PARKING SPACE USE AGREEMENT

This Parking Space Use Agreement is hereby entered into this 2nd day of July, 2021 by and between:

THE CITY OF FORT LAUDERDALE, a Florida municipality located at 100 North Andrews Avenue, Fort Lauderdale, FL 33301, hereinafter referred to as ("CITY" or "City")

and

CTS Engines, LLC, a Delaware limited liability company authorized to transact business in the State of Florida, with its principal address located at 3060 SW 2nd Avenue, Fort Lauderdale, FL 33315, hereinafter referred to as ("USER").

RECITALS

WHEREAS, the CITY owns on-street parking in the median area on SW 2nd Avenue, between SW 30th and SW 32nd Street, Fort Lauderdale, FL 33315, (hereinafter, "parking area"); and

WHEREAS, the CITY has established procedures for temporary vehicle parking in designated areas within the CITY; and

WHEREAS, CITY and USER desire to enter into a Parking Space Use Agreement ("Agreement") whereby CITY agrees to allow and permit the use of twenty-seven (27) parking spaces in the parking area for the purpose of parking employee vehicles; and

WHEREAS, CITY is willing to provide access to the parking area, to USER, pursuant to this Agreement, and in exchange for USER's payment of a monthly fee;

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, and other good and valuable considerations, the adequacy and receipt of which are hereby acknowledged, the parties hereto agree as follows:

1. **Recitals.** The foregoing recitals are true and correct and are incorporated into this Agreement.

2. **Vehicle Parking by User.**

   2.1. **Designated Parking Spaces.** CITY agrees to provide to USER, access to twenty-seven (27) parking spaces in the median area of the CITY municipal parking area located on SW 2 Avenue, between SW 30th and SW 32nd

Street, as depicted in Exhibit "A", attached hereto and incorporated herein, for the purpose of parking employee vehicles.

2.2. Permitted Time. USER is permitted to use such area for employee vehicle parking, seven (7) days a week twenty-four (24) hours a day.

3. Term. The term of this Agreement shall be for a period of five (5) years commencing on July 1, 2021, unless terminated earlier pursuant to paragraph 6. Termination.

4. Payment.

4.1. USER shall pay to CITY, fifty dollars ($50.00), per space, per month, payable on a quarterly basis, in advance of each quarter, as a permit fee for the use of the twenty-seven (27) parking spaces, for a total of Four Thousand Fifty Dollars and Zero Cents ($4,050.00), plus tax, quarterly.

4.2. USER shall remit the permit fee to the Transportation and Mobility Department, Parking Services Division, 290 N.E. 3rd Avenue, Fort Lauderdale, FL 33301.

5. User Conditions. CITY reserves the right to restrict parking in the parking area for maintenance and repairs. CITY will provide USER with seven (7) days' written notice prior to restricting the parking area for maintenance or repairs. USER will be responsible for relocating vehicles during restricted times at USER's expense. CITY shall not refund permit fees or reimburse any user during restricted times nor shall CITY pay for any fees for relocating vehicles during restricted times.

5.1. USER shall not install or place any improvements on or within the parking area unless expressly authorized in writing by the Transportation and Mobility Department ("TAM") Director or his or her designee.

5.2. USER shall not use the area for staging, loading, unloading or any other purpose other than parking non-commercial use vehicles.

5.3. USER shall pay for the costs to repair any damage of any nature whatsoever which may occur on or within the parking area, including but not limited to pavement, landscaping, or both, which is or are damaged by USER, its employees, invitees, guests, or vehicles. The repairs must be done to the satisfaction of CITY. If USER fails to repair any damage to the parking area within five (5) days after the damage occurs, CITY may make repairs and USER must reimburse CITY for the cost of the repairs within ten (10) days. USER shall be responsible for keeping the parking area free of rubbish and other hazards and for maintaining the parking area in a good, neat and clean condition at all times, at its own expense. USER shall provide CITY written notice, in accordance with the notice provisions set

forth in this Agreement, within twenty-four (24) hours of knowledge of any incidents arising in the parking area during its access hours, in which damage to property or injury to person(s) occurs.

