

PARKING LICENSE AGREEMENT

This Parking License Agreement ("**Agreement**") is entered into this \_\_\_\_\_ day of November, 2019 ("**Effective Date**") by and between SPC PARK PLAZA PARTNERS, LLC, a Texas limited liability company, DIAMOND HILLCREST, LLC, a Texas limited liability company, and HTH HILLCREST PROJECT LLC, a Texas limited liability company (referred to herein collectively as "**Licensor**") with a street address of 6565 Hillcrest, Suite 210, Dallas, Texas 75205, and **CITY OF UNIVERSITY PARK, TEXAS**, a municipal corporation ("**Licensee**"). Licensor and Licensee are sometimes referred to herein individually as "**Party**" and collectively as "**Parties**."

**Recitals**

A. Licensor is the owner of that certain project known as "Hilltop Plaza" located in University Park, Texas with a street address of 6565 Hillcrest Avenue (the "**Project**").

B. The Project contains a parking garage designed primarily for use by the tenants and patrons of the Project (the "**Parking Garage**"); however, the Parking Garage does contain sufficient capacity to allow the use of the Parking Garage by third party users, including the use of the Parking Garage for the License granted by the terms of this Agreement.

C. The Project is located adjacent to the shopping district known as "Snider Plaza", which shopping district, requires additional parking for retail operations in Snider Plaza (referred to herein as the "**Parking Demand**").

D. Licensee has requested that Licensor provide, and Licensor has agreed to grant, a parking license to Licensee for the purpose of satisfying the Parking Demand, subject to the terms of this Agreement.

NOW, THEREFORE, in consideration for the covenants set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**Terms**

1. **Parking License**. Licensor hereby grants to Licensee, during the Term (as hereinafter defined), a revocable, nonexclusive, nontransferable License to: (a) satisfy all or a portion of the Parking Demand by utilizing up to fifty (50) parking spaces (the "**Total Allocated Spaces**") within that portion of the Parking Garage as may be directed by the Licensor from time to time (the "**Licensed Area**"), which, when established by Lessor, will be depicted on the diagram attached hereto as Exhibit A; and (b) have ingress and egress to the Parking Garage for purposes of using the Licensed Area for parking motor vehicles (the "**License**"). Licensor may relocate the Licensed Area within the Parking Garage from time to time, upon thirty (30) days' prior written notice to Licensee. Nothing in this Agreement shall be interpreted as, or otherwise deemed to be, a transfer or conveyance of any interest in the Project whatsoever between Licensor and Licensee. The Parties hereby acknowledge and agree that nothing in the Agreement shall be interpreted as an agreement for the lease or other use of the Project by Licensee, but rather a License to use those

portions of the Parking Garage as are designated by Licensor solely for the purposes set forth, and subject to the terms of, this Agreement.

2. Term. The term of the License (the "**Term**") shall commence on \_\_\_\_\_, 2019 (the "**Commencement Date**") and shall expire, unless sooner terminated, on the tenth (10<sup>th</sup>) anniversary of the Commencement Date (the "**Expiration Date**").

3. Parking Garage Access. Licensor shall provide to Licensee "parking stickers" to be affixed to the gate control access tickets, or other means of physical or electronic access, which allows ingress to and egress from the Parking Garage (the "**Access Stickers**") to those parties authorized by Licensee to possess and utilize the Access Stickers (such authorized parties are referred to herein as "Assignees"). The Licensee is responsible for managing and distributing Access Stickers to its Assignees. The Access Stickers system electronically records usage of the Parking Garage by such Assignees. Licensee shall, by agreement assign, by specific Assignee identity, the number of Total Allocated Spaces which may be used by each such Assignee. Licensee shall promptly apprise Licensor of the identity of all Assignees and the number of Total Allocated Spaces assigned to such Assignees. If the number of Access Stickers utilized by any Assignee(s) indicates that, for any daily usage period (6 AM to Midnight daily), such Assignee(s) exceeded the Total Allocated Spaces assigned to such Assignee, then the full daily parking charges assessed from time to time by Licensor shall be added to the License Fee for such excess usage (the "**Excess Usage Charges**"). Licensor shall calculate the Per Hour Fees (as defined below) for each monthly period during the Term, which is a component of the License Fee, as hereafter described, to be paid by Licensee to Licensor for the grant of the License.

