

**ORDINANCE NO. 2021-2240**

**AN ORDINANCE OF THE CITY OF NEW PORT RICHEY, FLORIDA  
AUTHORIZING THE LEASE OF A PORTION OF A CERTAIN  
PROPERTY OWNED BY THE CITY AND LOCATED ON THE  
SOUTHSIDE OF NEBRASKA AVENUE WEST OF GRAND  
BOULEVARD; PROVIDING AUTHORIZATION FOR EXECUTION  
OF THE LEASE AGREEMENT; AND PROVIDING FOR AN  
EFFECTIVE DATE.**

WHEREAS, the City is the owner of that certain real property located on the south side of Nebraska Avenue approximately 270 feet west of Grand Boulevard legally described as:

Parcel ID 05-26-16-0030-10100-0051; NPR MB 4 Page 49, North 50 feet of Lot 5, 6, 7, 8, 9, 10, 11, 12, Public Records of Pasco County, Florida (the "Property"); and

WHEREAS, Kazu's Sushi LLC, a Florida limited liability company with its principal address at P.O. BOX 597 New Port Richey, FL 34652-2634 operates Kazu's Sushi restaurant and desires to lease the Property for use only as placement of a dumpster for collection of refuse from its adjacent restaurant business operated at Kazu's Sushi on the terms and conditions in this Lease; and

WHEREAS, the City desires to grant Kazu's Sushi such lease on the terms and conditions provided in the lease agreement; and

WHEREAS, Section 2.12 of the City Charter requires that the lease of City land be authorized by ordinance of the City Council.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW PORTY RICHEY, FLORIDA, IN SESSION DULY ASSEMBLED:

Section 1. A portion of the Property is hereby authorized to be leased to Kazu's Sushi, LLC under the terms and conditions of that certain Lease Agreement attached to this Ordinance as Exhibit "A", the provisions of which are incorporated herein by reference as if set forth fully herein, and the City Manager is authorized to execute the Lease Agreement on behalf of the City.

Section 2. The provisions of this Ordinance shall take effect upon its final passage and adoption and final execution of the Lease Agreement by both parties.

The above and foregoing Ordinance was read and approved upon first reading at a duly convened meeting of the City Council of the City of New Port Richey, Florida, this 7<sup>th</sup> day of September, 2021.

The above and foregoing Ordinance was read and approved upon second reading at a duly convened meeting of the City Council of the City of New Port Richey, Florida, this 21<sup>st</sup> day of September, 2021.

ATTEST:

CITY OF NEW PORT RICHEY, FLORIDA

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Judy Meyers, CMC, City Clerk

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Rob Marlowe, Mayor

(SEAL)

APPROVED AS TO FORM:

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Timothy P. Driscoll, City Attorney

Exhibit "A"  
of Ordinance #2021-2240

**LEASE**

**BETWEEN THE CITY OF NEW PORT RICHEY, FLORIDA  
AND  
KAZU'S SUSHI, LLC**

THIS LEASE AGREEMENT made and entered into on this \_\_\_ day of \_\_\_\_\_, 2021 (hereinafter "Effective Date") by and between the CITY OF NEW PORT RICHEY, FLORIDA, a municipal corporation (hereinafter called "Lessor") and Kazu's Sushi, LLC (hereinafter called Lessee"), and the parties hereto agree to the following terms and conditions, concerning the property described herein:

**1. PROPERTY DESCRIPTION**

The Lessor does by these presents, lease and let to the Lessee the following described property (hereinafter "Property"), the same being situated and located at 5645 Nebraska Avenue, in the City of New Port Richey, County of Pasco, State of Florida:

An area of the above property ten (10) feet by eight (8) feet  
Extending from the fence to the line of the curb on said property  
As shown on the drawing on Exhibit "1".

**2. LEASE TERM, RENT**

The term of this Lease is for a period of three (3) years, commencing on the Effective Date. This Lease may be renewed for an additional one (1) year period, upon thirty (30) days' notice provided by Lessee to Lessor, and if so renewed, may be renewed for an additional one (1) year thereafter, upon (30) days' notice provided by Lessee to Lessor. Rent is due monthly on the first day of each month in the amount of \$31.20 per month plus applicable sales tax, and shall not be prorated for any partial month.

**3. EXPENSES**

Lessee shall pay all real estate taxes, license or permit fees, and any other fee, cost or tax, including sales tax, if any, imposed by any governmental entity, division or agency of the United States of America, the State of Florida, Pasco County or Lessor, concerning the leased premises.

**4. USE, ASSIGNMENT, SUBLETTING**

Lessee shall use the subject premises only for the placement of a dumpster for collection of refuse from its adjacent restaurant business operated as Kazu's Sushi, LLC. Lessee may make no other use of the premises without the written consent of Lessor. Lessee shall not assign its rights or responsibilities under this Lease, nor sublet or allow another to use the subject property, without the written consent of the Lessor.

**5. IMPROVEMENTS**

Lessee shall make no improvements or alterations to the subject property without the written consent of Lessor. Any and all improvements must be made in accordance with all applicable laws and ordinances, including those related to site plan review and building permits. Lessee shall pay the costs for site plan review, licenses or permit fees, as applicable. Upon the expiration of the lease term or termination of this Lease, Lessor shall be entitled to ownership and possession of the premises,

together with any improvements or additions thereto, whether pre-existing this Lease or added during the term hereof. Notwithstanding any prior agreements between the parties, upon termination of this Lease, Lessee shall surrender the premises in good condition and hereby waives any right, title or interest in the premises or any improvement constructed thereon, whether constructed prior to or during the term of this Lease; and Lessee hereby releases Lessor from any and all claim for the value of any improvements constructed on the premises by Lessee or for Lessee's benefit, except as provided herein. Lessee shall not allow any lien of any kind to be placed against the premises, and Lessor's issuance of building permits or approval of plans shall not constitute an acceptance of any contractor or laborer regarding such improvements.

