

STATE OF TEXAS	§	<b>License and Facilities Agreement Among the City of Allen, Texas, Rivercrest Park, LLC., and Rivercrest Park Homeowners Association, Inc.</b>
	§	
	§	
COUNTY OF COLLIN	§	

This **LICENSE AND FACILITIES AGREEMENT** (“Agreement”) is made by and among the **City of Allen** (the “City”), a Texas home rule municipality, **Rivercrest Park, LLC.** (the “Owner”), a Texas limited liability company, and **Rivercrest Park Homeowners Association, Inc.**, (“the HOA”), a Texas non-profit corporation acting by and through their authorized representatives.

### **RECITALS**

**WHEREAS**, Owner owns the Property (as defined below), which is located in the City of Allen, Collin County, Texas; and

**WHEREAS**, Owner has requested that the Director of Engineering approve the installation of the Developer Improvements in association with the development of the Property subject to the Modifications; and

**WHEREAS**, the Director of Engineering has required that as a condition for approval of the Modifications, Owner, the HOA, and City enter into an agreement that provides for the perpetual maintenance, repair, and replacement of the Developer Improvements; and

**WHEREAS**, City, Owner, and the HOA desire to enter into this Agreement for the purpose of satisfying the foregoing condition;

**NOW THEREFORE**, in consideration of the premises and the mutual covenants contained herein and other valuable consideration the sufficiency and receipt of which are hereby acknowledged by the parties, City, Owner, and the HOA agree as follows:

### **Article I Definitions**

For the purposes of this Agreement, the following words and phrases shall have the meanings set forth herein unless the context clearly requires otherwise:

“Approved Plans” means the design and construction plans for the Developer Improvements approved by the Director of Engineering, or designee.

“Calendar Day” means each day of the week, with no days being excepted.

“City” means the City of Allen, Texas.

"Declaration of Subdivision Covenants, Conditions, and Restrictions" or "DCCRs" means those certain Declaration of Covenants, Conditions, and Restrictions for Rivercrest Park signed by

Owner and approved by City's City Attorney that are filed or to be filed in the Real Property Records of Collin County, Texas, and constitute restrictive covenants relating to the use and development of the Property, inclusive of any amendments thereto adopted from time to time.

"Developer Improvements" means the decorative street light poles, street lights, and all related fixtures, appurtenances, conduit, switches, lenses, bulbs, and/or equipment installed by Owner on public rights-of-way within the Property, inclusive of the Modifications, said improvements being generally depicted in Exhibit "A," attached hereto and incorporated herein by reference.

"Director of Engineering" means the Director of Engineering of the City of Allen or his designee.

"Effective Date" means the last date this Agreement is signed by the last of the parties to sign.

"Force Majeure" means any contingency or cause beyond the reasonable control of a party including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, adverse weather, government or de facto governmental action (unless caused by acts or omissions of such party), fires, explosions or floods, strikes, slowdowns or work stoppages.

"HOA" shall mean Rivercrest Park Homeowners Association, Inc., a Texas non-profit corporation, its successors and assigns.

"Licensed Area" means the areas within or adjacent to the Property generally described as all public street right-of-way located in the Replat of Rivercrest Park Addition, an addition to the City of Allen, Collin County, Texas, filed January 27, 2017, as Instrument No. 20170127010000450 in the Official Public Records, Collin County, Texas., and all adjacent utility easements adjacent to said public street right-of-way, said areas being generally depicted on Exhibit "B," attached hereto and incorporated herein by reference.

"Modifications" means modifications to City's standard specifications for street lights, street signs, and related fixtures and appurtenances as follows:

- (1) a fourteen (14) foot tall fluted aluminum extruded sign post, including the light fixture, with a wall thickness of not less than 0.125 inches and outside diameter of four (4) inches with cast aluminum accents and sign frames; and
- (2) street lights described as follows:
  - (a) HP-001 cast aluminum frame housing, 41.95 Watt lamps;
  - (b) CP83F, straight fluted round aluminum pole which is 14 feet tall and four (4) inches diameter, black in color with four (4) inch outside diameter circumferentially welded to a cast aluminum base

the detail drawing of which is set forth in Exhibit "A", attached hereto and incorporated herein by reference.