5.4. USER understands and agrees that CITY makes no representations as to suitability of the area for USER's use or security of the vehicles. Security may involve protection of the vehicles from criminal abuses, damage by the elements, fire, acts of God and any other cause. Security is the sole responsibility of USER.

6. Termination. This Agreement may be terminated by either party for any reason whatsoever after thirty (30) days written notice of such intent to terminate has been sent to the other party. No refunds or credits for previously paid monthly payments will be processed or provided to USER, unless City exercised its discretion to terminate this Agreement without cause, in which event, any such credits or refunds shall be paid on a prorated basis. Failure to timely pay in accordance with Paragraph 4.1 of this Agreement shall constitute a breach of this Agreement for which City may immediately terminate the Agreement and deny access to USER. In the event of a termination for convenience by either party, neither party shall be entitled to any damages from the other resulting from such termination, except that City would be entitled to recover any payments due up through and including the date of termination.

7. General Conditions.

7.1. USER agrees that use of the area shall be in conformity with the terms of this Agreement, the City of Fort Lauderdale Code of Ordinances, and the Unified Land Development Regulations (ULDR) and the rules and regulations of the City of Fort Lauderdale. USER shall at its sole cost and expense, possess, use, operate, maintain and repair the parking area and such use shall be in compliance with health and sanitary requirements, fire hazard requirements, zoning requirements, building code requirements, Engineering standards, Americans with Disabilities Act requirements, environmental requirements, State, County, and any other applicable laws.

7.2. USER shall not assign, sub lease or permit any person or entity to use the area that is the subject of this Agreement unless the advance written consent from the CITY has been obtained. If such consent is obtained, any use by such person or entity shall be subject to all terms of this Agreement and the responsibility for compliance with such terms shall continue to be the sole responsibility of USER.

8. Hold Harmless, Release and Indemnity.

8.1. In consideration of having the benefit of vehicle parking in the area as designated in Exhibit "A", USER does hereby release, discharge and

covenant not to sue CITY, its officers, elected officials, volunteers, employees, and agents, and does hereby waive and discharge all claims for damages or injuries against CITY, its officers, elected officials, volunteers, employees, and agents that may be occasioned, directly or indirectly, in connection with the boat trailers and vehicle parking, and does agree to protect, defend, indemnify and hold harmless CITY, its officers, employees and agents from and against any and all claims, lawsuits, third party lawsuits, fines, penalties, damages, settlements, judgments, decrees, costs, charges and other expenses, including reasonable attorney's fees and costs actually incurred or awarded, and liabilities of every kind, nature or degree, that may arise out of or be asserted in connection with the rights, responsibilities and obligations of USER under this Agreement, the vehicle parking, or the breach or default by USER of any covenant or provision of this Agreement. Without limiting the foregoing, any and all such claims, suits, causes of action relating to personal injury, death, damage to property, or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation or decree of any court by USER, is included in the indemnity.

8.2. USER further agrees, upon proper and timely notice, to investigate, handle, respond to, provide defense for, and defend any such claims at its sole expense and agrees to bear all other costs and expenses related thereto even if the claim is groundless, false or fraudulent and if called upon by CITY, USER shall assume and defend not only itself but also CITY in connection with any claims, suits or causes of action, and any such defense shall be at no cost or expense whatsoever to CITY, provided that CITY shall retain the right to select counsel of its own choosing. This indemnification shall survive termination, revocation or expiration of this Agreement and shall cover any acts or omissions occurring during the term of the Agreement, including any period after termination, revocation or expiration of the Agreement while any curative actions are undertaken. This indemnity is not limited by insurance coverage.

8.3. All personal property placed or moved onto the property is at the sole risk of the USER or other owner of such property. City shall not be liable for any damage to such personal property or for personal injuries to the USER or any subtenants, agents, servants, employees, contractors, guests, or invitees or to trespassers on the property.

