

TOWN OF ADDISON, TEXAS

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING A LEASE AGREEMENT BETWEEN TOWN OF ADDISON AND DCO CLIPPER POINTE LP FOR APPROXIMATELY 1400 SQUARE FEET LOCATED AT 4015 VITRUVIAN AS AN ADDISON POLICE DEPARTMENT COMMUNITY SUBSTATION, AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT, AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

Section 1. The Lease Agreement between the Town of Addison and DCO Clipper Pointe LP for approximately 1400 square feet located at 4015 Vitruvian as an Addison Police Department community substation, a copy of which is attached to this Resolution as **Exhibit A**, is hereby approved. The City Manager is hereby authorized to execute the agreement.

Section 2. This Resolution shall take effect from and after its date of adoption.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this the 28th day of February, 2017.

Todd Meier, Mayor

ATTEST:

By: _____
Laura Bell, City Secretary

APPROVED AS TO FORM:

By: _____
Brenda N. McDonald, City Attorney

EXHIBIT A

STATE OF TEXAS §
COUNTY OF DALLAS §
TOWN OF ADDISON §

LEASE AGREEMENT (this "Lease")

In consideration of the rents and covenants hereinafter set forth, which are mutually agreed to by Landlord and Tenant, Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the following described premises on the following terms and conditions:

1. **FUNDAMENTAL LEASE PROVISIONS:**

- 1.1 Effective Date: March 1, 2017.
- 1.2 Landlord: DCO Clipper Pointe LP, a Delaware limited partnership.
- 1.3 Tenant: Town of Addison, Texas, a home-rule municipality.
- 1.4 Leased Premises: The Leased Premises located at 4015 Vitruvian, Addison, Texas 75001, approximately 1400 square feet (hereinafter referred to as the "Premises").
- 1.5 Lease Term: The term of this Lease Agreement (this "Lease") shall be for two (2) years commencing on the Effective Date and ending on February 28, 2019, unless earlier terminated as otherwise provided for herein, or renewed as provided herein.
- 1.6 Renewal: Tenant shall have the right to renew this Lease for additional two (2) year terms following the expiration of the Lease Term; provided, however, Tenant submits to Landlord a written request for said renewal at least three (3) months prior to the expiration of the Term. Any extension of this Lease will require a written amendment to same, signed by both parties.
- 1.7 Holding Over: Should Tenant hold over in possession with the consent of the Landlord upon the expiration of the Term of this Lease, or of any renewal term, such holding over shall not be deemed to extend or renew this Lease, but tenancy thereafter shall be from month to month only, at the rental in effect during the last month of the term, subject to being terminated by either party upon thirty (30) days written notice prior to the expiration of the then-current month.
- 1.8 Address of Notices

To Landlord: c/o UDR, Inc.
 1745 Shea Center Drive, Suite 200
 Highlands Ranch, CO 80129
 Attn: Legal

To Tenant: TOWN OF ADDISON
P.O. Box 9010
Addison, Texas 75001
Attn: Wesley S. Pierson, City Manager

1.9 References in this Section 1 to other Sections are for convenience only and to designate some of the other Sections where references to the particular Fundamental Lease Provisions appear. Each reference in this Lease to any of the Fundamental Lease Provisions contained in this Section 1 shall be construed to incorporate all of the terms provided under each such Fundamental Lease Provision.

2. **PREMISES.**

2.1 Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises set forth in Paragraph 1.4 herein. The Premises are leased by Landlord and accepted by Tenant in an "as is" condition as of the Effective Date.

2.2 The Lease created hereby is upon the terms, covenants and conditions set forth herein and Landlord and Tenant covenant, as a material part of the consideration for the Lease, to perform all of said terms, covenants and conditions required to be performed by Tenant and Landlord, respectively, and further covenant that this Lease is made upon the condition of such performance.

3. **USE OF PREMISES**

3.1. Tenant shall be authorized to use the Premises as an Addison Police Department community substation, for the sole purpose of community relations and for no other purpose without prior written consent of Landlord.