"Owner" means Rivercrest, during Rivercrest's ownership of the Developer Improvements, and any and all of its successors in title to the Common Areas of the Property as set forth in the DCCR's. "Owner" shall also be inclusive of any and all assignees of the rights and obligations of this Agreement pursuant to an assignment of all or a portion of this Agreement as authorized herein, including, but not limited to, the HOA, whether or not assumption of the obligations of this Agreement by the HOA are made by separate written agreement between Owner and the HOA or by operation of the provisions of the DCCR's.

"Property" means the real property located within the boundaries of the Replat of Rivercrest Park, an addition to the City of Allen, Collin County, Texas, filed January 27, 2017, as Instrument No. 20170127010000450 in the Official Public Records, Collin County, Texas.

## **Article II**

### **Term**

The term of this Agreement shall begin on the Effective Date and shall be perpetual, subject, however, to termination by the parties as provided herein.

## **Article III**

### **Grant of Non-Exclusive License**

**3.1 Grant of License.** Subject to the terms, conditions, and restrictions set forth in this Agreement, City finds that it will serve the public purpose to grant, and it does hereby grant to Owner a revocable, non-exclusive license to enter onto and use the Licensed Area for the purpose of (i) constructing, reconstructing, maintaining, repairing, replacing, or removing the Developer Improvements, and (ii) to perform such other tasks that this Agreement obligates Owner, its successors and assigns to perform. This Agreement and the license granted hereby is subject to any existing public or private easement and/or facility located in, on, under, above, across or upon the Licensed Premises, to all vested rights presently owned by any utility or communication company, public or private, for the use of the Licensed Premises for facilities presently located within the boundaries of the Licensed Premises and to any existing lease, license, or other interest in the Licensed Premises granted by City to any individual, corporation or other entity, public or private now or hereafter.

**3.2 Future City Use.** This Agreement is made expressly subject and subordinate to the right of City to use the Licensed Premises for any public purpose whatsoever or to grant the right to use the Licensed Premises to others. In the event that City shall, at any time subsequent to the date of this Agreement, at its sole discretion, determine that the relocation or removal of the Developer Improvements shall be necessary or convenient for City's use of the Licensed Premises, Owner shall at its sole cost and expense make or cause to be made such modifications, removal or relocation of the Developer Improvements as is required so as to not interfere with the City's or City's assigns' use of the Licensed Premises. A minimum of three (3) months written notice for

the exercise of the above action shall be given by City, and Owner shall commence to make the required modification, relocation or removal within thirty (30) days after receipt of such notice and to complete the same within ninety (90) days thereafter. Owner shall be responsible for and shall promptly pay any expenses incurred by City for the modification, relocation or removal of the Developer Improvements in the event Owner fails to timely take the required actions.

## **Article IV**

### **Design and Construction**

**4.1 Compliance with Laws.** Owner shall fully comply with all local, state and federal laws, including all codes, ordinances and regulations applicable to this Agreement and the work to be done hereunder, which exist or which may be enacted later by governmental bodies having jurisdiction or authority for such enactment.

**4.2 Specifications.** The Developer Improvements shall be designed and constructed and/or installed in compliance with the Approved Plans, City's most current version of its standard design and construction specifications, and the Modifications, to the extent the Modifications modify the City's standard design and construction specifications.

**4.3 Inspection and Acceptance of the Developer Improvements.** The inspection and approval of the Developer Improvements by the City shall be conducted in the same manner as inspection and acceptance of other public improvements constructed and/or installed in association with the development of property in the City of Allen, Texas, pursuant to the Allen Land Development Code, as amended, and the current policies and procedures of the City's Engineering Department.