9. **Insurance Requirements.** As a condition precedent to the effectiveness of this Agreement, during the term of this Agreement and during any renewal or extension term of this Agreement, the USER, at its sole expense, shall provide insurance of such types and with such terms and limits as noted below. Providing proof of and maintaining adequate insurance coverage are material obligations of the USER. The USER shall provide the City a certificate of insurance evidencing such coverage. The USER'S insurance coverage shall be primary insurance for all

applicable policies. The limits of coverage under each policy maintained by the USER shall not be interpreted as limiting the USER'S liability and obligations under this Agreement. All insurance policies shall be through insurers authorized or eligible to write policies in the State of Florida and possess an A.M. Best rating of A-, VII or better, subject to approval by the City's Risk Manager.

The coverages, limits, and/or endorsements required herein protect the interests of the City, and these coverages, limits, and/or endorsements shall in no way be relied upon by the USER for assessing the extent or determining appropriate types and limits of coverage to protect the USER against any loss exposures, whether as a result of this Agreement or otherwise. The requirements contained herein, as well as the City's review or acknowledgement, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the USER under this Agreement.

The following insurance policies and coverages are required:

Commercial General Liability

Coverage must be afforded under a Commercial General Liability policy with limits not less than:

- $1,000,000 each occurrence and $2,000,000 aggregate for Bodily Injury, Property Damage, and Personal and Advertising Injury
- $1,000,000 each occurrence and $2,000,000 aggregate for Products and Completed Operations

Policy must include coverage for contractual liability and independent contractors.

The City, a Florida municipal corporation, its officials, employees, and volunteers are to be covered as an additional insured with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage with respect to liability arising out of activities performed by or on behalf of the USER. The coverage shall contain no special limitation on the scope of protection afforded to the City, its officials, employees, and volunteers.

Insurance Certificate Requirements

a. The USER shall provide the City with a valid Certificate of Insurance (binders are unacceptable) no later than ten (10) days prior to the start of work contemplated in this Agreement.
b. The USER shall provide to the City a Certificate of Insurance having a thirty (30) day notice of cancellation; ten (10) days' notice if cancellation is for nonpayment of premium.
c. In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of the USER to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested, and addressed to the certificate holder.

d. In the event the Agreement term goes beyond the expiration date of the insurance policy, the USER shall provide the City with an updated Certificate of Insurance no later than ten (10) days prior to the expiration of the insurance currently in effect. The City reserves the right to suspend the Agreement until this requirement is met.
e. The Certificate of Insurance shall indicate whether coverage is provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the Certificate of Insurance must show a retroactive date, which shall be the effective date of the initial contract or prior.
f. The title of the Agreement, Bid/Contract number, or other identifying reference must be listed on the Certificate of Insurance.

The Certificate Holder should read as follows:
City of Fort Lauderdale
100 N. Andrews Avenue
Fort Lauderdale, FL 33301

The USER has the sole responsibility for all insurance premiums and shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation.

If the USER's primary insurance policy/policies do not meet the minimum requirements, as set forth in this Agreement, the USER may provide evidence of an Umbrella/Excess insurance policy to comply with this requirement.

The USER's insurance coverage shall be primary insurance as respects to the City, a Florida municipal corporation, its officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, a Florida municipal corporation, its officials, employees, or volunteers shall be non-contributory.

Any exclusion or provision in any insurance policy maintained by the USER that excludes coverage required in this Agreement shall be deemed unacceptable and shall be considered breach of contract.

The required insurance policy must be maintained until this Agreement is terminated. Any lapse in coverage shall be considered breach of contract. In addition, the USER must provide to the City confirmation of coverage renewal via an updated certificate should any policies expire prior to the expiration of this Agreement. The City reserves the right to review, at any time, coverage forms and limits of USER's insurance policies.