3.2 Tenant covenants that there shall be no holding cells at the Premises and Tenant covenants it shall not transport detainees to the Premises for any reason.

3.3. If any governmental license or permit is required for the lawful conduct of any activity carried on by Tenant in or on the Premises, and if the failure to obtain such license or permit would affect Landlord, Tenant shall procure and maintain such license or permit throughout the term of this Lease, submit such license or permit for inspection by Landlord and comply at all times with all terms and conditions thereof.

3.4 Tenant shall not (either with or without negligence) cause or permit the escape, disposal or release of any biologically or chemically active or other hazardous substances or materials at the Premises. Tenant shall not allow the storage or use of such substances or materials in any manner not sanctioned by law or by the highest standards prevailing in the industry for the storage and use of such substances or materials, nor allow to be brought into the Premises any such materials or substances. Without limitation, hazardous substance and materials shall include those described

in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601 et seq., any applicable state or local laws and the regulations adopted under these acts, and asbestos. If any lender or governmental agency should ever require testing to ascertain whether or not there has been any release of hazardous materials by Tenant or its employees, agents, contractors, invitees or licensees anywhere in the Project, then the reasonable costs thereof shall be reimbursed by Tenant to Landlord upon demand as additional rent if such requirement applies to the Premises. In addition, Tenant shall execute affidavits, representations and the like from time to time at Landlord's request concerning Tenant's best knowledge and belief regarding the presence of hazardous substances or materials on the Premises.

- 3.5 At Tenant's expense, Tenant may install suite signage at Tenant's entry to the Premises, subject to Landlord's written approval. Tenant shall not paint, place, display or otherwise maintain any signs or advertising of any kind in or about the Premises which can be seen from anywhere outside the Premises, without Landlord's prior written consent. Tenant acknowledges that the Premises will accommodate window signage only and no signage shall be affixed to the exterior of the building. Any such consent by Landlord shall be upon the understanding and condition that Tenant shall remove the sign(s) at the expiration or sooner termination of this Lease and Tenant shall repair any damage to the Premises caused thereby.

4. **LEASE TERMINATION**

- 4.1 The term of this Lease shall be the period of time specified in Paragraph 1.5, unless terminated as provided hereinafter.
- 4.2 NOTWITHSTANDING ANY PROVISION OF THIS LEASE TO THE CONTRARY, LANDLORD OR TENANT MAY TERMINATE THIS LEASE, WITH OR WITHOUT CAUSE, UPON PROVIDING NINETY (90) DAYS WRITTEN NOTICE OF SAME TO THE OTHER PARTY.

5. **RENTAL**

The annual rental payment amount shall be **Ten and 00/100s Dollars (\$10.00)**, paid on the Effective Date and so long as this Lease remains in effect, yearly on the anniversary of the Effective Date. In addition to the rental payment amount, Tenant shall pay any Additional Rent as provided for in Section 6 herein below.

6. **UTILITIES AND SERVICES AND ADDITIONAL RENT**

Tenant shall pay a monthly flat fee of **Four Hundred and 00/100 Dollars (\$400.00)** ("Utilities Fee") as Additional Rent for all customary and necessary utilities including but not limited to, electricity, water, gas, heat, and any other utilities used by Tenant on the Premises from and after the Effective Date of this Lease. If Landlord's cost and expense for providing

such utilities increases during the Term of this Agreement, Landlord reserves the right to increase the Utilities Fee at any time on thirty (30) days' notice to Tenant. Landlord shall not be liable in damages or otherwise for any failure or interruption of any utility service being furnished to the Premises, and no such failure or interruption shall entitle Tenant to terminate this Lease or to abate payment of any portion of the rent due hereunder. All operating expenses, routine maintenance, HVAC and plumbing repairs (excluding replacement) related to the Premises, if any, shall be promptly paid by Tenant. The Tenant shall be responsible for any repairs/modifications to comply with current building codes.

