

NON-EXCLUSIVE PARKING SPACE LICENSE AGREEMENT

This Parking Space License Agreement (“**Agreement**”) is entered into this _____, 2021 (“**Effective Date**”) by and between the **City of Fort Worth, Texas, a home-rule municipal corporation of the State of Texas** (“**City**”), and **Tarrant County Veteran’s Council**, a Texas Non-Profit Corporation (“**Licensee**”).

WHEREAS, City owns a certain piece of property located at 100 Energy Way, Fort Worth, Texas 76102 which includes both an adjacent parking garage and a surface parking lot (“**Property**”); and

WHEREAS, Licensee has requested to use a portion of the surface parking lot as a staging area for a veteran’s day parade which Licensee has received an outdoor event permit for through the City; and

WHEREAS, the City agrees to grant to Licensee the use of a portion of the surface parking lot on the Property in accordance with the terms and conditions of this Agreement.

W I T N E S S E T H:

1. **License Granted.** City hereby grants Licensee the non-exclusive license to use approximately one hundred twenty-five (125) parking spaces located at the Property as more specifically described in Exhibit “A” of this Agreement (collectively the “**Licensed Space**”). Licensee may use the Licensed Space to allow parade spectators to park and observe the parade. The Licensed Premises shall be used for no other purpose. Under no circumstances during the Agreement will Licensee use or cause to be used on the Licensed Space any hazardous or toxic substances or materials, or store or dispose of any such substances or materials on the Licensed Space; provided that the presence of fuel, engine oil and hydraulic fluids used for or stored in vehicles parked on the Licensed Space will not be deemed a violation of this Section. Licensee shall not install signs, advertising media, and lettering on the Licensed Space without prior written approval of City.

2. **Use Not Exclusive.** This Agreement and all rights granted to Licensee herein are strictly non-exclusive. The City reserves the right to enter into and grant other and future licenses, leases, and other authorizations for use of the Licensed Premises to other persons and entities as the City deems appropriate in accordance with applicable law; provided, however, that in granting subsequent authorization for use, the City will not allow a use that will unreasonably interfere with the Licensee’s use of the Licensed Premises as provided herein. This Agreement does not establish any priority for the use of the Licensed Premises by Licensee or by any present or future licensees or other permit holders. In the event of any dispute as to the priority of use of the Licensed Premises, the first priority shall be to the public generally, the second priority to the City in the performance of its various functions, and thereafter, as between licensees and other permit holders, as determined by the City in the exercise of its powers.

3. **Condition of Licensed Space.** Licensee’s use of the Licensed Space shall be conclusive evidence that (a) the Licensed Space is suitable for the purposes and uses for which same are licensed; and (b) Licensee waives any and all defects in and to the Licensed Space, its appurtenances, and in all the appurtenances thereto. Further, Licensee takes the Licensed Space and all appurtenances in “**AS IS**” condition without warranty, expressed or implied, on the part of City. City shall not be liable to Licensee,

Licensee' agents, employees, invitees, licensees, or guests for any damage to any person or property due to the Licensed Space or any part of any appurtenance thereof being improperly constructed or being or becoming in disrepair.

3. **Primary License Term:** Subject to earlier termination as hereinafter set forth, the primary term of this Agreement shall commence on November 11th, 2021 at 6:00 AM and terminate that same day at 4:00 PM("License Term") .

4. **Consideration.** Both parties agree that the Licensee's use of the space during the License Term will serve a public purpose by supporting the community and the City of Fort Worth as a whole. City and Licensee expressly agree and stipulate that this Agreement is based on valuable consideration and an exchange of promises that will be independently beneficial to both parties and that, as a condition precedent to executing this Agreement, the consideration is valuable and sufficient and that neither party shall be able to assert otherwise in the event of litigation. Nothing herein shall constitute an obligation of City funds.

5. **No Services.** City shall not furnish Licensee with any utilities, cleaning, lighting, security, or any other items or services for the Licensed Space. All operating costs of Licensed Space shall be Licensee's sole cost and expense. If Licensee requires the use of any utilities, cleaning, lighting, security, or any other items or services while occupying the Licensed Space, then Licensee shall first obtain permission and approval from City to contract, add or install any of the above items and will be responsible for providing the same at Licensee's sole cost and expense. Should City have to provide cleaning services of Licensed Space due to the Licensee's use of the Licensed Space under this Agreement, Licensee will be notified and billed for such service which will include any City administrative fees and an additional 15% of the total cost for the cleaning services.

