

## PARKING LOT LICENSE AGREEMENT

**THIS PARKING LOT LICENSE AGREEMENT** (“License”) is entered into this \_\_\_\_ day of March, 2018, by Harvey Madison Development LLC, an Illinois limited liability company (hereinafter referred to as “Licensor”) and the Village of Oak Park, an Illinois home rule municipal corporation (hereinafter referred to as “Village”).

**WHEREAS**, Licensor owns the property commonly known as 301 W. Madison Street (Lot #44: southwest corner of Madison and Highland); 231 Madison Street (Lot #56: Madison Street west of Harvey Avenue); and 245 Madison Street (Lot #58: southeast corner of Madison Street and Highland Avenue), Oak Park, Illinois, P.I.N.s 16-17-101-004-0000,16-17-101-005-0000,16-17-101-006-0000; 16-17-102-001-0000, 16-17-102-038-000, and legally described as follows:

**PARCEL 1:**

LOTS 183,184 AND 185 IN THE HIGHLANDS, BEING A SUBDIVISION OF THE EAST ½ OF THE NORTHWEST ¼ OF THE NORTHWEST ¼ OF SECTION 17, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

**PARCEL 2:**

LOTS 8,9 AND 10 IN BLOCK1 IN HARNSTROM’S ADDITION TO OAK PARK, SAID ADDITION BEING A SUBDIVISION OF THE EAST ½ OF THE WEST ½ OF THE NORTHWEST ¼ OF THE NORTHWEST ¼ OF SECTION 17, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

**PARCEL 3:**

LOTS 180,181 AND 182 IN THE HIGHLANDS, BEING A SUBDIVISION OF THE EAST ½ OF THE NORTHWEST ¼ OF THE NORTHWEST ¼ OF SECTION 17, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MEIDIAN, IN COOK COUNTY, ILLINOIS.

**WHEREAS**, the property which is the subject of this license agreement are paved parking lots #44, 56, and 58 on the parcel of property described above (hereinafter referred to as the “Property”); and

**WHEREAS**, the Village shall use the Property for the limited purpose of providing public parking lot pursuant to this License.

**NOW THEREFORE**, in consideration of the covenants and agreements stated herein, the parties agree that:

**1.0 RECITALS INCORPORATED.**

1.1. The above recitals are incorporated herein as though fully set forth.

## **2.0 LICENSED PROPERTY.**

2.1. The Village will be entitled to use the Property for the limited purpose of providing permit parking.

2.2. The Village shall issue 24-hour parking permits and Day Permits between the hours of 8:00 a.m. to 6:00 p.m., Monday – Friday for parking at Lot #44; Day Permits for Park Employees and Night 6:00 p.m. – 8:00 a.m. Monday – Friday, 24-hours on weekends at Lot #56; Day 8:00 a.m. – 7:00 p.m., Monday – Saturday and 24-hours, seven days a week at Lot # 58.

2.3. The Village will provide signs which accurately reflect the limited hours of permit parking.

2.4. The Village shall permit motorcycles, motor vehicles designed for the carrying of not more than ten (10) persons, and motor vehicles with a maximum load/weight of 8,000 pounds or less to park at the Property during Village permitted hours. Recreational vehicles and commercial vehicles as defined in the Illinois Vehicle Code, 625 ILCS 5/1-100 *et seq.*, shall not be permitted to park at the Property regardless of such vehicles maximum load/weight.

2.5. The Property shall be and remain the sole property of Licensor and Village shall have only the privilege of use of the part thereof provided in this License.

2.6. The Licensor reserves for its exclusive use, at all times, four parking spaces for ease of enforcement, the Village will issue the Licensor six parking permits to park in the those spaces at no cost to the Licensor.

2.7. The Licensor reserves the lot for its exclusive use weekdays from 6 p.m. to 10 p.m. and on Sundays from 8:00 a.m. until 9:00 p.m.

2.8. The Licensor reserves the right to use the entire lot for special events up to 10 times a year. To exercise this right, the Licensor must notify the Village at least 14 days in advance of the date and hours of the special event to allow the Licensor to notify permit holders.