7. **QUIET POSSESSION**

Landlord agrees that Tenant's quiet enjoyment of the Premises shall not be disturbed, as long as Tenant pays rent and performs the covenants and conditions of this Lease until the end of the Term or the earlier termination of this Lease.

8. **DISCLAIMER OF IMPLIED WARRANTIES** LANDLORD AND TENANT EACH HEREBY EXPRESSLY DISCLAIM ANY IMPLIED WARRANTY THAT THE PREMISES ARE SUITABLE FOR TENANT'S INTENDED COMMERCIAL PURPOSE, AND TENANT'S OBLIGATION TO PAY RENT HEREUNDER IS NOT DEPENDENT UPON THE CONDITION OF THE PREMISES OR THE PERFORMANCE BY LANDLORD OF ITS OBLIGATIONS HEREUNDER AND, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, TENANT SHALL CONTINUE TO PAY THE RENT, WITHOUT ABATEMENT, DEMAND, SETOFF OR DEDUCTION, NOTWITHSTANDING ANY BREACH BY LANDLORD OF ITS DUTIES OR OBLIGATIONS HEREUNDER, WHETHER EXPRESS OR IMPLIED. TENANT HEREBY ACKNOWLEDGES AND AGREES THAT TENANT IS RELYING SOLELY ON ITS OWN INSPECTIONS, INVESTIGATIONS, DUE DILIGENCE AND JUDGMENT WITH REGARD TO ALL MATTERS AND ISSUES CONCERNING THE CONDITION OF THE PREMISES AND TENANT'S ELECTION TO MAKE AND ENTER INTO THIS LEASE, AND TENANT IS NOT RELYING UPON ANY REPRESENTATION, PROMISE OR STATEMENT BY LANDLORD OR LANDLORD'S AGENTS, EMPLOYEES OR REPRESENTATIVES THAT IS NOT EXPRESSLY AND SPECIFICALLY SET FORTH IN THIS LEASE; AND TENANT HEREBY DISCLAIMS ANY RELIANCE UPON ANY REPRESENTATION, STATEMENT OR PROMISE OF LANDLORD OR LANDLORD'S AGENTS, EMPLOYEES AND REPRESENTATIVES, EXCEPT TO THE EXTENT THAT ANY SUCH REPRESENTATIONS, STATEMENTS OR PROMISES ARE EXPRESSLY AND SPECIFICALLY SET FORTH IN THIS LEASE, AND TENANT HEREBY RELEASES AND WAIVES ANY CLAIM FOR FRAUDULENT INDUCEMENT OR OTHERWISE BASED UPON ANY REPRESENTATIONS, STATEMENTS OR PROMISES, IF ANY, NOT EXPRESSLY AND SPECIFICALLY SET FORTH IN THIS LEASE. TENANT ADDITIONALLY HEREBY ACKNOWLEDGES AND AGREES THAT TENANT HAS BEEN REPRESENTED AND/OR HAS HAD THE OPPORTUNITY

TO BE REPRESENTED BY INDEPENDENT COUNSEL AND THAT TENANT HAS THEREFORE NOT ACTED UNDER COMPULSION OR DURESS IN MAKING AND ENTERING INTO THIS LEASE, BUT HAS INSTEAD MADE AND ENTERED INTO THIS LEASE KNOWINGLY AND VOLUNTARILY, AND TENANT CONSEQUENTLY ACKNOWLEDGES ITS UNDERSTANDING OF AND AGREEMENT TO THE TERMS AND CONDITIONS OF THIS LEASE (INCLUDING, WITHOUT LIMITATION, THE IMPLICATIONS AND EFFECT OF THE WAIVERS AND DISCLAIMERS SET FORTH IN THIS PARAGRAPH ABOVE).