The USER shall provide notice of any and all claims, accidents, and any other occurrences associated with this Agreement to the USER's insurance companies and the City's Risk Management office, as soon as practical.

9. **Joint Preparation.** Each party and its counsel have participated fully in the review and revision of this Agreement and acknowledge that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

10. **Severability.** If any provision of this Agreement, or its application to any person or situation, is deemed invalid or unenforceable for any reason and to any extent, the remainder of this Agreement, or the application of the remainder of the provisions, shall not be affected. Rather, this Agreement is to be enforced to the extent permitted by law. The captions, headings and title of this Agreement are solely for convenience of reference and are not to affect its interpretation. Each covenant, term, condition, obligation or other provision of the Agreement is to be construed as a separate and independent covenant of the party who is bound by or who undertakes it, and each is independent of any other provision of this Agreement, unless otherwise expressly provided. All terms and words used in this Agreement, regardless of the number or gender in which they are used, are deemed to include any other number and other gender, as the context requires.

11. **No Waiver of Sovereign Immunity.** Nothing contained in this Agreement is intended to serve as a waiver of sovereign immunity by CITY.

12. **No Third-Party Beneficiaries.** The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based on this Agreement.

    Nothing herein shall be construed as consent by any agency or political subdivision of the State of Florida to be sued by third parties in any manner arising out of any contract.

13. **Non-Discrimination.** USER shall not discriminate against any Person in the performance of duties, responsibilities, and obligations under this Agreement because of race, age, religion, color, gender, national origin, marital status, disability or sexual orientation.

14. **Emergency Termination.** In the event of emergency, the CITY may cancel this Agreement during the term hereof upon twenty-four (24) hours written notice to the other party of its desire to terminate this Agreement.

15. **Entire Agreement.** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

16. **Governing Law.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be brought exclusively in the state courts of Broward County, Florida, or in the event of federal jurisdiction, in the Southern District of Florida, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. **By entering into this Agreement, CITY and USER hereby expressly waive any rights either party may have to a trial by jury of any civil litigation related to this Agreement or any errors or omissions in relation thereto.**

17. **Notice.** All notices, demands, requests or other communications hereunder shall be sent in writing to the other party and delivered via mail (postage prepaid), commercial courier, personal delivery, or electronic means, to the addresses listed below and shall be effective upon receipt. The following persons are designated to receive notice, demands, and any other communications pertaining to this Agreement:

AS TO USER:
Vesa Paukkeri
CEO
CTS Engines, LLC
3060 SW 2nd Avenue
Fort Lauderdale, Florida 33315

AS TO CITY:
Christopher J. Lagerbloom, ICMA-CM
City Manager
City Fort Lauderdale
100 North Andrews Avenue
Fort Lauderdale, FL 33301

With copy to:
Alain Boileau, Esq.
City Attorney
City of Fort Lauderdale
100 North Andrews Avenue

Fort Lauderdale, FL 33301

With a copy to:
Jeff T. Davis
Parking Services Manager
Department of Transportation and Mobility
City of Fort Lauderdale
290 NE 3rd Avenue
Fort Lauderdale, FL 33301

18. **Amendments.** This Agreement may be amended only by written document executed by CITY and USER with the same formality and of equal dignity herewith.

19. **No Property Rights.** USER acknowledges that pursuant to the terms hereof, it gains no property right through this Agreement.

20. **Section Headings and Subheadings.** The section headings and subheadings contained in this agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

21. **Records.** Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to the Florida Public Records Laws. Each party shall be responsible for compliance with any public records request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
[SIGNATURES TO FOLLOW

IN WITNESS OF THE FOREGOING, the parties executed this Agreement as follows:

ATTEST:

Jeffrey A. Modarelli, City Clerk

CITY OF FORT LAUDERDALE

By: _____
Christopher Lagerbloom, ICMA-CM
City Manager

2nd day of July, 2021

Approved as to form:
Alain E. Boileau, City Attorney

By: _____
Kimberly Cunningham Mosley
Assistant City Attorney

USER

WITNESSES:

Signature

THOMAS BODE
Print Name

Signature

Scokie McMahon
Print Name

(CORPORATE SEAL)

CTS Engines, LLC

Vesa Paukkeri, Chief Executive Officer

STATE OF FLORIDA:
COUNTY OF Broward:

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 25 day of June, 2021, by Vesa Paukkeri as Chief Executive Officer for CTS Engines, LLC, a Florida limited liability company.