**6. MAINTENANCE, CONDITION OF PREMISES**

Lessee accepts the leased premises as is, and is satisfied with the condition of the premises. Lessee shall keep the leased area clean at all times, at its expense. All refuse shall be completely enclosed within the dumpster on the Property and shall not be placed outside the same at any time. Lessee shall ensure that the premises, and Lessee's use thereof, is at all times in compliance with all applicable laws, ordinances, rules and regulations, including building, health and fire codes, and environmental regulations. Lessee shall observe all sanitation and other laws, ordinances, rules or regulations of the State of Florida, the United States, Pasco County and the City of New Port Richey, Florida, concerning the operation and use of the subject property.

**7. QUIET ENJOYMENT**

Lessor makes no covenant of quiet enjoyment for the subject property, and Lessor shall be under no obligation to Lessee to institute or defend any proceeding regarding Lessee's right to possession or quiet enjoyment of the leased premises. Lessor shall not be responsible for rebuilding or repairing the leased premises in the event of partial or total destruction thereof, from any cause. Lessee shall provide access to the leased premises to Lessor at any time.

**8. INSURANCE**

Lessee shall maintain general liability insurance on the premises with limits of not less than TWO HUNDRED THOUSAND and 00/100 DOLLARS (\$200,000) per person and THREE HUNDRED THOUSAND and 00/100 DOLLARS (\$300,000) per occurrence, with a deductible no greater than \$1,000.00. On each of the aforesaid insurance policies, Lessor shall be designated as additional insured, and Lessee shall provide Lessor with proof of insurance satisfactory to Lessor. Lessee's insurance shall be primary over any insurance held by Lessor. No insurance policy shall be cancelable without the written consent of Lessor.

**9. TERMINATION**

Either party may terminate this Lease, for any reason, upon giving 90 days' written notice. If Lessee defaults in the performance of the terms of this agreement, Lessor may terminate this Lease and immediately re-enter the premises without notice. This Lease shall be terminated if Lessee abandons or vacates the subject premises. Notwithstanding the termination of this Lease for any reason, Lessor shall have the right to maintain an action against Lessee for possession and/or damages, including unpaid rent, following Lessee's default in the performance of the terms of this Lease.

**10. INDEMNIFICATION**

Lessee shall indemnify and hold Lessor harmless from all claims, demand, suits, actions or losses, including all costs, expenses and attorneys fees through all appellate proceedings, incurred by Lessor in defending against any such claims, arising or alleged to arise from any act, omission or use of the

premises by Lessee or Lessee's agents, employees or contractors, or arising from any injury to the person or property of anyone on the leased premises during the term of the lease.

**11. RADON GAS**

Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from the county public health unit. Lessee shall hold Lessor harmless against any claim for damages resulting in exposure to radon gas on the leased premises, whether said claim is made by the Lessee, its agents, employees, invitee, licensees, or any other third party.

**12. NOTICES**

Any notices provided hereunder shall be in writing mailed by certified US Mail, return receipt requested, and shall be effective upon deposit into the mail. Notices to Lessor, shall be delivered to City Manager, City of New Port Richey, 5919 Main Street, New Port Richey, FL 34652, and notices to Lessee shall be delivered to Kazu's Sushi, LLC P.O. BOX 597, New Port Richey, FL 34652-2634.

**13. LITIGATION**

In any action brought to enforce the terms of this Lease or to recover possession of the leased premises, the prevailing party shall be entitled to recover reasonable attorney fees, through all appellate proceedings. The venue for any such action shall be in Pasco County, Florida, and this agreement shall be construed according to the law of the State of Florida.

**14. ENTIRE AGREEMENT**

This agreement constitutes the entire agreement between the parties, and all prior representations are merged herein and not binding upon the parties. This agreement may only be modified in writing, approved by City Council or City Manager of Lessor, as appropriate.

**15. MISCELLANEOUS**

The headings used herein are for convenience only and shall not be considered in interpreting this agreement. Lessor's failure to act upon any default shall not constitute a waiver of Lessor's right to act upon that default or any other default hereunder. If any portion of this Lease is declared to be invalid, the remaining portions thereof shall remain in full force and effect.

IN WITNESS WHEREOF, the Lessor and Lessee affix their hands and seals, by and through their respective duly authorized agents, on the day, month, and year first above written.

SIGNATURES APPEAR ON NEXT PAGE

APPROVED AS TO FORM:

CITY OF NEW PORT RICHEY, FLORIDA

\_\_\_\_\_  
Timothy P. Driscoll, City Attorney

\_\_\_\_\_  
Debbie L. Manns, City Manager

Attest:

\_\_\_\_\_  
Judy Meyers, CMC, City Clerk

BY: \_\_\_\_\_

\_\_\_\_\_  
Name, Title (printed)

# EXHIBIT 1

## Legal Description of the Property and Leased Area

Parcel ID 05-26-16-0030-10100-0051 (The portion of the Property leased hereunto includes a portion of this parcel that includes an area of ten (10) feet by eight (8) feet. Extending from the fence to the line of the curb on said property.)

NPR MB 4 Page 49, North 50 feet of Lot 5,6,7,8,9,10,11,12 Public Records of Pasco County, Florida.