9. **REPAIRS, MAINTENANCE AND INSPECTION BY LANDLORD**

9.1 Tenant shall, during the term of this Lease and at Tenant's cost, keep the Premises and all fixtures and equipment installed therein or located thereon in good order, condition and repair, including the interior wall, all windows, doors, door frames, and door closures, all plate glass, all carpeting and other floor covering, all electrical equipment, all heating, ventilating and air conditioning equipment, and all plumbing and sprinkler systems, if any, installed therein or used exclusively by Tenant, and shall as necessary, or when required by governmental authority, make modifications or replacements thereof. Landlord shall have no obligations to repair or maintain the Premises or improvements constructed therein except as otherwise provided in this Lease.

9.2 If Tenant refuses or neglects to make necessary repairs and/or maintain the Premises, or any part thereof, Landlord shall have the right, after ten (10) days written notice (except in case of emergency) to Tenant, but shall not be obligated, to make such repairs or perform such maintenance on behalf of or for the account of Tenant. In this event, Tenant shall reimburse Landlord for the cost of such maintenance.

9.3 Tenant hereby grants to Landlord the rights to enter upon the Premises at any time in order to inspect, view, analyze or make repairs upon reasonable notice to Tenant, if possible under the circumstances

9.4 Tenant agrees upon the expiration or earlier termination of this Lease to surrender the Premises to Landlord in good order, condition and repair, ordinary wear and tear excepted.

10. **ALTERATIONS**

10.1 Tenant shall not make alterations, repairs, additions or improvements in, to or about the Premises (collectively "Tenant Alterations"), including, but not limited to interior reconfiguration of non-load bearing walls, without the prior written consent of Landlord. Tenant shall promptly pay all costs incurred in connection with all Tenant

Alterations and shall not permit the filing of any mechanics lien or other lien in connection with any Tenant Alterations. If a mechanics lien or other lien is filed against the Premises or any portion thereof as a result of Tenant Alterations by Tenant, Tenant shall discharge, cause to be discharged, or make adequate allowance therefore, within ten (10) days after Tenant receives notice of the filing thereof.

- 10.2 All Tenant Alterations, which are attached to, or built into, the Premises, including without limitation, floor coverings, draperies, wall coverings, paneling, molding, doors, vaults, plumbing systems, electrical systems, mechanical systems, lighting systems, sound insulation equipment, communication wiring and outlets for the systems mentioned above and for all telephone, radio, telegraph and television purposes, and any special ceiling installations, shall become the property of Landlord and shall be surrendered with the Premises, as a part thereof, at the end of the term of this Lease; provided however, Landlord may, by written notice to Tenant at least thirty (30) days prior to the end of the term of this Lease, require Tenant to remove any Tenant Alterations designated by Landlord to be removed, and to repair any damage to the Premises caused by such removal, all at Tenant's sole expense.
- 10.3 Any articles of personal property, including business and trade fixtures not attached to, or built into, the Premises, machinery and equipment, freestanding cabinet work, furniture and movable partitions, and any other improvements or alterations which were installed by Tenant in the Premises at Tenant's sole expense and which were not installed in connection with a credit or allowance granted by Landlord or in replacement for an item which Tenant would not have been entitled to remove, shall be and remain the property of Tenant and may be removed by Tenant at any time during the term of this Lease or at the expiration of the Lease term, so long as Tenant is not in default hereunder and provided that Tenant repairs any damage to the Premises caused by such removal.

11. **WAIVER; REIMBURSEMENT; INSURANCE**

- 11.1 Landlord shall not be liable for any injury to any person, or for any loss of or damage to any property (including property of Tenant) occurring in or about the Premises from any cause whatsoever, other than the gross negligence or intentional misconduct of Landlord or its employees or agents. Landlord shall not be liable for interference with light, air or view. Tenant shall promptly notify Landlord of casualties or accidents occurring in or about the Premises. In the event of any claim arising out of or relating to this Agreement, each of the Parties shall control its defense and be responsible for its attorneys' fees and costs, provided that at the time of claim resolution, Tenant shall reimburse Landlord for reasonable and actual defense costs, if any, resulting from any negligence or cause of action, or a portion thereof, caused by or attributable to Tenant.