6. **Right to Tow.** City will have right to tow any vehicle parked in: (i) an identified reserved spot, (ii) the Licensed Space itself if proper identification is not clearly visible as described below; and (iii) any area on the Property outside of the Licensed Space.

7. **Security.** The City will not provide private security services for the Licensed Space. Licensee will be responsible for any inspection and oversight of the Licensed Space during the term of this Agreement. Licensee shall be solely responsible for initiating, maintaining, and supervising all safety precautions in connection with Licensee's use of the Licensed Space.

8. **Alterations, Additions, Improvements, and Signage.** Licensee shall be permitted to place two temporary lavatories and two trash receptacles on the Licensed Space at locations that are approved in writing by City. Licensee will make no alterations on or additions to, the Licensed Space without the prior written consent of City. Any alterations made to the Licensed Space by the Licensee shall be at Licensee's sole cost and expense and shall not interfere with the operations of other Licensees and/or other operations at the Alliance Maintenance Facility. If interference occurs Licensee will make changes and/or remove the alteration to remedy said interference within 5 days of notice from City. All alterations, additions and improvements made to or fixtures or other improvements placed in or upon the Licensed Space shall be deemed a part of the Licensed Space and the property of City at the end of the License Term. All such alterations, additions, improvements, and fixtures shall remain upon and be surrendered with the Licensed Space as a part thereof at the termination of this Agreement. Licensee may at its sole option and expense remove any Licensee alterations at any time during the License Term with City approval. At the termination of this Agreement, whether by lapse of time or otherwise, Licensee shall (i) deliver the Licensed Space to City in as good a condition as the same was as of the date of the taking of possession thereof by Licensee,

subject only to ordinary wear and tear and damage caused by casualty or condemnation and (ii) upon City request, remove any alterations and make any repairs to the Licensed Space as needed in order to comply with the provisions of Section 13 below.

9. Indemnity. (a) LICENSEE SHALL AND DOES AGREE TO INDEMNIFY, PROTECT, DEFEND AND HOLD HARMLESS CITY, CITY'S OFFICERS, AGENTS, SERVANTS, AND EMPLOYEES (COLLECTIVELY, "INDEMNITEES") FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, JUDGMENTS AND EXPENSES, (INCLUDING REASONABLE COURT COSTS, REASONABLE ATTORNEYS' FEES AND REASONABLE COSTS OF INVESTIGATION), OF ANY NATURE, KIND OR DESCRIPTION TO THE EXTENT ARISING OR ALLEGED TO ARISE BY REASON OF INJURY TO OR DEATH OF ANY PERSON OR DAMAGE TO OR LOSS OF PROPERTY (1) RELATING TO THE USE OR OCCUPANCY OF THE LICENSED SPACE BY LICENSEE, ITS EMPLOYEES, AGENTS AND LESSEES OR (2) BY REASON OF ANY OTHER CLAIM WHATSOEVER OF ANY PERSON OR PARTY OCCASIONED OR ALLEGED TO BE OCCASIONED BY ANY ACT OR OMISSION ON THE PART OF LICENSEE OR ANY LESSEE, EMPLOYEE, DIRECTOR, OFFICER, SERVANT, OR CONTRACTOR OF LICENSEE OR (3) BY ANY BREACH, VIOLATION OR NONPERFORMANCE OF ANY COVENANT OF LICENSEE UNDER THIS AGREEMENT (COLLECTIVELY, "LIABILITIES"), EXCEPT TO THE EXTENT ARISING OUT OF OR RESULTING FROM THE NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY INDEMNITEE. IF ANY ACTION OR PROCEEDING SHALL BE BROUGHT BY OR AGAINST ANY INDEMNITEE IN CONNECTION WITH ANY SUCH LIABILITY OR CLAIM, LICENSEE, ON NOTICE FROM CITY, SHALL DEFEND SUCH ACTION OR PROCEEDING, AT LICENSEE' EXPENSE, BY OR THROUGH ATTORNEYS REASONABLY SATISFACTORY TO CITY. THE PROVISIONS OF THIS PARAGRAPH SHALL APPLY TO ALL ACTIVITIES OF LICENSEE WITH RESPECT TO THE USE AND OCCUPANCY OF THE LICENSED SPACE, WHETHER OCCURRING BEFORE OR AFTER THE COMMENCEMENT DATE OF THE LICENSE TERM AND BEFORE OR AFTER THE TERMINATION OF THIS AGREEMENT. THIS INDEMNIFICATION SHALL NOT BE LIMITED TO DAMAGES, COMPENSATION OR BENEFITS PAYABLE UNDER INSURANCE POLICIES, WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEES' BENEFIT ACTS.

