

SECOND AMENDMENT OF PARKING FACILITY MANAGEMENT AGREEMENT

THIS SECOND AMENDMENT OF PARKING FACILITY MANAGEMENT AGREEMENT (this “**Second Amendment**”) is made effective as defined herein (the “**Effective Date**”), by and between MCREF OAK PARK, LLC (“**MCREF**”), THE VILLAGE OF OAK PARK, an Illinois municipal corporation and home rule unit of local government (the “**Village**”) and SP PLUS CORPORATION, a Delaware corporation (“**Manager**”).

RECITALS:

A. WDF-3 Oak Park Owner, LLC (“WDF-3”), the Village and Manager are parties to a certain Parking Facility Management Agreement dated effective February 24, 2016 (the “**Agreement**”), pursuant to which Manager manages the parking facility located at 938 Lake Street and 170 North Forest Avenue in Oak Park, Illinois 60301, all as more particularly described in the Agreement (the “**Facility**”); and

B. WDF-3, the Village and Manager entered into a First Amendment to the Agreement dated October 7, 2016 (the “**First Amendment**”); and

C. MCREF purchased WDF-3’s interest in the Facility pursuant to a Special Warranty Deed dated January 25, 2018 (the “**Deed**”); and

D. MCREF, the Village and Manager desire to further amend the Agreement upon the terms and conditions herein set forth.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, duly authorized and intending to be legally bound, agree as follows:

1. INCORPORATION OF RECITALS. The foregoing Recitals are true and correct and are incorporated into this Second Amendment. All capitalized terms used herein shall have the meanings ascribed to them in the Agreement unless such terms are expressly defined otherwise herein.

2. CONSENT TO ASSIGNMENT. On the date of the Deed, WDF-3 assigned to MCREF, and MCREF assumed from WDF-3, all of the obligations of WDF-3 under the Agreement. The Village and Manager hereby acknowledge the assignment of WDF-3’s rights, title, obligations, and liabilities under the Agreement to MCREF.

3. INSURANCE. As of the Effective Date of this Second Amendment, Section 8 of the Agreement is hereby amended by deleting such section in its entirety and substituting in lieu thereof the following:

8.01. Manager's Required Insurance. In accordance with the Private Parking Parcel Approved Budget and the Public Parking Parcel Approved Budget, Manager shall procure and maintain insurance as set forth below, the cost of which will be deemed an Operating Expense. Manager shall not begin work until all the required insurance has been obtained and until MCREF and the Village have received proof, acceptable to MCREF and the Village, of Manager's insurance as required herein. All insurance required by this Section 8.01 shall include a statement that such policies will not be canceled, transferred or terminated prior to 30 days written notice, except in the event of nonpayment of a premium. All insurance shall be in form and substance and issued by companies satisfactory to MCREF and the Village and shall be of the following kinds and with at least the following limits of coverage:

- A. Workers' compensation insurance as required by statute, including employer's liability insurance for occupational accidents or disease, with limits of not less than One Million Dollars (\$1,000,000) each accident, One Million Dollars (\$1,000,000) disease - each employee, and One Million Dollars (\$1,000,000) disease policy limit covering all of Manager's employees working under this Agreement. Limits in excess of Five Hundred Thousand (\$500,000) may be achieved through a combination of primary employer's liability and excess umbrella limits. All of Manager's employees will be covered under the Workers' Compensation insurance required herein.

- B. Commercial Crime Insurance, including, but not limited to, coverage for employee dishonesty and loss sustained by MCREF and/or the Village and their respective affiliates, subsidiaries, members, managers, partners, shareholders, trustees, beneficiaries, officers, directors, employees, volunteers and agents committed by an employee not in collusion with MCREF or the Village, with a limit of not less than \$1,000,000 each loss with no annual policy aggregate. The policy shall be endorsed to name MCREF and the Village as Loss Payee.