**4.4 Approval of Construction Documents.** No approval of designs, plans, and specifications by City shall be construed as representing or implying that improvements built in accordance therewith shall be free of defects, and any such approvals shall in no event be construed as representing or guaranteeing that any improvements built in accordance therewith will be designed or built in a good and workmanlike manner. Neither City nor its elected officials, officers, employees, contractors, and/or agents shall be responsible or liable in damages or otherwise to anyone submitting plans and specifications for approval by City for any defects in any plans or specifications submitted, revised, or approved, any loss or damages to any person arising out of approval or disapproval or failure to approve or disapprove any plans or specifications, any loss or damage arising from the noncompliance of such plans or specifications with any governmental ordinance or regulation, nor any defects in construction undertaken pursuant to such plans and specifications.

**4.5 Indemnity Against Design Defects.** Approval of the Director of Engineering or other City employee, officer, or consultant of any plans, designs or specifications submitted by the Owner under this Agreement shall not constitute or be deemed to be a release of the responsibility and liability of Owner, its engineers, contractors, employees, officers, or agents for the accuracy and competency of their design and specifications. Such approval shall not be deemed to be an assumption of such responsibility or liability by City for any defect in the design and specifications prepared by the Owner's consulting engineer, its officers, agents, servants, or employees, it being

the intent of the parties that approval by the Director of Engineering or other City employee, officer or consultant signifies City approval of only the general design concept of the improvements to be constructed. **Owner shall indemnify and hold harmless City, its officers, agents, and employees, after the written approval and acceptance of the Developer Improvements by the City from any loss, damage, liability or expense on account of damage to property and injuries, including death, to any and all persons which may arise out of any defect, deficiency or negligence of the designs and specifications to the extent prepared or caused to be prepared by Owner and incorporated into any improvements constructed in accordance therewith, and Owner shall defend at Owner's own expense any suits or other proceedings brought against City, its officers, agents, employees, or any of them, on account thereof, to pay all reasonable expenses and satisfy all judgments which may be incurred by or rendered against them, collectively or individually, personally or in their official capacity, in connection herewith.**

## **Article V Maintenance and Repair of Developer Improvements**

**5.1 Developer Improvements to be Maintained by Owner – Generally.** Subject to and in accordance with the provisions of this Agreement, Owner, at Owner's sole cost and expense, shall maintain the Developer Improvements, including but not limited to, performance of all manufacturer-recommended maintenance and all repair, replacement, and removal.

**5.2 Scheduling Maintenance or Repairs.** Owner shall notify the Director of Engineering not later than five (5) business days prior to commencing any maintenance, repair, replacement, or removal of any of the Developer Improvements that requires work to be performed on any City street, alley, or other public right-of-way, or which is sufficiently close to any of said areas as to require use of a City street, alley, or other public right-of-way in order to perform such work. Owner shall not commence any maintenance or repair work on the surface of the Licensed Premises unless and until the Director of the Engineering Department or designee has agreed on the times and dates on which such maintenance or repair work will occur.

**5.3 Failure to Maintain Developer Improvements.** In the event Owner fails to perform repairs or maintenance on the Developer Improvements as required by Section 5.1, above, on or before the fifteenth (15th) calendar day after City provides written notice and demand to perform such maintenance, City may perform such maintenance, the cost of which shall become a debt owed by the then current Owner of the Developer Improvements to the City and which shall be paid to City on written demand of the City to the Owner of the Property. Amounts due City by the Owner of the Property pursuant to this Section 5.3 shall accrue interest at the highest rate permitted by law if not paid on or before the 30<sup>th</sup> day after written demand is made for such payment. Alternatively, in the event Owner fails to respond to a written request to repair the identified Developer Improvements, City shall have the right, but not the obligation, to replace the Developer Improvement with sign poles, street lights, related fixtures, equipment and/or appurtenances that comply with City's standard specifications, the cost of which, including the costs of the initial installation shall become a debt owed by the Owner to the City. After the initial installation, City shall be responsible for the cost of maintaining, repairing, or replacing City-

standard fixtures, equipment, or materials that City elects to install in place of any Developer Improvements that Owner failed to repair. City's election to replace any of the Developer Improvements in accordance with this Section 5.3 shall not relieve Owner of the obligation to maintain, repair, or replace the remaining Developer Improvements.