(b) IT IS AGREED WITH RESPECT TO ANY LEGAL LIMITATIONS NOW OR HEREAFTER IN EFFECT AND AFFECTING THE VALIDITY OR ENFORCEABILITY OF THE INDEMNIFICATION OBLIGATION UNDER THIS PARAGRAPH 7, SUCH LEGAL LIMITATIONS ARE MADE A PART OF THE INDEMNIFICATION OBLIGATION AND SHALL OPERATE TO AMEND THE INDEMNIFICATION OBLIGATION TO THE MINIMUM EXTENT NECESSARY TO BRING THE PROVISION INTO CONFORMITY WITH THE REQUIREMENTS OF SUCH LIMITATIONS, AND AS SO MODIFIED, THE INDEMNIFICATION OBLIGATION SHALL CONTINUE IN FULL FORCE AND EFFECT.

10. **Waiver of Liability.** ALL VEHICLES AND ALL PERSONAL PROPERTY WITHIN VEHICLES USING THE LICENSED SPACE, WHETHER PURSUANT TO THIS AGREEMENT OR OTHERWISE SHALL BE AT THE RISK OF LICENSEE ONLY, AND NO INDEMNITEES SHALL BE LIABLE FOR ANY LOSS OR THEFT OF OR DAMAGE TO PROPERTY OF LICENSEE, ITS EMPLOYEES, AGENTS, PATRONS, INVITEE, OR TO OTHERS, REGARDLESS OF WHETHER SUCH PROPERTY IS ENTRUSTED TO EMPLOYEES OF CITY OR SUCH LOSS OR DAMAGE IS OCCASIONED BY CASUALTY, THEFT OR ANY OTHER CAUSE OF WHATSOEVER NATURE, UNLESS DUE IN WHOLE OR IN PART TO THE NEGLIGENCE OF ANY INDEMNITEE.

11. **Charitable Immunity.** Licensee agrees that if it is a charitable organization, corporations, entity or individual enterprise having, claiming or entitled to any immunity, exemption (statutory or otherwise) or limitation from and against liability for damage or injury to property or persons under the provisions of the Charitable Immunity and Liability Act of 1987, C.P. R.C., § 84.001 et seq., or other applicable law, that Licensee hereby expressly waives its right to assert or plead defensively any such immunity or limitation of liability as against City.

12. **Insurance.** Licensee shall procure and maintain at all times, in full force and effect, a policy or policies of insurance as specified herein, which liability policy shall name the City of Fort Worth as an additional insured and covering all public risks related to the leasing, use, occupancy, maintenance, existence or location of the Licensed Space. Licensee shall obtain the following insurance coverage at the limits specified herein:

* **Commercial General Liability:** \$1,000,000.00 per occurrence (Including Products and Completed Operations);

In addition, Licensee shall be responsible for all insurance to any personal property of Licensee or in Licensee's care, custody or control. Licensee is allowed to self-insure without the prior written consent of City. Any self-insured retention or other financial responsibility for claims shall be covered directly by Licensee in lieu of insurance.

13. **Abandoned Property.** Licensee's personal property not promptly removed by Licensee from the Licensed Space at the termination of this Agreement, whether termination shall occur by the lapse of time or otherwise, shall thereupon be conclusively presumed to have been abandoned by Licensee to City. Fixtures attached to the Licensed Space become the property of City, if not removed as required herein.

14. **Assignment and Subletting.** Licensee shall not assign this Agreement, or any right of Licensee under this Agreement, or sublet the Licensed Space, for consideration or no consideration, whether voluntarily, by operation of law, or otherwise, and any attempt to do so shall be void, and any such attempt shall cause immediate termination of this Agreement; all provided that Licensee's contractors and agents may use the Licensed Space in accordance with the terms and provisions hereof.

15. **Damage to Licensed Space or Property of City.** If, at any time during the License Term, by the acts of omissions of the Licensee, its employees, agents, of licensees, the Licensed Space, or any property therein is damaged or destroyed, Licensee shall be obligated to pay, on demand, all costs to repair same together.

16. **Repairs and Maintenance.** City has no obligation to make repairs of any sort to the Licensed Space, City's sole obligation hereunder being to make the Licensed Space available to Licensee in

accordance with and subject to the covenants, restrictions and limitations set forth herein. Licensee shall, at its expense, use and maintain the Licensed Space in a neat, clean, careful, safe, and proper manner including but not limited to any snow and/or ice removal, and comply with all applicable laws, ordinances, orders, rules, and regulations of all governmental bodies (state, county, federal, and municipal). At no time may there be any maintenance of any trailers or trucks within the Licensed Space or Property and if a spill of any nature takes place arising from the actions of Licensee, Licensee must notify the Property Manager immediately and is responsible for all required clean up and repairs to the extent arising from the spill.