8.02. MCREF's Required Insurance. MCREF shall procure and maintain insurance as set forth below upon the effective date of this Second Amendment. To the extent approved by MCREF's insurance provider, all insurance required by this Section 8.02 shall include a statement that such policies will not be canceled, transferred or terminated prior to thirty (30) days written notice, except in the event of nonpayment of a premium. All insurance shall be in form and substance and issued by companies satisfactory to Manager and the Village and shall be of the following kinds and with at least the following limits of coverage:

- A. Commercial General Liability insurance, covering bodily injury, including death, and damage to property, with a per occurrence limit of not less than Two Million Dollars (\$2,000,000), and a minimum general aggregate limit of \$4,000,000 shall also be provided, or actual limits carried if greater. Coverage shall include, but not be limited to, coverages included in the standard ISO Commercial General Liability policy form (CG 00 01). The required limits may be achieved through the combination of Commercial General Liability and Umbrella/Excess Liability, if necessary.
- B. Automobile Liability Insurance in amounts not less than \$1,000,000 Combined Single Limit.
- C. Garage keeper's legal liability insurance insuring any and all automobiles including threshold that are parked at the Facility by Manager's attendants or for which a bailment otherwise is created, with limits of liability not less than \$1,000,000 per occurrence.
- D. Excess or umbrella liability insurance with limits of liability of not less than \$100,000,000 per occurrence and \$100,000,000 in the aggregate in excess of underlying commercial general liability, automobile liability, employer's liability and garage keepers legal liability coverage.
- E. Such other insurance as MCREF, the Village and Manager may reasonably agree upon based on changes in circumstance or exposures.

8.03. Additional Provisions.

- A. To the extent any of the insurance policies required to be carried by Manager or MCREF hereunder is covered by a blanket insurance policy, MCREF shall be required to pay only the cost (which shall be an Operating Expense) of any such blanket policy carried by Manager that is allocated to the Private Parking Parcel according to the Private Parking Parcel Budget and the Village shall be required to pay only the cost (which shall be an Operating Expense) of any such blanket policy that is allocated to the Public Parking Parcel according to the Public Parking Parcel Budget.
- B. Any deductibles or self-insured retention applicable to MCREF's insurance must be declared to and approved by Manager and the

Village. In no event shall Manager or the Village be responsible for payment of any deductibles or self-insured retentions applicable to MCREF's insurance regardless of whether Manager or the Village has approved same. Any deductibles or self-insured retention applicable to Manager's insurance must be declared to and approved by MCREF and the Village. Except as set forth in Section 4.01.C(viii), in no event shall MCREF or the Village be responsible for payment of any deductibles or self-insured retentions applicable to the insurance required to be provided by Manager by Section 8.01 regardless of whether MCREF or the Village has approved same.

8.04. Additional Insureds and Waiver of Subrogation. The policies listed in Section 8.02 above shall be endorsed to cover the Village and the additional insureds listed on Exhibit "C" attached hereto their respective affiliates, subsidiaries, members, managers, partners, shareholders, trustees, beneficiaries, officials, officers, directors, employees, lender, volunteers and agents and by this reference incorporated herein, but only to the extent same are required to be indemnified herein, as set forth below. The policies listed in Section 8.02 above shall be primary and non-contributory with Manager's insurance and be endorsed to cover Manager and its employees, agents, directors and officers as either named insureds or additional insureds. If MCREF's policies cover Manager as an additional insured (as opposed to a named insured), then the policies shall be further endorsed to cover all claims and liability arising out of the additional insured's acts or omissions at the Facility using ISO Form CG 20-26-07-04 or its equivalent. The policies listed in Section 8.01 above, with the exception of Workers' Compensation and Commercial Crime, shall be endorsed to provide waiver of subrogation in favor of MCREF, the Village and the additional insureds listed on Exhibit "C" attached hereto, their respective affiliates, subsidiaries, members, managers, partners, shareholders, trustees, beneficiaries, officers, directors, employees, lender, volunteers and agents. The policies listed in Section 8.02 above shall be endorsed to provide waiver of subrogation in favor of Manager, the Village, the additional insureds listed on Exhibit "C" attached hereto, their respective affiliates, subsidiaries, members, managers, partners, shareholders, trustees, beneficiaries, officers, directors, employees, lender, volunteers and agents.