11.2 Tenant shall, at its own expense, maintain commercial general liability insurance with broad form and stop gap endorsements with limits of Two Million Dollars (\$2,000,000) per occurrence for property damage and loss and \$2,000,000 per occurrence for personal injuries (including death), \$4,000,000.00 aggregate. Landlord shall have the right to periodically review the appropriateness of such limits in view of changing industry conditions and to require an increase in such limits upon thirty (30) days prior written notice. Landlord, Landlord's property manager and any lender designated in writing by Landlord shall be named as additional insureds and shall be furnished with a copy of such policy or policies of insurance or certificate of insurance which shall bear an endorsement that the same shall not be canceled or materially altered without thirty (30) days prior written notice to such additional insureds. During the Lease term, Tenant shall also maintain at its own expense insurance covering its furniture, fixtures, equipment and inventory and all improvements which it makes to the Premises in an amount equal to the full insurable value thereof, against fire and such other perils as are covered by an all risk policy, excluding earthquake and flood, with plate glass endorsement, including all glass on the Premises. All insurance required of Tenant under this Lease shall (a) be issued by insurance companies authorized to do business in the State of Texas and acceptable to Landlord in its reasonable discretion; (b) be issued as a primary policy or under a blanket policy of Tenant, not contributing with and not in excess of coverage which Landlord may carry; (c) have deductibles of no more than Five Thousand Dollars (\$5,000) per occurrence; and (d) in the case of the liability policy, contain a contractual liability coverage endorsement covering Tenant's indemnification duty. If Tenant fails to maintain such insurance, Landlord may do so, and Tenant shall reimburse Landlord for the full expense thereof upon demand. Tenant shall not keep or use in or about the Premises any article which is prohibited by Landlord's insurance policy. Tenant shall pay immediately any increase in Landlord's premiums for insurance during the term of this Lease which results from Tenant's use of the Premises.

12. **TAXES**

As a governmental entity using the Premises for a governmental function and public purpose, the Tenant shall not pay taxes.

13. **DEFAULT**

13.1 Default by Tenant. If Tenant fails to pay rentals or other charges hereunder or otherwise fails to perform its obligations hereunder and this failure is not cured within thirty (30) days after written notice from the Landlord to Tenant of such failure, then Tenant is in default, and Landlord may terminate this Lease and may enter and take possession of Premises, and will have the remedies now or hereafter provided by law for recovery of rent, repossession of Premises and damages occasioned by Tenant's default.

13.2 Default by Landlord. If Landlord fails to perform any of the obligations imposed upon Landlord by this Lease or by law, and this failure is not cured within thirty (30)

days after written notice from Tenant, then Landlord is in default and Tenant may terminate this Lease. Termination of this Lease shall be Tenant's sole and exclusive remedy.

14. **ASSIGNMENT OR SUBLEASE BY TENANT**

14.1 Assignment by Tenant. Tenant shall not sublet or encumber the whole or any part of the Premises, nor shall this Lease or any interest thereunder be assignable or transferable by operation of law or by any process or proceeding of any court or otherwise, without the prior written consent of Landlord. In lieu of giving or denying its consent thereto, Landlord shall have the right to terminate this Lease. Any assignment or sublease without Landlord's prior written consent shall, at Landlord's option, be void. No assignment or sublease shall release Tenant from primary liability hereon. Each assignment and sublease shall be by an instrument in writing in form satisfactory to Landlord.

14.2 Assignment by Landlord. Landlord may freely assign or transfer its interest in this Lease, with written notice to the Tenant.

15. **MISCELLANEOUS**

15.1 One or more waivers of a breach of any covenant, term or condition of this Lease by either party shall not be construed by the other party as a waiver of a subsequent breach of the same covenant, term or condition. The consent or approval of either party to or of any act by the other party of a nature that required consent or approval shall not be deemed to waive or render unnecessary consent to or approval of any subsequent act.