17. **Severability.** If any clause or provision of this Agreement is or becomes illegal, invalid or unenforceable because of present or future laws or any rule or regulation of any governmental body or entity, effective during the License Term, the intention of the parties hereto is that the remaining parts of this Agreement shall not be affected thereby unless such invalidity is, in the sole determination of the City, essential to the rights of both parties, in which event City has the right, but not the obligation, to terminate the Agreement on written notice to Licensee.

18. **Default and Termination.**

(a) **Licensee' Default.** If Licensee shall fail to perform or observe any of its obligations hereunder then City may terminate this Agreement by giving Licensee twenty (20) days prior written notice thereof. If Licensee fails to cure such default within fifteen (15) days of receipt of City's default notice than this Agreement and all interest of Licensee hereunder shall automatically terminate, but if Licensee does so cure such default within said 15 days, City's termination notice will be deemed withdrawn. Such rights of City in the case of a default by Licensee hereunder are not exclusive, but are cumulative of all other rights City may have hereunder, at law or in equity; and any one or more of such rights may be exercised separately or concurrently to the extent provided by law.

(b) **City's Default.** Should City commit a default under this Agreement, Licensee may terminate this Agreement by giving City twenty (20) days prior written notice thereof. If City fails to cure such default within fifteen (15) days of receipt notice then Licensee may terminate this Agreement- Such rights of Licensee in the case of a default by City hereunder are not exclusive, but are cumulative of all other rights Licensee may have hereunder, at law or in equity; and any one or more of such rights may be exercised separately or concurrently to the extent provided by law.

(c) **Termination by Convenience:** Either party may terminate this Agreement with ten(10) day written notice to other party.

19. **Notice.** Any notice hereunder must be in writing. Notice deposited or sent by nationally recognized overnight courier service, such as, but not limited to, Federal Express, by certified mail with return receipt requested, or by express mail properly addressed, postage paid, shall be effective-upon deposit. Notice given in any other manner herein shall be effective upon receipt at the address of the addressee. For purposes of notice, the addresses of the parties shall, unless changed as hereinafter provided, be as follows:

To City:

City of Fort Worth
Lease Management
Property Management Department

To Licensee:

Tarrant County Veteran's Council, a 501(C)3
7101 Bryant Irvin Rd., #16301
Fort Worth, TX 76132-4135

License Agreement between the City of Fort Worth and
Tarrant County Veterans Council

900 Monroe, Suite 400
Fort Worth, TX 76102

With a copy to:

City Attorney
City of Fort Worth
200 Texas Street
Fort Worth, TX 76102

The parties hereto shall have the continuing right to change their respective address by giving at least ten (10) days' notice to the other party.

20. **Audit.** City may at City's sole cost and expense, at reasonable times during Licensee's normal business hours and upon reasonable notice, audit Licensee's books and records, but only as it pertains to this Agreement and as necessary to evaluate compliance with this Agreement.

21. **Entire Agreement.** This Agreement constitutes the entire agreement between City and Licensee relating to the use of the Licensed Space and no prior written or oral covenants or representations relating thereto not set forth herein shall be binding on either party hereto.

22. **Amendment.** This Agreement may not be amended, modified, extended, or supplemented except by written instrument executed by both City and Licensee.

23. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which shall constitute but one and the same document.

(SIGNATURES APPEAR ON FOLLOWING PAGES)

In witness whereof, the parties hereto have caused this Lease to be executed as the day and year first above set forth.

CITY:

LICENSEE:

CITY OF FORT WORTH

TARRANT COUNTY VETERAN'S COUNCIL

By: _____
Dana Burghdoff
Assistant City Manager

By: _____
Name: Daniel T. Zmroczek

Date: _____

Title: President

Date: _____

CONTRACT COMPLIANCE MANAGER

By signing, I acknowledge that I am the person responsible for the monitoring and administration of this contract, including ensuring all performance and reporting requirements.

Name: _____

Title: _____

Date: _____

APPROVED AS TO FORM AND LEGALITY:

By: _____
Thomas Royce Hansen
Assistant City Attorney

Date: _____

ATTEST:

By: _____
Ronald P. Gonzales
Acting City Secretary

Date: _____

Form 1295: Not required
Contract Authorization:
M&C: Not required

License Agreement between the City of Fort Worth and
W. W. Grainger, Incorporated