**5.4 Emergency Repairs - Generally.** Notwithstanding Section 5.3, above, in the event City reasonably determines that the failure to immediately perform any extraordinary repairs or maintenance of any of the Developer Improvements will result in eminent harm or injury to person or damage to property, either real or personal, public or private, City may, after reasonable notice to Owner, proceed to perform the necessary repair work to the Developer Improvements and to charge the reasonable and necessary cost to Owner in the same manner as agreed pursuant to Section 5.3; provided, however, Owner shall have thirty (30) days following receipt of an invoice from City to reimburse the cost of the extraordinary repair or maintenance.

**5.5 Removal of Hazardous Developer Improvements.** In the event City determines that an element of the Developer Improvements constitutes an imminent risk to the public health and safety or damage to public property, City agrees to notify Owner of such determination and provide Owner five (5) days after receipt of such notice to remove the Developer Improvement(s) described in the notice (or sooner, if the condition of the described Developer Improvements is such that removal within a shorter time period is required to prevent injury to person or property). Owner shall remove the described Developer Improvement within the time provided in said notice. If Owner fails to remove the identified Developer Improvement within the time provided by the notice given pursuant to this Section 5.5, City may remove the identified Developer Improvement(s) and charge such cost of removal to Owner as allowed in Section 5.3. Owner hereby releases and holds City harmless regarding the removal of any Developer Improvements pursuant to this Section 5.5, and acknowledges and agrees that City shall have no obligation to replace the Developer Improvement removed pursuant to this Section 5.5, nor to consent to Owner's replacement of the removed Developer Improvement if City reasonably determines that such replacement would renew the threat to the public health and safety that was previously remedied.

**5.6 Permits.** Prior to commencing any work within the Licensed Premises, Owner must comply with all permit requirements, traffic plan requirements, and/or any other City ordinance or regulation relating to performing work within and/or making repairs or improvements to or in close proximity of the City's right-of-way or otherwise using City's right-of-way for purpose of making repairs to the Developer Improvements. This Agreement does not authorize Owner or any of Owner's officers, employees, agents, or contractors, to perform any work within City's easements or rights of way or on any property leased, owned, or otherwise controlled by City. Owner, or any of Owner's officers, employees, agents, or contractors shall at all times comply with City's ordinances and regulations regarding performance of work on City property or within City's easements and rights-of-way, including, but not limited to, compliance with Chapter 13 of City's Code of Ordinances, as amended.

**5.7 On-Going Inspection and Maintenance Requirements.** Owner shall perform, at Owner's expense, such inspection and maintenance of the Developer Improvements consistent with the standards adopted by City for the inspection and maintenance of similar types of facilities,

equipment and improvements owned by City. The Developer Improvements will be inspected regularly by City during the routine city-wide audit. City will notify Owner of any outage observed during the audit, or as identified by a resident-complaint received by City. Owner shall complete basic repairs (i.e. lamp replacement, lens replacement, ballast replacement, etc) not later than three (3) business days basic repairs after receipt of notice from the City. Repairs or replacement of street lighting made necessary because of substantial damage or destruction to the pole, foundation, or other component resulting from a windstorm, traffic accident, or other similar occurrence shall be repaired or replaced within a mutually-agreed-upon timeframe, but in no case later than sixty (60) days from the date Owner receives notice of the event resulting in such damage or destruction. Owner will maintain a current set of record drawings and provide to City's staff to perform routine location of underground facilities and installations within 48 hours of receipt of City's request.