## **3.0 TERM OF LICENSE AND RESTORATION.**

3.1. The term of this License shall commence on March 1, 2018 at 12:01 a.m. (“Commencement Date”) and end at 11:59 p.m. on February 28, 2021, unless terminated earlier subject to the notice and termination provisions set forth in Section 8.0 and Section 13.0 below.

3.2. At the expiration of this License, all improvements at the Property shall remain the property of Licensor with the exception of signs installed by the Village. The Village shall remove at its expense all signs installed by the Village within thirty (30) days of the expiration or termination of this License.

**4.0 FEE.**

4.1. The Village shall pay to Licensor as an annual fee for use of the Property the sum of 50% of the Village's "net receipts." Net receipts are defined as the Village's annual gross receipts from quarterly parking permit sales, less the Village's labor and materials and the Village's actual billed costs attributable to cleaning, snow removal, tree trimming, lot maintenance, and electrical costs. The Village will pay the fee by March 15th annually. The fee will be calculated based on revenues and expenses incurred from January 1 to December 31. All fees shall be paid in lawful money of the United States of America in care of Harvey Madison Development LLC, or as otherwise designated in writing by Licensor. The Village shall upon payment provide a copy of its income and expense report related to its operation of the property. The Village shall upon payment provide a copy of its income and expense report related to its operation of the property.

4.2. Any holding over by the Village after the expiration of the term of this Licensor, with the consent of the Licensor, shall be construed to be a month-to-month license, at the same prorated fee required to be paid by the Village for the period immediately prior to the expiration of the term of this License, and shall be subject to the terms and conditions set forth herein.

4.3. Any and all property taxes assessed against the property will remain the responsibility of the Licensor.

**5.0 UTILITY SERVICE AND OTHER COSTS.**

5.1. The Village shall provide at its own cost and expense sufficient lighting for the Property.

5.2. The Village shall be responsible for the payment of all telephone, data transmission, electronic and computer services and any other specialized services for the Village's use of the Property if applicable.

5.3. The Village shall pay for the actual cost of electricity used for the parking lights at the Property due by March 15<sup>th</sup> annually. The Village and Licensor make no representation concerning the adequacy and sufficiency of the lighting. The Village, upon notice, will change light bulbs in the existing light fixtures. However, in no event shall the licensor be responsible for lighting.

**6.0 MAINTENANCE.**

6.1. Licensor and the Village agree that the Property shall be delivered "as is."

6.2. The Village shall not, without the prior written consent of Licensor, make any alterations, improvements, or additions to the Property.

6.3. The Village shall at all times keep the Property in good order, condition and repair and clean, sanitary and safe condition (including, but not limited to, doing such things as are necessary to cause the Property to comply with applicable laws, ordinances, rules, regulations and orders of governmental and public bodies and agencies). The Village shall be responsible for any and all damages due to the use of the Property during the term of this License.

6.4. The Village will provide ice and snow removal for the lot and fix or replace the light poles on each corner of the lot if damaged by the Village or its contractor. Village shall further be responsible for maintaining landscaping. The Village will also maintain the surface of the lot, such as crack filling or line striping, as deemed necessary by the Village Engineer with approval of the Director of the Department.

## **7.0 INDEMNIFICATION AND LIENS.**

7.1. The Licensor shall indemnify, hold harmless and defend the Village, its officers, agents and employees from any and all claims, suits, losses, liabilities, actions, costs and fees, including reasonable attorneys' fees, of every nature or description arising from, growing out of, or connected with the Property, or because of any negligent act or omission, neglect, or misconduct of the Licensor, its employees, agents, contractors or subcontractors.

7.2. The Village shall indemnify, hold harmless and defend the Licensor, its officers, agents, volunteers and employees from any and all claims, suits, losses, liabilities, actions, costs and fees, including reasonable attorneys' fees, of every nature or description arising from, growing out of, or connected with any negligent act or omission, neglect, or misconduct of Village, its employees, agents, contractors or subcontractors.