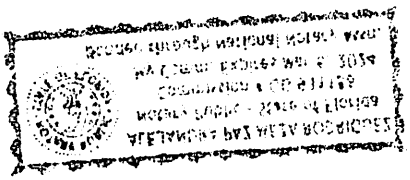
(SEAL)

ALEJANDRA PAZ MEZA RODRIGUEZ
Notary Public - State of Florida
Commission # GG 931186
My Comm. Expires Mar 6, 2024
Bonded through National Notary Assn.

Signature of Notary Public – State of Florida

Alejandra Paz Meza Rodriguez
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known X OR Produced Identification _____
Type of Identification Produced _____



COMMISSION AGENDA ITEM
DOCUMENT ROUTING FORM

Today's Date: 06/30/2021 2L 7/2/2021

DOCUMENT TITLE: PARKING SPACE USE AGREEMENT – CTS ENGINES, LLC

COMM. MTG. DATE: 6/15/2021 **CAM #:** 21-0551 **ITEM #:** CM-7 **CAM attached:** ☒YES ☐NO

Routing Origin: TAM **Router Name/Ext:** G.Rizzuti-Smit/3764 **Action Summary attached** ☒YES ☐NO

CIP FUNDED: ☐ YES ☒ NO

Capital Investment / Community Improvement Projects defined as having a life of at least 10 years and a cost of at least $50,000 and shall mean improvements to real property (land, buildings, or fixtures) that add value and/or extend useful life, including major repairs such as roof replacement, etc. Term "Real Property" include: land, real estate, realty, or real.

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1) Dept: TAM **Router Name/Ext:** G.Rizzuti-Smit/3764 **# of originals routed:** 2 **Date to CAO:** 6/30/2021

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2) City Attorney's Office: Documents to be signed/routed? ☒YES ☐NO # of originals attached: 2

Is attached Granicus document Final? ☒YES ☐NO Approved as to Form: ☒YES ☐NO

Date to CCO: 7/1/2021 Kimberly Cunningham Mosley (Attorney's Name) KCM (Initials)

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3) City Clerk's Office: # of originals: 2 **Routed to:** Donna V./Aimee L./CMO **Date:** 7/1/2021

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4) City Manager's Office: CMO LOG #: Jul 1 Document received from: _____

Assigned to: CHRIS LAGERBLOOM ☐ TARLESHA SMITH ☐ GREG CHAVARRIA ☐
CHRIS LAGERBLOOM as CRA Executive Director ☐

☐ APPROVED FOR C. LAGERBLOOM'S SIGNATURE ☐ N/A FOR C. LAGERBLOOM TO SIGN

PER ACM: **T. Smith** _____ (Initial/Date) PER ACM: **G. Chavarria** _____ (Initial/Date)
☐ **PENDING APPROVAL** *(See comments below)*
Comments/Questions: _____

Forward 2 originals to ☐ Mayor ☑ CCO **Date:** 7.2.21

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5) Mayor/CRA Chairman: Please sign as indicated. Forward ___ originals to CCO for attestation/City seal (as applicable) **Date:** _____

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6) City Clerk: Forward 2 originals to CAO for **FINAL APPROVAL** **Date:** 7/2/2021

7) CAO forwards __ originals to **CCO** **Date:** _____

8) City Clerk: Scan original and forwards __ originals to: G.Rizzuti-Smit/3764

Attach _ certified Reso # _____ ☐YES ☐NO **Original Route form to K.Nembhard**

Rev. 9/9/2020