## **Article VI**

### **Release and Indemnification; Insurance**

**6.1 Release and Indemnification.** Owner shall defend, protect and keep City, its officers, agents, employees and invitees forever harmless and indemnified against and from any penalty, or any damage, or charge, imposed for any violation of any law, ordinance, rule or regulation arising out of the construction, installation, maintenance, repair and use of the Licensed Premises and the Developer Improvements by Owner, whether occasioned by the neglect of Owner, its employees, officers, agents, contractors, successors, or assigns or those holding under Owner. Owner shall at all times defend, protect and indemnify and it is the intention of the parties hereto that Owner hold City, its officers, agents, employees and invitees harmless against and from any and all loss, cost, damage, or expense, including attorney's fee, arising out of or from any accident or other occurrence on or about the Licensed Premises causing personal injury, death or property damage resulting from use of the Public Improvements or Licensed Premises by Owner, its agents, employees, customers and invitees as authorized herein, except when caused by the negligence or willful misconduct of City, its officers, employees or agents, and only then to the extent of the proportion of any fault determined against City for its willful misconduct. Owner shall at all times defend, protect, indemnify and hold the City, its officers, agents, employees and invitees harmless against and from any and all loss, cost, damage, or expense, including attorney's fees arising out of, or from any and all claims or causes of action resulting from any failure of Owner, its officers, employees, agents, contractors, successors, or assigns in any respect to comply with and perform all the requirements and provisions of this Agreement. Owner hereby releases and waives all claims against the City, its officers, agents, employees and invitees for damages, court costs, attorney fees, expenses and actions of any kind arising or allegedly to arise by reason of this Agreement including the repair, damage, destruction, relocation and removal of the Developer Improvements by Owner and further agrees to indemnify and hold harmless City, its officers, agents, employees and invitees from and against any such claims, damages, attorney fees and expenses. For purpose of clarifying this Section 6.1, the fact that the Developer Improvements are located within the Licensed Premises constitutes "use of the Public Improvements or Licensed Premises" by Owner regardless of whether or not Owner or any of its officers, employees, agents, contractors, subcontractors, invitees, or guests are physically present within the Licensed Premises at the time of the event giving rise to the

**injury or claim giving rise to Owner's obligation to indemnify Owner and the other parties identified in this Section 6.1.**

**6.2 Insurance.** Throughout the Term of this Agreement, Owner shall, at Owner's expense obtain and maintain the following insurance policies and in accordance with the following terms and conditions:

(a) Commercial General Liability insurance for bodily injury, death or property damage, insuring Licensee and naming Licensor as an additional insured, against all claims, demands, or actions relating to the Licensed Premises on an occurrence basis, issued by and binding upon a solvent insurance company licensed to do business in Texas, with a minimum combined single limit of not less than \$2,000,000 per occurrence for injury to persons (including death), and for property damage or destruction, including loss of use. Said Commercial General Liability insurance shall include provisions for insuring operations hazard, independent contractor hazard, contractual liability and products and completed operations liability, in limits not less than \$2,000,000 combined single limit for each occurrence for bodily injury, personal injury and property damage liability.

(b) Worker's Compensation and Employer's Liability insurance.

(c) Insurance covering all Developer Improvements located or being constructed on the Licensed Premises against loss or damage from perils covered by an all risk or special form policy. This insurance is to be carried by insurance companies authorized or admitted to transact business in Texas with a Best's Insurance Rating of A or A+ or better, selected by Owner and approved by City, which approval shall not be unreasonably withheld. The insurance shall be in amounts not less than eighty (80%) percent of the full insurable value of the Developer Improvements and any other improvements included on the Licensed Premises.

(d) Construction liability insurance at all times when demolition, excavation, or construction work is in progress on the Licensed Premises. This insurance must be carried by insurance companies authorized or admitted to transact business in Texas with a Best's Insurance Rating of A or A+ or better, selected by Licensee and approved by City, which approval shall not be unreasonably withheld. The insurance will have limits of not less than \$150,000 for property damage and \$300,000 for one person and \$2,000,000 for one accident for personal injury and must protect Owner and City, as well as any other person or persons Owner may designate, against all liability for injury or damage to any person or property in any way arising out of demolition, excavation, or construction work on the Licensed Premises.

(e) Prior to any use of the Licensed Premises, Owner shall furnish to City certificates of insurance showing that Owner is in compliance with the insurance coverage requirements of this Section 6.2 and indicating the exclusions from coverage, if any. All insurance required by this Section 6.2 shall be primary and noncontributing with any insurance that may be carried by City. City reserves the right, from time to time throughout



the term of this Agreement, to reasonably increase the minimum insurance limits set out herein to ensure that adequate insurance is being maintained.