7.3. The Village shall keep the Property free and clear of any mechanic's and other liens arising out of or in connection with work or labor done, services performed, or materials furnished in connection with any maintenance or repair and in connection with any business of the Village conducted at the Property. The Village shall at all times promptly and fully pay and discharge all such liens or claims for liens and indemnify Licensor and the Property against such liens and claims of liens, suits, or other proceedings relative to them. If the Village desires in good faith to contest any such lien or related matter, the Village shall notify the Licensor in writing of the Village's intention to do so and shall provide to Licensor a surety bond or other indemnity in a form satisfactory to Licensor against such lien or claim for lien and any cost, liability, or damage arising out of such contest.

7.4. The obligations set forth in this Section 7.0 shall survive the expiration or termination of this License.

**8.0    TERMINATION.**

8.1.    The Village or Licensor may earlier terminate this License upon giving sixty (60) days written notice of its intent to terminate the License to the other party.    The Village shall fully vacate the Property within said sixty (60) days.

**9.0    ACCEPTANCE OF PROPERTY BY THE VILLAGE.**

9.1.    The taking of possession of the Property by the Village shall be conclusive evidence as against Village that Property are in good and satisfactory condition when possession of the same is taken, latent hidden defects excepted.

**10.0    WAIVER.**

10.1.    No waiver of any breach of any one or more of the conditions or covenants of this License by Licensor or by the Village shall be deemed to imply or constitute a waiver of any succeeding or other breach under this License. All of the remedies conferred on either Licensor or the Village in this License and by law shall be deemed cumulative and not exclusive of the other.

**11.0    AMENDMENT OR MODIFICATION.**

11.1    Both parties acknowledge and agree that they have not relied upon any statements, representations, agreements or warranties, except such as are expressed here, and that no amendment or modification of this License shall be valid or binding unless expressed in writing and executed by the parties in the same manner as the execution of this License.

**12.0    QUIET POSSESSION.**

12.1    Licensor shall warrant and defend the Village in the enjoyment and peaceful possession of the Property during the term from interference by the licensor or licensor's agent.

**13.0    NOTICES.**

13.1.    All notices required to be given under the terms of this License shall be given by certified or registered mail, by personal service or facsimile or email transmission, addressed to the applicable party as follows:

For Licensor:    Masaru K. Takiguchi  
                          Attorney  
                          1415 W. 22<sup>nd</sup> Street, Suite 1025  
                          Oak Brook, IL 60623  
                          Phone: (630) 560-6002

Facsimile: (630) 409-1240  
[Mas@takiguchilaw.com](mailto:Mas@takiguchilaw.com)

For Village: Village Manager  
Village of Oak Park  
123 Madison Street  
Oak Park, Illinois 60302  
Facsimile: (708) 358-5101  
Email: [villagemanager@oak-park.us](mailto:villagemanager@oak-park.us)

13.2. Mailing of such notice as and when provided above shall be equivalent to personal notice and shall be deemed to have been given at the time of mailing. Either of the parties may designate in writing from time to time substitute addresses or persons in connection with required notices.

13.3. Notice by facsimile or email transmission shall be effective as of date and time of facsimile or email transmission, provided that the notice transmitted shall be sent on business days during business hours (9:00 a.m. to 5:00 p.m. Chicago time). In the event facsimile or email notice is transmitted during non-business hours, the effective date and time of notice is the first hour of the first business day after transmission.

#### **14.0 IMPAIRMENT OF LICENSOR'S TITLE.**

14.1. Nothing in this License and no action or inaction by Licensor shall be deemed or construed to mean that the Licensor has granted to the Village any right, power, or permission to do any act or make any agreement which may create any right, title, interest, lien, charge, or other encumbrance upon the estate of Licensor in the Property. Without limiting the generality of the foregoing, the Village shall not permit any portion of the Property to be used by any person or persons at any time during the term of this License in such a manner as might reasonably tend to impair Licensor's title or interest in the Property or in such manner as might reasonably make possible a claim of adverse use, adverse possession, prescription, dedication, or similar claim with respect to the Property. Licensor may from time to time impose upon the Village such rules and regulations governing the use or possession of the Property and the Property as may be reasonably consistent with Licensor's protection against any such possible claim.