4. License Fee. As consideration for the grant of the License, Licensee shall pay to Licensor a monthly license fee (the "**License Fee**") equal to \$.65 per hour of usage of the Parking Garage (it being understood charges for use of the Parking Garage will only be incurred and billed in full hour increments, and will not be prorated), by each vehicle authorized to park in the Parking Garage by an Assignee, plus any Excess Usage Charges (the "**Per Hour Fees**"). The License Fee shall be payable by Licensee within ten (10) business days following receipt of an invoice from Licensor, which invoice shall set forth the calculation of the amount of the License Fee for each monthly period during the Term, including the identity of the Assignees incurring such charges. The License Fee shall escalate, beginning at the commencement of the third (3<sup>rd</sup>) anniversary of the Commencement Date, by a cumulative amount equal to two percent (2%) annually thereafter.

5. Revocation. If, at any time, any one of the Parties shall fail or refuse to comply with or carry out any part of this Agreement, the other Party may, at its election, immediately revoke and/or terminate this Agreement upon delivery of written notice to the other Party, in addition to any other right or remedy set forth in this Agreement for the breach of this Agreement by either Party. Upon notice by Licensor of the revocation or termination of this Agreement, the Licensee shall have thirty (30) days to notify all Assignees that use of the Parking Garage is no longer permissible pursuant to this Agreement.

6. Compliance with Licensor's Rules and Regulations. The Licensor shall have the right to publish and enforce against the Assignees, and any other party using the Parking Garage, rules and regulations, which may be revised by Licensor from time to time. In addition, Licensee agrees to provide each Assignee with a copy of the existing Hilltop Plaza Parking Garage Rules and

Regulations attached hereto as Exhibit B. Licensor reserves the right to refuse to allow any Assignee or other third party the right to access and use the Parking Garage in the event of a violation of such rules and regulations, including but not limited to those attached hereto as Exhibit B.

7. Hazardous Materials. Neither Licensee nor any Assignee shall, under any circumstances, store or bring onto the Project any Hazardous Materials. As used in this Agreement, the term "Hazardous Material" means any substance, material or waste which is (1) defined as a "hazardous waste," "hazardous material," hazardous substance," "extremely hazardous waste," or "restricted hazardous waste" under any provision of Texas law; (2) petroleum or petroleum products; (3) asbestos; (4) polychlorinated biphenyls; (5) radioactive materials; (6) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. section 1251 et seq. (33 U.S.C. §1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. §1317); (7) defined as a "hazardous substance: pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. section 6901 et seq. (42 U.S.C. §6903) or its implementing regulations; (8) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. section 9601 et seq. (42 U.S.C. §9601); or (9) determined by Texas, federal or local governmental authority to be capable of posing a risk of injury to health, safety or property.

8. Insurance. Each Assignee and user of the License, as set forth in the Rules and Regulations attached hereto as Exhibit B must, as a condition to use of the Parking Garage pursuant to the License, carry the minimum statutory automobile and liability insurance coverages required of the operators of automobiles and commercial vehicles in the State of Texas, as such requirements are modified from time to time, at such Assignee's sole cost and expense. Assignees shall be required to provide evidence of such insurance coverage, upon request by Licensor. The minimum limits of insurance coverage required of the Assignees and other users of the Parking Garage under this Agreement shall in no event limit the liability of the Assignees and other users of the Parking Garage under this Agreement.

9. Indemnification. The Assignees shall, as a condition to use of the Parking Garage, indemnify and hold the Licensor and Licensee, their officers, employees, principals, agents, and contractors, free and harmless from any and all claims or liability from loss, damage, or injury to property or persons, including wrongful death, in any manner arising out of or incident to this Agreement by any Assignee's use of the Parking Garage.

10. No Third-Party Rights. This Agreement is entered between and solely for the benefit of Licensor and Licensee. No other person or entity shall have any right to enforce the terms of this Agreement, including but not limited to any Assignees, as it is not the intent of the Parties to provide any third party with any rights of a third-party beneficiary under this Agreement.

11. Security. Licensee agrees that all vehicles and property of the Assignees, and third parties kept or parked in the Parking Garage, will be at the sole risk of the Assignees and such third parties, and that Licensor will not be liable for any theft, injury or damage to such vehicles and property. Licensee acknowledges that Licensor is not required to provide security services of any kind related to the Parking Garage, including the Licensed Area.

12. Recordation. This Agreement shall not be recorded in the public records of Dallas County, Texas.

13. Assignment. Licensee and the Assignees shall not, without the prior written consent of Licensors, which may be withheld in Licensors' sole discretion, assign, transfer or encumber this Agreement, whether directly or by operation of law. Licensee shall at all times remain directly, primarily and fully responsible and liable for the payment of the License Fee specified in this Agreement and for compliance with all of its obligations under the terms, provisions and covenants of this Agreement. Licensors may assign this Agreement at any time, without the consent of Licensee or the Assignees.