8.05. Insurance Companies. All such insurance shall be written by reputable, financially sound companies licensed to do business in the state in which the Facility is located, and which have an A.M. Best rating of A-VII, or better, reasonably satisfactory to Manager, MCREF and the Village, respectively. All policies, with the exception of Workers' Compensation, shall provide that should any of the above described policies be cancelled or non-renewed, the issuing company shall provide thirty (30) days prior written notice to MCREF,

Manager and the Village with the exception of ten (10) days written notice for cancellation for non-payment of premium. The Commercial General Liability and Umbrella Liability policies shall contain a severability of interest or separation of insured provision, affording defense and coverage for an insured in the event of a claim brought by another insured. Manager and MCREF, respectively, shall deliver to the other parties, upon such other parties' written request, certificates of insurance in a form upon which such other parties may rely evidencing coverage to be obtained by Manager or MCREF in accordance with the terms of this Agreement, and copies of applicable blanket endorsements to the policies of insurance evidencing additional insured status to the other parties and/or the parties listed on Exhibit "C" hereto and provide for the aforesaid notice of cancellation. Manager and MCREF shall at all times comply with all requirements of the insurers issuing said policies. With the exception of Workers' Compensation, all insurance required to be obtained by Manager shall be primary and non-contributory to any other valid and collectible insurance maintained by MCREF and/or the Village. All insurance required to be obtained by MCREF shall be primary and non-contributory to any other valid and collectible insurance maintained by Manager and/or the Village. The minimum limits of insurance specified in this Article shall in no way limit or diminish Manager's or MCREF's liability under this Agreement. Any minimum amount of coverage specified above shall be subject to increase at any time, and from time to time, after commencement of the second full year of the Term if required by MCREF's lender or the Village or if MCREF, the Village and Manager mutually agree that such increase is reasonably necessary for adequate protection and such coverage limits are generally maintained by managers of comparable facilities. Within ten (10) days after agreement between Manager and MCREF and the Village that the minimum amount of any coverage be so increased, Manager and/or MCREF shall furnish the other parties evidence of its compliance with such demand via revised Certificates of Insurance. Manager and/or MCREF shall furnish Manager, MCREF and the Village, as applicable, with compliant certificates of insurance prior to beginning work and shall provide renewal certificates within ten (10) days of the expiration of any policy.

8.06. Waiver of Claims Covered by Insurance. MCREF, the Village and Manager hereby waive all claims for recovery from each other and their respective affiliates, employees, agents, directors and officers, for loss or damage to property to the extent such damage is covered by collectible insurance.

8.07. Indemnification not Limited. Manager shall be responsible for the payment of any deductibles for the insurance policies required to be carried by Manager. MCREF shall be responsible for the payment of any deductibles for the insurance policies required to be carried by MCREF. The coverage shall contain no special limitations on the scope of protection afforded to Manager, MCREF and/or

the Village, and their affiliates, subsidiaries, members, managers, partners, shareholders, trustees, beneficiaries, officials, officers, directors, employees, lender, volunteers and agents. Manager and MCREF understand and agree that any insurance protection required by this Agreement or otherwise provided by Manager or MCREF, shall in no way limit the responsibility to indemnify, keep and save harmless, and defend Manager, MCREF, the Village and their respective affiliates, subsidiaries, members, managers, partners, shareholders, trustees, beneficiaries, officials, officers, directors, employees, lender, volunteers and agents.

4. INDEMNIFICATION. As of the Effective Date of this Second Amendment, Section 11 of the Agreement is hereby amended by deleting such section in its entirety and substituting in lieu thereof the following:

11.01. Manager Indemnification. Manager agrees to indemnify, defend, and hold MCREF and the Village and their respective officials, officers, employees, agents, partners, directors, members, lenders and volunteers free and harmless from any and all claims, actions, demands, liability, damages, loss, cost or expenses, including but not limited to reasonable fees of counsel and litigation expenses (collectively, "**Losses**"), caused by a negligent, willful or fraudulent act or omission by Manager or any of Manager's employees, independent contractors or agents, provided however nothing herein contained shall be deemed to require Manager to indemnify MCREF or the Village for liabilities arising out of or in connection with: (i) any action taken by Manager in response to and in accordance with any written instructions given or policies and programs established by MCREF and the Village pursuant hereto; (ii) the negligent actions or failure(s) to act of MCREF or the Village, its employees or agents; (iii) failure of MCREF to comply with its obligations hereunder or (iv) any Losses covered by the insurance policies required to be maintained by MCREF (regardless of any deductibles or self-insurance requirements). The foregoing provisions of this Section 11.01 shall survive the expiration or termination of this Agreement insofar as they relate to any claim which occurred during the Term, but this shall not be construed to mean that Manager's liability survives as to other provisions of this Agreement except as expressly provided herein.