#### **15.0 EMINENT DOMAIN.**

15.1. If the entire Property is appropriated or taken under the power of eminent domain by any public or quasi-public authority, this License shall terminate as of the date of such taking. If a portion of the Property is so appropriated or taken and the remainder of the space is not suited for its intended purposes, the Village shall have the right to terminate this License as of the date of such taking by giving to Licensor written notice of such termination within thirty (30) days after such taking. If there is such a partial taking and the Village does not

elect to terminate this License, then the License shall continue in full force and effect as to the part not taken with a pro rata abatement of rent. If this License is terminated by reason of the total or partial taking of the Property by eminent domain, then in any such condemnation proceedings, Licensor and the Village shall be free to make claim against the condemning or taking authority for the amount of any damage done to each of them respectively. If there is a partial taking and this License is not terminated, the Village shall have the right to make claim against the condemning or taking authority for the reduced value of the Property to the Village for the remainder of the License term.

**16.0 DAMAGE BY FIRE OR OTHER CASUALTY.**

16.1. If the Property is damaged by fire, the elements, or other casualty but is not rendered uninhabitable in whole or in part and such damage is not caused by the act or failure to act of the Village or the Village's agents, employees, or invitees, Licensor shall, at its own expense, cause the damage to be repaired promptly and the rent shall not be abated. If by reason of such occurrence the Property is rendered uninhabitable to an extent that no longer makes the Property suited for its intended purposes or is rendered wholly uninhabitable, either Licensor or the Village may, at their respective options, terminate this License upon not less than sixty (60) days' written notice pursuant to Section 13.0 above given to the other party within sixty (60) days following the date of such damage or destruction.

**17.0 ASSIGNMENT OR SUBLETTING.**

17.1. The Village shall not assign or transfer this License except as to allow public the right to parking permits issued in accordance with Village regulations and ordinances. This License shall not be subject to involuntary assignment, transfer, or sale or to assignment, transfer, or sale by operation of law in any manner whatsoever. Any such attempted involuntary assignment, transfer, or sale shall be void and shall, at the option of the Licensor, be an event of default under this License.

17.2. This License shall run with the Property and if Licensor shall sell, assign or transfer the Property to another party, this License shall automatically be assigned to the new party.

17.3. In the event that Licensor sells, assigns, or transfers the Property to another party, the Village may at its option terminate this License.

**18.0 SURRENDER OF THE PROPERTY.**

18.1. At the expiration or termination of this License, the Village shall surrender the Property in the same condition as it existed on the Commencement Date, reasonable wear and tear and damage by unavoidable casualty excepted, including wear and tear due to the removal of the items, and deliver all keys for the Property and all keys or combinations for all locks, safes and (or) vaults left in the Property by the Village (if any), to Licensor at Licensor's Notice

Address set forth in Section 13.1 above. No receipt of money by Licensor from the Village after the termination or expiration of this License, after the service of any notice of default, after the commencement of any suit seeking possession of the Property, or after any final judgment of possession of the Property shall renew, reinstate, continue, or extend the term of this License or affect any such notice, demand, or suit.

**19.0 SUBORDINATION.**

19.1. Licensor may from time to time during the term of this License encumber by mortgage or other security instrument the title to the Property or Licensor's interest under this License. Upon request by Licensor, the Village shall execute such documents as are reasonably required in order to evidence the subordination of the interest of the Village in the Property to the lien of the mortgage or other security instrument on the title to the Property. However, the Village shall not be required to so subordinate its interest unless the holder of the mortgage or other security instrument agrees in writing with the Village that if the Village fully complies with all of its obligations under this License, the Village shall be allowed to remain in undisturbed possession of the Property during the License term.