(f) All insurance and certificate(s) of insurance shall contain the following provisions: (i) name City, its officers, agents and employees as additional insureds as to all applicable coverage with the exception of Workers Compensation Insurance; (ii) provide for at least thirty (30) days prior written notice to City for cancellation, non-renewal, or material change of the insurance; (iii) provide for a waiver of subrogation against City for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance.

**6.3 Failure to Obtain Insurance.** In the event Owner or Owner's successor in title fails obtain the insurance required by this Article VI on or before the tenth (10th) calendar day after City provides written notice and demand to obtain such insurance, City may obtain such insurance on Owner's behalf, the cost of which shall become a debt owed by the then current Owner of the Property to the City and which shall be paid to City on written demand of the City to the Owner of the Property. Amounts due City by the Owner pursuant to this Section 6.3 shall accrue interest at the highest rate permitted by law if not paid on or before the 30th day after written demand is made for such payment.

## **Article VII Miscellaneous**

**7.1 Notices.** When notice is permitted or required by this Agreement, it shall be in writing and shall be deemed delivered when delivered in person or on the date when placed, postage prepaid in the United States mail, certified return receipt requested, and addressed to the parties at the address set forth below. Either Party may designate from time to time another and different address for receipt of notice by giving notice of such change or address.

**If intended for Owner to:**

Rivercrest Park LLC  
16475 Dallas Parkway, Suite 540  
Addison, Texas 75001

**With Copies to::**

David Tatum  
Geary Porter & Donovan, P.C.  
16475 Dallas Parkway, Suite 400  
Addison, Texas 75001

**If intended for HOA to:**

Rivercrest Park HOA, Inc.  
16475 Dallas Parkway, Suite 540  
Addison, Texas 75001

**With Copies to::**

Pat Clark  
Excel Association Management  
PO Box 260997  
Plano, Texas 75026-0997

**In intended for City to:**

City of Allen, Texas  
Attn: City Manager  
305 Century Parkway  
Allen, Texas 75013

**With Copies to:**

Director of Engineering  
City of Allen, Texas  
305 Century Parkway  
Allen, Texas 75013

Peter G. Smith  
Nichols, Jackson, Dillard, Hager & Smith, LLP  
500 N. Akard, Suite 1800  
Dallas, Texas 75201

**7.2 Binding Effect.** This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

**7.3 Assignment.** Owner shall not assign or transfer its rights or obligations under this Agreement in whole or in part to any other person or entity without the prior written consent of City, which consent will not be unreasonably withheld or delayed; provided, however, Owner may assign or transfer, in whole or in part, its rights or obligations under this Agreement to the HOA without the prior consent of City, but only if Owner provides City notice of the assignment to the HOA. The HOA agrees that any assignment or transfer of any of the obligations under this Agreement by Owner to the HOA will constitute an assumption of such assigned obligations, without amendment, from and after the date of such assignment. Owner acknowledges and agrees that Owner shall remain responsible for the duties and obligations accruing to Owner prior to the date of such assignment to the HOA. The Parties agree that upon any such assignment to the HOA, Owner shall be released from any duties or obligations under this Agreement from and after the date of the assignment; provided, however, Owner shall not be released from any obligations accruing prior to the date of release including, but not limited to, any amounts due and payable to City pursuant to the provisions of Article V of this Agreement

**7.4 Severability.** In the event any section, subsection, paragraph, sentence, phrase or word herein is held invalid, illegal or unconstitutional, the balance of this Agreement shall be enforceable and shall be enforced as if the Parties intended at all times to delete said invalid section, subsection, paragraph, sentence, phrase or word.

**7.5 Governing Law.** The validity of this Agreement and any of its terms and provisions, as well as the rights and duties of the parties, shall be governed by the laws of the State of Texas; and venue for any action concerning this Agreement shall be in a State Court of competent jurisdiction in Collin County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said court.

**7.6 Entire Agreement.** This Agreement embodies the entire Agreement between the parties and supersedes all prior Agreements, understandings, if any, relating to the Property and the matters addressed herein and may be amended or supplemented only by written instrument executed by the party against whom enforcement is sought.

