in familiarizing the police detective with the games played in the card room, the various gaming issues that exist or may arise, and the security and surveillance measures in place. Artichoke Joe's will keep the police detective informed of pertinent developments involving the laws and the operation at Artichoke Joe's.

3. **Coordination on Safety and Security.** The Parties will coordinate with one another regarding safety and security measures to protect customers and the public from incidents of violence.

4. **Primary Point of Contact.** The police detective will continue to be the primary liaison for Artichoke Joe's with the Police Department for the conduct of business (non-emergency) affairs.

5. **Meetings with Police Chief.** At least twice each year, representatives of Artichoke Joe's will meet with the Chief of Police to discuss issues of interest to either party.

6. **Meetings with City Manager.** At least once a year, representatives of Artichoke Joe's will meet with the City Manager to discuss issues of interest to either party.

7. **Reimbursements to City.** Artichoke Joe's will reimburse the City as follows:

a. An amount equivalent to City's cost for one full time police detective (including salary, benefits, and any actual annual adjustments to salary and benefits as specified in the current or any future Memorandum of Understanding in effect).

b. A payment of Two Hundred Twenty-Five Thousand Dollars (\$225,000) per quarter, for the initial 2022-2023 fiscal year. This payment shall be adjusted for each fiscal year thereafter by the average of the annual percentage increase in the All Urban Consumer Price Index for the San Francisco/San Jose/Oakland area for the months ending February 28th (or 29th) and April 30th.

8. **Effective Date.** This Agreement shall take effect on July 1, 2022, and shall replace the Cost Recovery Agreement, which shall be terminated as of June 30, 2022.

9. **Termination.** Artichoke Joe's shall have the right to terminate this Agreement if it ceases to operate as a cardroom in the City or if Artichoke Joe's reduces the number of tables upon which it pays tax to less than 35 tables for a period of 12 months or more. Prior to July 1, 2027, Artichoke Joe's shall have to right to terminate this Agreement upon two years advance notice to the City, if the City imposes additional financial obligations upon the cardroom equal to 50% or more of the annual payment in paragraph 7b. As of July 1, 2027 and thereafter, Artichoke Joe's may terminate this Agreement at any time upon two year's advance notice to the City.

10. **Relationship of Parties.** The police detective as well as any police officers that may be assigned to patrol Artichoke Joe's are employees of the City. The deployment, control, supervision and duties of said detective and officers are within the sole control and discretion of the City.

a. Artichoke Joe's acknowledges that reimbursement to City for said staffing does not constitute employment of that detective and those officers and that no "special relationship," as that term may defined by law, is created or established with Artichoke Joe's, or their officers, employees, or successors, or with any third party as a result of this Agreement. Further, nothing in this Agreement is intended to or shall in any manner affect or limit the privileges or immunities or other protections accorded to City or its employees under federal law or state law or other law.

b. Nothing in this Agreement is intended to nor shall it shift to City any legal responsibilities, if any, that Artichoke Joe's may have to the public or to others entering or using the Premises.

11. **Billing and Payment.** The City will invoice Artichoke Joe's and Artichoke Joe's shall pay City on a quarterly basis, payable in advance to the City by the first of the month of the subsequent quarter. Checks shall be made payable to the City of San Bruno and tendered to the City of San Bruno Finance Department, 567 El Camino Real, San Bruno, California 94066.

12. **Successors in Interest.** Artichoke Joe's acknowledges that this Agreement is binding upon any and all successors in interest of Artichoke Joe's.

13. **Notices.** Any notices relating to this Agreement shall be given in writing. Unless otherwise provided herein, all notices required hereunder shall be given by U. S. registered or certified mail, or other form of mail which offers proof of mailing, postage pre-paid, and addressed to the party at the address below:

City:

City Manager

City of San Bruno
567 El Camino Real
San Bruno, CA 94066
Telephone: (650) 616-7056
Email:

With a copy to:

City Attorney
City of San Bruno
567 El Camino Real
San Bruno, CA 94066
Telephone: (650) 616-7057
Email:

Chief of Police
City of San Bruno
1177 Huntington Avenue
San Bruno, CA 94066
Telephone (650) 616-7100
Email:

Artichoke Joe's:

Artichoke Joe's
Attn. Cody Sammut
659 Huntington Avenue
San Bruno, CA 92660
Telephone: (650) 589-8812
Email: Cody@artichokejoes.com

With a copy to:

Alan Titus, Esq.
591 Redwood Highway, Suite 2250
Mill Valley, CA 94941
Telephone: (415) 332-3831
Email: Alan.Titus@robbandross.com

Either party may change its address for purposes of this section by giving the other party written notice of the new address in the manner set forth above.

14. **Miscellaneous Terms and Provisions.**

a. **Severability.** If any term, provision, condition or covenant of this Agreement or its application to any party or circumstances shall be held, to any extent, invalid or unenforceable, the remainder of this Agreement, or the application of the term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected, and shall be valid and enforceable to the fullest extent permitted by law.

b. **Amendment.** This Agreement shall be amended only by a written instrument executed by each of the parties.

c. **No Third-Party Beneficiary.** There are no third party beneficiaries to this Agreement.

d. **Captions and Headings.** Captions and headings are for convenience of reference only and do not define, describe or limit the scope or the intent of this Agreement or of any of its terms. References to section numbers are to sections in this Agreement, unless expressly stated otherwise.

e. **Governing Law; Venue.** The laws of the State of California shall govern the interpretation and enforcement of this Agreement without reference to principles of conflict of laws. Venue for any action brought under this Agreement shall be in the Superior Court of San Mateo County, California.

f. **Authority.** Each party executing this Agreement on behalf of a party represents and warrants that such person is duly and validly authorized to do so on behalf of the entity it purports to bind and if such party is a partnership, corporation or trustee, that such partnership, corporation or trustee has full right and authority to enter into this Agreement and perform all of its obligations hereunder.

g. **No Agency Relationship.** Neither party nor any of the party's agents, contractors or subcontractors are or shall be considered to be agents of the other in connection with the performance of any obligations under this Agreement.

h. **Attorneys' Fees and Costs.** Either party may bring a lawsuit to enforce or require performance of the terms of this Agreement, and the prevailing party in such suit or proceeding shall be entitled to recover from the other party's reasonable costs and expense, including attorneys' fee.

i. **Counterparts.** This Agreement may be signed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement.

j. Waivers. No waiver of any provision of this Agreement or any breach of this Agreement shall be effective unless such waiver is in writing and signed by the waiving party, and any such waiver shall not be deemed a waiver of any other provision of this Agreement or any other or subsequent breach of this Agreement.

k. Entire Agreement; Amendment. This writing constitutes the entire Agreement between the parties. No modifications shall be effective unless the modification is in writing and signed by all parties to this Agreement.

IN WITNESS WHEREOF, the parties execute this agreement as follows:

ARTICHOKE JOE'S

Dated: _____, 2022

By: _____
Cody Sammut, President

CITY OF SAN BRUNO

Dated: _____, 2022

By: _____
Jovan Grogan, City Manager

Approved as to form:

City Attorney