**20.0 ESTOPPEL CERTIFICATES.**

20.1. Licensor and the Village shall upon the request of the other party and at the reasonable cost and expense to the party requesting the same, execute, acknowledge, and deliver to the other party a certificate evidencing the following: (a) whether this License is in full force and effect; (b) whether this License has been modified or amended in any respect and identifying all such modifications or amendments; and (c) whether there are any existing defaults under this License to the knowledge of the party executing the certificate and specifying the nature of such defaults.

**21.0 LICENSOR'S RIGHT OF ENTRY.**

21.1. The Village shall permit Licensor and its agents and employees to enter into and upon the Property at all reasonable times for the purpose of inspecting it, making repairs, gaining access to mechanical or utility rooms or installations, or any other reasonable purpose. If either Licensor or the Village fails to do any of the things required of it by this License and such failure continues for a period of ten (10) days or more after written notice from the other party specifying the nature of anything required to be done, the other party may, but shall not be required to, do or perform or cause to be done or performed such thing required of the defaulting party. The party performing such thing shall not be in any way responsible for any loss, inconvenience, annoyance, or damage resulting to the defaulting party from such performance by the other party on behalf of the defaulting party. The defaulting party shall repay to the other party on demand the entire reasonable expense, including reasonable compensation to the agents and employees of the other party, incurred by the other party in performing such thing. If payment is not made within ten (10) days of such demand, the amount due to the other party shall bear interest from the date of the demand until repaid at the rate of 10% per annum, other

than payment of the fee by the Village pursuant to Section 4.1 above. Any act or thing done by the other party pursuant to the provisions of this paragraph shall not be construed as a waiver of any default by the defaulting party or as a waiver of any other right or remedy of the other party under this License or otherwise.

**22.0 DEFAULT.**

22.1. The occurrence of any one or more of the following events shall constitute a default by the Village under this License:

22.1.1. If the Village fails to pay the rent or any other amounts due to Licensor under this License when due and such default is not cured within ten (10) days after notice of such default is given by Licensor to the Village;

22.1.2. If any voluntary or involuntary petition or similar pleading under any section of any bankruptcy act is filed by or against the Village or the Village's guarantors or any voluntary or involuntary in any court is instituted to declare the Village or the Village's guarantors insolvent or unable to pay debts; or

22.1.3. If the Village makes any assignment of the Property for the benefit of creditors or if the Property is taken under a levy of execution or attachment in an action against Village.

22.2. If the Village fails to perform any of the other things required of the Village under this License and such default is not cured within thirty (30) days after notice of such default is given by Licensor to Village.

22.3. Upon such occurrence of any such event of default, the Village hereby authorizes and empowers the Licensor to:

22.3.1. Cancel and terminate this License and immediately reenter and take possession of the Property without the requirement of any previous notice of intention to reenter, and to remove all persons and their property therefrom using such force and assistance in effecting and perfecting such removal as Licensor may deem reasonably necessary to recover full and exclusive possession of the Property; or

22.3.2. Reenter and take possession of the Property in the manner provided in Section 22.3.1 above without such reentry constituting a cancellation or termination of this License or a forfeiture of the rent to be paid or of the covenants, agreements, and conditions to be kept and performed by the Village for and during the remainder of the term of this License.

22.4. If Licensor reenters and takes possession of the Property, Licensor may do any one or more of the following and the Village shall have the following obligations:

22.4.1. Licensor shall have the right but not the obligation to divide or subdivide the Property in any manner it may reasonably determine and to License all or any portions of the Property for such periods of time, at such rentals, for such use and upon such terms, covenants, and conditions as it may reasonably elect, applying the net rentals from such letting first to the payment of its expenses incurred in dispossession the Village, the costs and expenses of making any improvements to the Property as may be reasonably necessary to enable it to relet the same, and to the payment of any brokerage commissions or other necessary expenses incurred in connection with such reletting. The balance, if any, shall be applied by Licensor, from time to time, but in any event no less than once each month, on account of the payments due or payable by the Village under this License.