**7.7 Recordation of Agreement; Memorandum of Agreement.** A certified copy of this Agreement shall be recorded in the Real Property Records of Collin County, Texas. In lieu of recording the entirety of this Agreement, the Parties agree that a memorandum of agreement in a form approved by the Parties may be recorded in the Real Property Records of Collin County, Texas.

**7.8     Recitals.** The Recitals to this Agreement are incorporated herein as part of this Agreement.

**7.9     Exhibits.** All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

**7.10   Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

**7.11   Headings.** The headings of this Agreement are for the convenience of reference only and shall not affect in any manner any of the terms and conditions hereto.

**7.12   Covenants Run With Property.** The provisions of this Agreement are hereby declared covenants running with the Property and are fully binding on Owner and each and every subsequent Owner of all or any portion of the Property but only during the term of such Party's ownership thereof (except with respect to defaults that occur during the term of such person's ownership) and shall be binding on all successors and assigns of Owner which acquire any right, title, or interest in or to the Property, or any part thereof. Any person who acquires any right, title, or interest in or to the Property, or any part hereof, thereby agrees and covenants to abide by and fully perform the provisions of this Agreement with respect to the right, title or interest in such Property. Notwithstanding anything to the contrary above, Owner or the HOA shall at all times remain liable to City with respect to the provisions of this Agreement. In addition, notwithstanding anything to the contrary above, in the event Owner sells a residence constructed on a platted lot within the Property to a third party that is not related to or affiliated with Owner or the HOA, such lot and residence shall no longer be subject to the terms and provision of this Agreement and the owner or owners of such lot and residence shall not be liable to City with respect to the provisions of this Agreement; provided, however, the Parties understand and agree that the foregoing shall not relieve such third party from any obligation to pay dues and assessments levied by the HOA pursuant to the DCCRs relating to recovery by Owner or the HOA of costs related to the obligations of Owner or the HOA, or otherwise terminate City's rights to assert and/or enforce City's rights as set forth in the DCCRs to the extent that those rights may directly or indirectly affect such third party.

**(Signature Pages Following)**

**SIGNED AND AGREED** this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

**CITY OF ALLEN, TEXAS**

By: \_\_\_\_\_  
Peter H. Vargas, City Manager

**ATTEST:**

\_\_\_\_\_  
Shelley B. George, TRMC, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Peter G. Smith, City Attorney

**CITY'S ACKNOWLEDGMENT**

**STATE OF TEXAS**                    §  
   §  
**COUNTY OF COLLIN**           §

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2017  
by Peter H. Vargas, City Manager of the City of Allen, Texas, on behalf of said municipality.

\_\_\_\_\_  
Notary Public, State of Texas

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

My Commission Expires: \_\_\_\_\_

**SIGNED AND AGREED** this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

**RIVERCREST PARK LLC, a Texas limited liability corporation**

**By: Jorparks, Inc., a Texas Corporation,  
its Manager**

By: \_\_\_\_\_  
Shane Jordan, President

**OWNER'S ACKNOWLEDGMENT**

**STATE OF TEXAS                    §  
   §  
COUNTY OF COLLIN           §**

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2017, by Shane Jordan, President of Jorparks, Inc, the Manager of Rivercrest Park, LLC, a Texas limited liability company, on behalf of said company.

\_\_\_\_\_  
Notary Public, State of Texas

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

My Commission expires: \_\_\_\_\_

**SIGNED AND AGREED** this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

**RIVERCREST PARK HOMEOWNERS  
ASSOCIATION, INC., a Texas non-profit  
corporation**

By: \_\_\_\_\_  
Shane Jordan, President

**HOA's ACKNOWLEDGMENT**

**STATE OF TEXAS                   §  
   §  
COUNTY OF COLLIN         §**

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2017, by  
Shane Jordan, President of **Rivercrest Park Homeowners Association, Inc.**, a Texas non-profit  
corporation, on behalf of said corporation.

