

PARKING LOT LICENSE AGREEMENT

This PARKING LOT LICENSE AGREEMENT (this “Agreement”) is made and entered into as of the ___ day of _____, 2016 (the “Effective Date”), by and between the COLLIN COLLEGE, a political subdivision of the State of Texas (“Collin College”), and the CITY OF PLANO, TEXAS, a Texas home-rule municipality (“Plano”). Collin College and Plano are sometimes referred to herein collectively as the “Parties” or singularly as a “Party.”

RECITALS

WHEREAS, Collin College is the owner of certain real property generally known as the Collin College Spring Creek Campus (collectively, the “Property”); and

WHEREAS, Collin College desires to grant and convey to Plano a license for ingress, egress and parking over and across portions of the Property, as depicted in Exhibit “A”, attached hereto and incorporated herein by reference (collectively, the “Licensed Parking Areas”), at certain times designated in this Agreement; and

WHEREAS, Plano desires to obtain a license to use the Licensed Parking Areas for overflow parking to serve patrons of the Texas Music Revolution music festival (the “Event”), which will occur at Plano’s Oak Point Park and Nature Preserve on March 25-26, 2016.

NOW, THEREFORE, for and in consideration of the above recitals, the covenants and conditions set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Plano and Collin College agree as follows:

ARTICLE 1 - LICENSE

1.1 Grant of Parking Lot License. Collin College hereby grants a non-exclusive license (the “Parking Lot License”) over and across the Licensed Parking Areas for the purpose of pedestrian and vehicular egress, ingress to and from, and access to, the parking lot improvements within the Licensed Parking Areas, subject to the terms of this Agreement. Plano may not use the Licensed Parking Areas for any other purpose without the prior written consent of Collin College.

1.2 No Cost to Collin College. The Parties agree that all costs and expenses associated in any way with Plano’s use of the Licensed Parking Areas shall be borne exclusively by Plano and that Collin College shall have no monetary obligations under this Agreement.

1.3 Payment to Collin College. In return for this Parking Lot License, Plano will pay to Collin College twenty percent (20%) of all parking lot receipts generated during the event (the “License Fee”). Payment shall be directed by US mail to the College representative listed in paragraph 6.1

ARTICLE 2 – MAINTENANCE AND RESPONSIBILITIES

2.1 Maintenance. Plano shall be wholly responsible for maintaining the Licensed Parking Areas during the Term (hereinafter defined), and shall repair any and all damages to the

Property and the Licensed Parking Areas, excluding ordinary wear and tear, that are sustained during Plano's use of the Licensed Parking Areas, whether or not such damages occur during the Term (the "Plano Damages"). All repairs shall be made at Plano's sole cost and expense. Collin College shall have the option of making repairs necessitated by Plano Damages if: (a) the Plano Damages interfere with Collin College's use of the Property and/or the Licensed Parking Areas, or the Plano Damages, in any way, pose a safety risk to the public or Collin College's officers, trustees, employees, representatives, students or invitees; and (b) Collin College notifies Plano of the Plano Damages and Plano fails to make the appropriate repairs within five (5) days of receiving notice thereof from Collin College. If Collin College makes the repairs under the provisions of this section, Collin College shall send a written invoice to Plano in order to be reimbursed for the cost of the repairs. Plano must pay the invoice within thirty (30) days of receiving the invoice.

2.2 No Alterations. Plano shall not make, nor allow to be made, any alterations of any kind to the Property or the Licensed Parking Areas without the prior written approval of Collin College. Plano shall not injure or damage in any manner the Property or the Licensed Parking Areas and shall not cause or permit anything to be done whereby the Property or the Licensed Parking Areas shall be in any manner injured or damaged.

2.3 Clean-Up. Plano shall be wholly responsible for cleaning the Licensed Parking Area and restoring it, as closely as possible, to the state it was in at the beginning of the Term, save ordinary wear and tear.

2.4 Restroom Facilities. Plano shall provide a sufficient number of portable toilets in the Licensed Parking Area to facilitate the use needs of Plano employees as well as third parties during the Event. These portable toilets shall be removed after the completion of the Event and prior to the end of the Term.