14. Acceptance of License. Licensee acknowledges that it has fully inspected the Parking Garage and Licensed Area, and accepts the Licensed Area AS IS, AND WITH ALL FAULTS, in its present condition, and as suitable for the purpose for which the License is granted.

15. Estoppels. Licensors and Licensee shall, at any time and from time to time upon not less than twenty (20) days' prior written request by the other Party, execute, acknowledge and deliver to the other Party, a statement in writing certifying (i) that this Agreement is unmodified and in full force and effect (or if there have been any modifications, that the same is in full force and effect as modified and stating the modifications), (ii) the dates to which the License Fee and any other charges have been paid, and (iii) that, to the best knowledge of Licensors or Licensee, as the case may be, no default hereunder on the part of the other Party exists (except that if any such default does exist, the certifying Party shall specify such default).

16. Notices. Any notice to be given or other document to be delivered by either party to the other hereunder shall be in writing and shall be deemed to have been duly given and received as of the third (3<sup>rd</sup>) business day after mailing by United States registered or certified mail, return receipt requested, postage prepaid, addressed as set forth below, or upon attempted delivery, if personally delivered, or delivered by recognized overnight courier to:

Licensors: SPC Park Plaza Partners, LLC; Diamond Hillcrest, LLC;  
and HTH Hillcrest Project LLC  
6565 Hillcrest Avenue, Suite 210  
Dallas, Texas 75205  
Attn: James E. Strobe

With a copy to: Kane Russell Coleman Logan PC  
901 Main Street, Suite 5200  
Dallas, Texas 75202  
Attn: Raymond J. Kane

Licensee: City of University Park  
3800 University Blvd.  
University Park, TX 75205  
Attn: Robbie Corder

Any party hereto may from time to time, by written notice to the other, designate a different address which shall be substituted for the one above specified.

17. Attorneys' Fees. If a Party commences an action against the other Party arising out of or in connection with this Agreement, the prevailing Party in such action shall be entitled to have and recover from the losing Party reasonable attorneys' fees and costs.

18. Governing Law; Remedies. The interpretation and enforcement of this Agreement shall be governed by the laws of the State of Texas, and the exclusive venue for resolution of any disputes under this Agreement shall be in the state district courts located in Dallas County, Texas. Each Party shall have all rights and remedies available at law or in equity for a default by the other Party under the terms of this Agreement. If Licensee fails to pay the License Fee, Licensor shall have the right to terminate this Agreement, and Licensee agrees to indemnify, defend and hold Licensor harmless from the claims of any Assignees or other third party brought against Licensor as a result of the termination of this Agreement.

19. Entire Agreement; Severability. This Agreement contains the sole and complete agreement between the parties relating to the rights to use the Parking Garage and the License. This Agreement may not be changed orally and may be amended only by an agreement in writing signed by both parties. If any provision of this Agreement shall be held to be or become invalid or unenforceable in certain circumstances, the validity and enforceability of the remaining provisions, or such provision in other circumstances, shall not in any way be affected or impaired.

*[Signatures on following page]*

**SIGNATURE PAGE  
TO  
PARKING LICENSE AGREEMENT**

IN WITNESS WHEREOF, the Parties have executed this Agreement on the Effective Date.

LICENSOR:

By: SPC PARK PLAZA PARTNERS,  
LLC, a Texas limited liability  
company,  
Co-Owner Manager under that certain  
Hilltop Plaza Co-Owners Agreement  
dated July 31, 2018

By: \_\_\_\_\_  
Name: James E. Strode  
Title: Manager

LICENSEE:

CITY OF UNIVERSITY PARK

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
City Attorney

EXHIBIT "A"  
LICENSED AREA

## EXHIBIT "B"

### PARKING GARAGE RULES AND REGULATIONS

1. Licensee and the Assignees will use the Total Allocated Spaces only for the parking of cars and other passenger vehicles and for no other use. The Total Allocated Spaces will not be used for any purposes prohibited by applicable laws. The Total Allocated Spaces shall not be used in any manner to create any nuisance or trespass.
2. Licensee acknowledges that Licensor has granted and will grant other license and rights agreements for the use of parking spaces in the Parking Garage and Licensee agrees that Licensor also has the right to use such other parking spaces for its own purposes. Licensor and Licensor's agents and representatives may enter the Parking Garage to inspect the Total Allocated Spaces; to make such repairs as Licensor may desire; and to show the Total Allocated Spaces to prospective purchasers, mortgagees, ground lessors and licensees.
3. Each Assignee agrees that all vehicles and property of the Assignee, Parking Garage customers or third parties kept or parked in the Parking Garage will be at the sole risk of Assignee and such third parties and that Licensor will not be liable for any theft, injury or damage to such vehicles and property. Licensee and Assignees acknowledge that Licensor is not required to provide security services of any kind to the Parking Garage.
4. Parking spaces shall be used for parking purposes only and may not be used for storage. All vehicles must be parked straight in (not angled or sideways), so that no vehicle occupies more than one (1) parking space. Parking is prohibited in all areas not expressly designated for parking, including, without limitation, (i) areas not striped for parking, (ii) aisles, (iii) ramps, (iv) areas where "no parking" signs are posted, (v) loading zones, and (vi) fire lanes. In addition, parking areas and paved driveways shall not be used for skateboarding, rollerblading/skating, riding scooters, etc. No vehicle, including motorcycles, may be driven, parked or placed anywhere within the Project except in designated parking areas and on paved driveways. Motorcycles may not be chained to buildings, fences or any other part of the Project, unless designated for that purpose. Each Assignee shall be responsible for compliance with these parking regulations.
5. To be permitted in the Parking Garage, a vehicle must be operable and must display a current license tag and inspection sticker. For purposes of these Rules and Regulations, vehicles include automobiles, motorcycles, passenger trucks, small vans and similar passenger vehicles. Commercial or over-sized vehicles shall not be permitted to access the Parking Garage.
6. Disabled, or stored, vehicles, oversized or heavy vehicles (as determined by the Licensor from time to time), commercial vehicles, boats and other watercraft, trailers and recreational vehicles (RVs, campers and motor homes) shall not be parked in the Parking Garage. A vehicle shall be considered "disabled" if it does not have a current license tag or is inoperable. A vehicle shall be considered "stored" if it remains within the Parking Garage without being driven for three (3) consecutive days or longer without prior written



permission from the Licensor. Licensor may tow all vehicles in violation of these Rules and Regulations.

7. At all times during any Assignee's use of the parking spaces at the Parking Garage, each Assignee shall maintain automobile liability and property insurance on each vehicle such Assignee brings into the Parking Garage in the amounts required by Texas law. Upon the request from the Licensor or Licensee, each Assignee shall provide proof of such insurance coverage.
8. Washing, repairs, restoration or maintenance of vehicles is prohibited in the Parking Garage, except for emergency repairs, and then only to the extent necessary to enable movement of the vehicle to a repair facility.
9. No commercial activity, other than the operation or parking of vehicles, shall be conducted in the Parking Garage without the prior written consent of the Licensor. Solicitation and distribution of handbills or marketing/advertising materials is prohibited.
10. Each vehicle must be muffled and must be maintained and operated to minimize noise, odor and oil emissions. The use of car horns in the Parking Garage is discouraged. No vehicle may be kept at the Parking Garage if the Licensor deems it to be unsightly, inoperable, inappropriate or otherwise in violation of these Rules and Regulations. All directional and traffic signs and arrows must be observed, and vehicles shall be operated at speeds not exceeding any posted speed limit in the parking and driveway areas of the Project.
11. No vehicle may be parked in a manner that impedes or prevents ready access to any driveway or parking spaces or any portion of the Project. No vehicle may obstruct the flow of traffic, constitute a nuisance or otherwise create a safety hazard. No vehicle may be parked, even temporarily, in spaces reserved for others or in any area designated as "No Parking." If a vehicle is parked in a fire lane, is blocking another vehicle or access to a driveway, is obstructing the flow of traffic, or otherwise creates a hazardous condition, no notice shall be required, and the vehicle may be towed immediately. If a vehicle is towed in accordance with these Rules and Regulations, Licensor shall not be liable to any Assignee for any claim of damage as a result of the towing activity.
12. A vehicle in violation of these Rules and Regulations may be stickered, wheel-locked, towed or otherwise removed from the Project by the Licensor at the expense of the vehicle's owner, and such owner shall promptly reimburse the Licensor for any expenses incurred as a result of the owner's violation, including, without limitation, towing expenses. The Licensor expressly disclaims any liability for damage to vehicles on which the Licensor exercises these remedies for violations of these Rules and Regulations.

*[Signatures on next page]*

**UNDERSTOOD AND APPROVED:**

**LICENSEE:**

**CITY OF UNIVERSITY PARK**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ASSIGNEE:**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_