\_\_\_\_\_  
Notary Public, State of Texas

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

My Commission expires: \_\_\_\_\_

**Exhibit "A"**  
**Detail Drawings for Modifications**

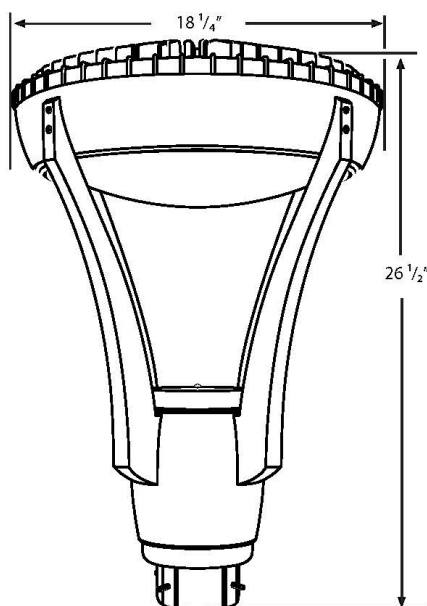


**BRANDON®**

INDUSTRIES

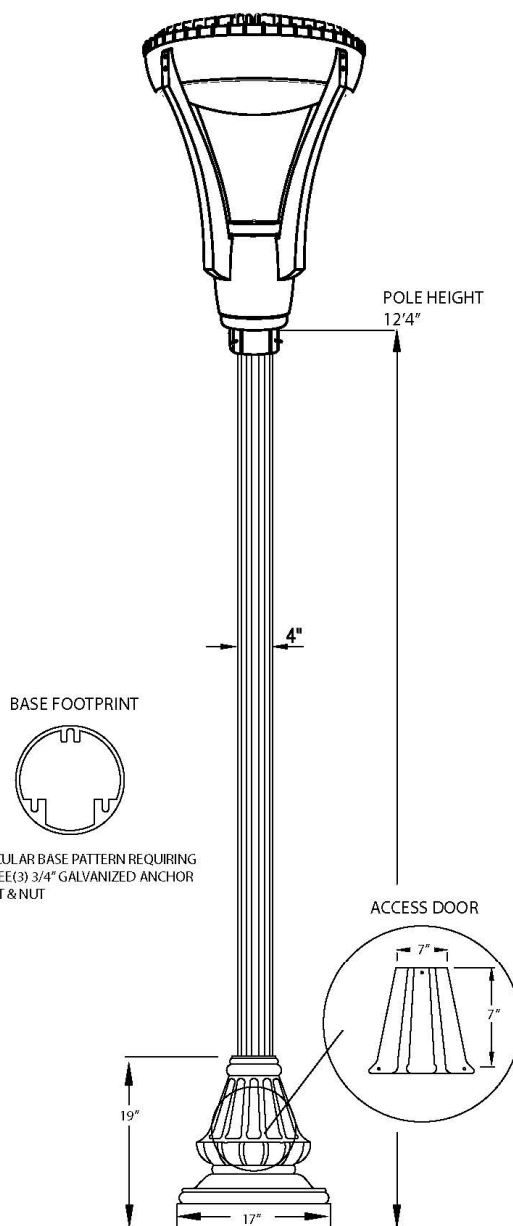
1601 Wilmeth Road  
 McKinney, Texas 75069  
 Phone: 972.542.3000  
 Toll Free: 800.247.1274  
 brandonindustries.com

**HP-001 LUMINAIRE**



CRITERIA	RESULT
TOTAL LUMINOUS FLUX:	2740
POWER:	41.95
Tt AND Tj(°C)¹:	40 / 71
POWER FACTOR:	0.993
LUMENS PER WATT (LPW):	65.3
OPTICAL EFFICIENCY (%):	72
DRIVER EFFICIENCY (%):	90
CCT (K):	4219
CRI (Ra):	82
CHROMATICITY (X-COORD):	0.3723
CHROMATICITY (Y-COORD):	0.3754

DRAWING FOR INFORMATION ONLY, NOT INTENDED FOR CONSTRUCTION PURPOSES.



**CL83 - HP001 SPECIFICATON**

### Depiction of Licensed Area