2.5 Refuse Receptacles. Plano shall provide a sufficient number of refuse receptacles (*i.e.*, trash cans) in the Licensed Parking Area to facilitate the use needs of Plano employees as well as third parties during the Event. These refuse receptacles shall be removed after the completion of the Event and prior to the end of the Term.

2.6 Security. Plano shall, at its sole cost and expense, retain licensed police officers employed by the Plano Police Department and Event Security personnel hired by the City to maintain security at the Licensed Parking Areas and ensure compliance with Section 4.1.

ARTICLE 3 – TERM AND TERMINATION

3.1 Term. The term of the Parking Lot License granted in this Agreement shall commence at 6 a.m. on March 25, 2016 and shall expire at 12:01 a.m. on March 28, 2016 (the "Term"), at which time this Agreement shall terminate.

3.2 Termination on Default. Notwithstanding the foregoing, Collin College shall have the right to terminate this Agreement if Plano fails to perform its obligations under this Agreement by providing twenty-four (24) hours written notice of termination.

3.3 Termination for Necessity. Collin College shall have the right to terminate this Agreement without notice to Plano in an emergency circumstance that would preclude the safe use of the Licensed Parking Areas. On termination of this Agreement under the provisions of this section, Collin College will refund the License Fee to Plano, and this Agreement and the Parking Lot License shall be deemed null and void, with Collin College having no other obligations or liability under this Agreement. This provision shall survive termination of the Agreement.

3.4 Condition on Termination. On termination of this Agreement, Plano shall surrender the Licensed Parking Areas to Collin College.

ARTICLE 4 – COMPLIANCE WITH LAWS

4.1 Compliance with Laws. Plano and its employees and agents shall, in connection with Plano's activities on or about the Licensed Parking Areas, comply with all applicable laws, rules, codes, regulations, ordinances, government programs and orders by any court or governmental agency (including, without limitation, laws relating to hazardous materials, toxic waste or other substances or materials potentially injurious to health, safety or welfare) relating to Plano's use of the Licensed Parking Areas. Plano acknowledges that Collin College has adopted certain rules and regulations covering the use of the Licensed Parking Areas and the conduct of persons at or on such Licensed Parking Areas, which rules may be amended from time to time at Collin College's sole discretion. Third party users who fail to comply with Collin College's rules and regulations, including Collin College's prohibition on the possession of alcohol on the Property, may be suspended from use of the Licensed Parking Areas.

ARTICLE 5 – LIABILITY

5.1 Liability. Collin College shall not be liable or responsible for maintaining or improving the Licensed Parking Areas or the Property and makes no representation about their safety, condition or suitability for intended use. Collin College shall not be liable or responsible for any damage or injury to persons or property during Plano's use of the Licensed Parking Areas, whether the damage or injury is caused by or results from: (a) fire, electricity, water, wind or other weather conditions; (b) the breakage, leakage, obstruction or other defects of pipes, sprinklers, wires, lighting fixtures or any other cause; (c) conditions arising on or about the Licensed Parking Areas or upon other portions of the Property, or from other sources or places; or (d) any act or omission of Plano. Plano assumes full responsibility for the conduct of any and all persons on or about the Licensed Parking Areas and the Property during Plano's use of the Licensed Parking Areas. Collin College does not waive its right of sovereign immunity by entering into or performing the terms and conditions of this Agreement.

5.2 Indemnity. Notwithstanding the foregoing paragraph 5.1, nothing in this Agreement shall be interpreted as an agreement by either party hereto to indemnify the other party. To wit, nothing in this Agreement shall be interpreted to impose upon Plano any duty to indemnify Collin College, and nothing in this Agreement shall be interpreted to impose upon Collin College any duty to indemnify Plano.

ARTICLE 6 – MISCELLANEOUS

6.1 Notices. Any notice provided or permitted to be given under this Agreement must be in writing and may be served by depositing the same in the United States Mail, addressed to the party to be notified, postage pre-paid and registered or certified with return receipt requested; by facsimile; by electronic mail, with documentation evidencing the addressee's receipt thereof; or by delivering the same in person to such party a via hand-delivery service, or to any courier service that provides a return receipt showing the date of actual delivery of the same to the addressee thereof. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee. For purposes of notification, the addresses of the Parties shall be as follows.