22.4.2. Licensor may, from time to time, bring such actions or proceedings for the recovery of any deficits remaining unpaid or to enforce any other covenant or condition contained in this License as it may deem advisable without being obligated to wait until the end of the term of this License or for a final determination of the Village's account. The commencement or maintenance of one or more actions shall not bar Licensor from bringing other or subsequent actions for further accruals or defaults under and pursuant to the provisions of this License.

22.4.3. Any balance remaining after full payment and liquidation of all amounts due to Licensor shall be paid to Village at the end of the term of this License, with the right reserved to Licensor at any time to give notice in writing to the Village of its election to cancel and terminate this License and all of Village's rights and obligations under it. Upon the giving of such notice and the simultaneous payment by Licensor to the Village of any credit balances in the Village's favor that may at the time be owing to the Village shall constitute a final and effective cancellation and termination of this License and the obligations on the part of either party under it.

22.5. The occurrence of any one or more of the following events shall constitute a default by Licensor under this License:

22.5.1. If Licensor fails to pay any amounts due from the Licensor under this License when due and such default is not cured within ten (10) days after notice of such default is given by the Village to Licensor.

22.5.2. If Licensor fails to perform any of the other things required of Licensor under this License and such default is not cured within thirty (30) days after notice of such default is given by the Village to Licensor.

22.5.3. Upon such occurrence of any such event of default, the Village may cancel and terminate this License by written notice to Licensor.

## **23.0 CHOICE OF LAW.**

23.1. The laws of the State of Illinois shall apply to the interpretation of this License.

**24.0 LITIGATION EXPENSES.**

24.1. If either the Village or Licensor takes legal action to enforce the provisions of this License, the prevailing party shall be entitled to be reimbursed for its costs and reasonable attorney's fees.

**25.0 ENTIRE AGREEMENT.**

25.1. This License constitutes the entire agreement and there are no representations, conditions, warranties or collateral agreements, express or implied, statutory or otherwise, with respect to this agreement other than as contained herein.

25.2. This License may not be modified, omitted or changed in any way except by written agreement duly signed by persons authorized to sign agreements on behalf of Licensor and the Village.

**26.0 VENUE.**

26.1. Venue for any action taken by either Licensor or Village, whether in law or in equity, to enforce the terms of this License shall be in the Circuit Court of Cook County, Illinois, First District, 50 West Washington Street, Chicago, Illinois 60602.

**27.0 SEVERABILITY.**

27.1. If any of the provisions of this License shall be deemed illegal, invalid, unconstitutional or unenforceable by any court of law having competent jurisdiction, such decisions shall not invalidate or negate the other remaining provisions of this License.

**28.0 SECTION HEADINGS AND TITLES.**

28.1. The section headings and titles provided in this License are for convenience only and shall not be deemed a part of this License.

**29.0 BINDING AUTHORITY.**

30.1. The individuals executing this License on behalf of Licensor and the Village represent that they have the legal power, right, and actual authority to bind their respective parties to the terms and conditions of this License.

**30.0 EFFECTIVE DATE.**

30.1. The effective date of this License as reflected above shall be the last date it is executed by one of the parties as set forth below.

**31.0. COUNTERPARTS; FACSIMILE OR PDF SIGNATURES.**

31.1. This License shall be executed in three (3) counterparts, each of which shall be considered an original and together shall be one and the same License.

31.2. A facsimile or pdf/email copy of this License and any signatures thereon will be considered for all purposes as an original.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK –  
SIGNATURE PAGE FOLLOWS]**

**IN WITNESS WHEREOF**, the Parties hereto have caused this License Agreement to be to be signed by their duly authorized representatives on the dates set forth below and acknowledge they have read and understand this Agreement and intend to be bound by its terms.

**VILLAGE OF OAK PARK**

**HARVEY MADISON DEVELOPMENT LLC**

\_\_\_\_\_  
By: Cara Pavlicek  
Its: Village Manager

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

Date: \_\_\_\_\_, 2018

Date: \_\_\_\_\_, 2018

**ATTEST**

**ATTEST**

\_\_\_\_\_  
By: Vicki Scaman  
Its: Village Clerk

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

Date: \_\_\_\_\_, 2018

Date: \_\_\_\_\_, 2018