11.02. MCREF Indemnification. MCREF agrees to indemnify, defend, and hold Manager, its employees, directors, partners, shareholders and lenders free and harmless from any Losses to the extent (i) caused by a negligent, willful or fraudulent act or omission by MCREF or any of MCREF's employees, independent contractors or agents, (ii) attributable to MCREF's failure to maintain the insurance policies required to be maintained under this Agreement, or (iii) caused by the acts or omissions of Manager's employees to the extent covered by the insurance policies required to be maintained by MCREF. The foregoing provisions of this Section 11.02 shall survive the expiration or termination of this

Agreement insofar as they relate to any claim which occurred during the Term, but this shall not be construed to mean that MCREF's liability survives as to other provisions of this Agreement except as expressly provided herein.

11.03. The Village Indemnification. The Village agrees to indemnify, defend, and hold Manager and its employees, directors, partners, shareholders and lenders free and harmless from any and all claims, demands, liability, loss, cost or expenses, including but not limited to reasonable fees of counsel and litigation expenses, to the extent caused by a negligent, willful or fraudulent act or omission by The Village or any of The Village's employees, independent contractors or agents, provided however nothing herein contained shall be deemed to require The Village to indemnify Manager for liabilities arising out of or in connection with: (i) any action taken by Manager in violation of the terms of this Agreement or contrary to any written instructions given or policies and programs established by The Village pursuant hereto; or (ii) the negligent actions or failure(s) to act of Manager, its employees, agents or contractors. The foregoing provisions of this Section 11.03 shall survive the expiration or termination of this Agreement insofar as they relate to any claim, which occurred during the Term, but this, shall not be construed to mean that The Village's liability survives as to other provisions of this Agreement except as expressly provided herein.

5. OPERATING EXPENSES. Effective as of the date that Manager receives the insurance certificate and endorsement required pursuant to Section 8.02 of the Agreement (as amended herein), and for so long as the insurance required by MCREF hereunder remains in effect, Manager shall not charge liability insurance as an Operating Expense under the Agreement.

6. NO OTHER CHANGES. Except to the extent expressly modified by this Second Amendment, all of the terms and provisions of the Agreement and First Amendment are hereby confirmed and remain in full force and effect.

7. BINDING AUTHORITY. The individuals executing this Second Amendment on behalf of MCREF, the Village and Manager represent that they have the legal power, right and actual authority to bind their respective parties to the terms and conditions of this Second Amendment.

8. COUNTERPARTS; FACSIMILE OR PDF SIGNATURES. This Second Amendment may be executed in counterparts, each of which shall be considered an original and together shall be on and the same Second Amendment. A facsimile or pdf copy of this Second Amendment and any signature(s) thereon shall be considered for all purposes as an original.

9. EFFECTIVE DATE. The effective date of this Second Amendment as reflected above shall be the last date of its execution by one of parties.

IN WITNESS WHEREOF, the parties hereto have caused this Second Amendment to be signed by their duly authorized representatives on the dates set forth below.

VILLAGE OF OAK PARK

MANAGER

SP Plus Corporation

By: Cara Pavlicek
Its: Village Manager

By: James F. Buczek
Its: Senior Vice President

Dated: _____, 2018

Dated: _____, 2018

[EXECUTION CONTINUES ON THE FOLLOWING PAGE]

ATTEST

By: Vicki Scaman
Its: Village Clerk

Dated: _____, 2018

ATTEST

By: Jerome L. Pate
Its: Assistant Secretary

Dated: _____, 2018

MCREF OAK PARK, LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

ATTEST

By:
Its:

Dated: _____, 2018