If to Collin College:

Collin College
Attn: Julie Bradley
Associate Vice President
Collin Higher Education Center
3452 Spur 399
McKinney, TX 75069

If to Plano:

City of Plano
Attn: Bruce Glasscock
1520 Avenue K
Plano, Texas 75074

And copying:

City of Plano
Attn: Parks and Recreation Department
5901 Los Rios Blvd.
Plano, TX 75074

6.2 Assignment. This Agreement is not assignable.

6.3 Severability. Should any part, term or provision of this Agreement or any document required herein to be executed or delivered be declared invalid, void or unenforceable, all remaining parts, terms and provisions hereof shall remain in full force and effect and shall in no way be invalidated, impaired or affected thereby, provided that the essential provisions for each Party remain valid, binding and enforceable.

6.4 Governing Law. This Agreement shall be construed under and in accordance with the laws of the State of Texas. The exclusive venue for any action arising out of the Parties' performance under this Agreement shall be a court of appropriate jurisdiction in Collin County, Texas.

6.5 Miscellaneous Drafting Provisions. This Agreement shall be deemed drafted equally by the Parties. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against either Party shall not apply. Headings in this Agreement are for the convenience of the Parties and are not intended to be used in construing this document.

6.6 No Joint Venture. The Parties do not intend that this Agreement be construed as finding that the Parties have formed a joint enterprise. The purposes for which each Party has entered into this Agreement are separate and distinct. It is not the intent of either of the Parties that a joint enterprise relationship is being entered into and the Parties specifically disclaim such relationship. This License does not constitute a joint enterprise, as there are no common pecuniary interests, no common purpose and no equal right of control among the Parties.

6.7 Entire Agreement. This Agreement contains the entire agreement of the Parties with respect to the matters contained herein and may not be modified or terminated except on the provisions hereof or by the mutual written agreement of the Parties.

6.8 No Waiver. Waiver by either Party of any breach of this Agreement, or the failure of either Party to enforce any of the provisions of this Agreement, at any time, shall not in any way affect, limit or waive such Party's right thereafter to enforce and compel strict compliance.

6.9 Binding Effect. This Agreement shall be binding on and shall inure to the benefit of the successors of the Parties.

6.10 Counterparts. This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. An electronic mail and/or facsimile signature will also be deemed to constitute an original if properly executed and delivered to the other Party.

6.11 Warranty of Authority. The individuals executing this Agreement on behalf of the respective Parties below represent to each other and to others that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the Party for which his or her signature appears, that there are no other Parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the Party for whom the individual is signing this Agreement, that each individual affixing his or her signature hereto is authorized to do so and that such authorization is valid and effective on the Effective Date.

6.12 No Third Party Beneficiaries. The Parties do not intend that this Agreement be construed as creating any right in any third party not a signatory to this Agreement, and the Parties do not intend to create any third party beneficiaries by entering into this Agreement.

6.13 Immunity. The Parties acknowledge and agree that, in executing this Agreement, the Parties have not waived, nor shall be deemed hereby to have waived, any defense or immunity, including governmental, sovereign and official immunity, that would otherwise be available to them against claims arising in the exercise of governmental powers and functions.

By entering into this Agreement, the Parties do not create any obligations, express or implied, other than those set forth herein.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year first above written.

COLLIN COLLEGE

By: _____
H. Neil Matkin, District President

CITY OF PLANO, TEXAS

By: _____
Bruce Glasscock, City Manager

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

BEFORE ME, the undersigned authority, on this day personally appeared **Dr. Mary McCrae**, known to me to be one of the persons whose names are subscribed to the foregoing instrument; he acknowledged to me that he is the duly authorized representative for the **Collin College** and that he executed said instrument for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this ____ day of _____ 2016.

Notary Public in and for the State of Texas

My Commission Expires:

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

BEFORE ME, the undersigned authority, on this day personally appeared **Bruce Glasscock**, known to me to be one of the persons whose names are subscribed to the foregoing instrument; he acknowledged to me that he is the duly authorized representative for the **City of Plano, Texas**, and that he executed said instrument for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this ____ day of _____ 2016.

Notary Public in and for the State of Texas

My Commission Expires:

EXHIBIT "A"

Licensed Parking Areas