15.2 In the event that at any time during the term of this Lease either Landlord or Tenant shall institute any action or proceeding against the other relating to the provisions of this Lease, or any default thereunder, then, and in that event, the prevailing party in such action or proceeding will be entitled to recover from the non-prevailing party reasonable attorneys' fees and costs of suit incurred by the prevailing party.

15.3 The terms and agreements as contained in this Lease shall apply to, run in favor of and shall be binding upon and inure to the benefit of the parties hereto, and their respective assigns and successors in interest, subject at all times to the provisions of this Lease.

15.4 It is agreed that if any provision of this Lease shall be determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision of this Lease and all such other provisions shall remain in full force and effect; and it is the intention of the parties hereto that if any provision of this Lease is capable of two constructions, one of which would render the provision void and the

other of which would render the provision valid, the provision shall have the meaning which renders it valid.

- 15.5 This Lease embodies the entire agreement between the parties and supersedes all prior agreements and understandings, if any, relating to the subject matter hereof.
- 15.6 This Lease may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute a single instrument.
- 15.7 Tenant shall, within ten (10) days of demand, execute, acknowledge and deliver to Landlord or its designee a written statement certifying, to best of the Tenant's knowledge and belief: (i) the date the Lease term commenced or will commence and the date it expires; (ii) the date Tenant entered into occupancy of and commenced business operations in the Premises; (iii) the amount of monthly rent and the date to which monthly rent has been paid; (iv) that this Lease is in full force and effect and has not been assigned, modified, supplemented or amended in any way (or specifying the date and terms of each agreement so affecting this Lease) and that no part of the Premises has been sublet (or to the extent such is not the case, a copy of any sublease); (v) that, to the extent such is the case, this Lease represents the entire agreement between the parties as to the Premises; (vi) that Landlord is not in default under this Lease (or is such is not the case, the extent and nature of such default); (vii) that all required advances by Landlord to Tenant on account of tenant improvements have been made (or the extent that such is not the case); (viii) on the date of such certification there are no existing defenses or claims which Tenant has against the enforcement of this Lease by Landlord (or if such is not the case, the extent and nature of such defenses or claims); (ix) the amount of the security deposit, if any, paid to Landlord; and (x) any other fact or representation that a mortgagee or purchaser may reasonably request. It is intended that any such statement delivered pursuant to this Section shall be fully and completely binding upon Tenant for all purposes of this Lease, may be relied upon by a prospective purchaser or mortgagee of Landlord's interest, or any assignee of any mortgage upon Landlord's interest in the property. If Tenant shall fail to respond within ten (10) days of receipt of a written request by Landlord therefor, Tenant shall be deemed to have given a certificate as above provided without modification and shall be conclusively deemed to have admitted the accuracy of any information supplied by Landlord to a prospective purchaser or mortgagee, that this Lease is full force and effect, that there are no uncured defaults in Landlord's performance, and that the security deposit, if any, is as stated in this Lease.

IN WITNESS WHEREOF, the parties hereto have executed this Lease on the date and at the place indicated below.

LANDLORD

DCO CLIPPER POINTE LP,
a Delaware limited partnership

By: DCO REALTY, INC.,
a Delaware corporation, its General Partner

By: _____
Harry G. Alcock, Authorized Agent

TENANT

TOWN OF ADDISON, TEXAS

By: _____
Wesley S. Pierson, City Manager

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared _____, known to me or proved to me on the oath of _____ or through _____ (description of identity card or other document) to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they each executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this __day of _____, 2017.

NOTARY OF PUBLIC, State of Texas

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared WESLEY S. PIERSON, City Manager of the Town of Addison, Texas, known to me or proved to me on the oath of _____ or through _____ (description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this __day of _____, 2017.

NOTARY OF PUBLIC, State of Texas