

RESOLUTION NO. 2021-2194

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, APPROVING THE CIVIC SQUARE PARKING RIGHTS AGREEMENT AND THE NON-DISTURBANCE AGREEMENT, PROVIDING AUTHORIZATION AND DIRECTION FOR EXECUTION AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on August 19, 2019 Council approved a Development agreement between the City of Goodyear and Globe Corporation which provided for the development of approximately 46 acres near 150th Drive and Monte Vista Road; and

WHEREAS, the Development Agreement provided that Globe Corporation would construct the new Goodyear City Hall, a 2-acre Civic Square Park, a 100,000 square-foot Class A office building, and an adjacent parking structure for the development; and

WHEREAS, through the Development Agreement, the City agreed to fund \$5 million towards the cost of the Parking Garage in return for a dedicated allocation of parking stalls on a pro-rata share based on the total cost of construction; and

WHEREAS, the Development Agreement contemplated that the parties would subsequently enter into a Parking Rights Agreement to outline the operations and maintenance of the parking structure;

WHEREAS, Enterprise Bank & Trust has provided funding towards the construction of the Parking Garage and has a secured interest in the parking structure; and

WHEREAS, the City of Goodyear and Enterprise Bank & Trust wish to enter into a Non-Disturbance Agreement which would recognize and protect the City's rights, obligations and interests in the Parking Garage, should the bank ever become a successor owner of the parking structure;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1. Approve the Civic Square Parking Agreement attached as Exhibit "A" and Non-Disturbance Agreement attached as Exhibit "B."

SECTION 2. Authorize and direct the City Manager or her designee to sign and execute the Civic Square Parking Agreement and future annual operations plans, and to execute the Non-Disturbance Agreement, to make non-substantive changes in furtherance of the agreements, and to take all actions necessary to carry out the intent of this Resolution and the Agreements.

SECTION 3. This Resolution shall become effective upon its adoption by the Mayor and Council of the City of Goodyear.

PASSED AND ADOPTED by the Mayor and Council of the City of Goodyear, Maricopa County, Arizona, by a _____ vote, this _____ day of _____, 20_____.

Georgia Lord, Mayor

Date: _____

ATTEST:

APPROVED AS TO FORM:

Darcie McCracken, City Clerk

Roric Massey, City Attorney

EXHIBIT 'A'

PARKING RIGHTS AGREEMENT

[On the following pages]

When recorded, return to:
City of Goodyear
190 North Litchfield Road
Goodyear, Arizona 85338
Attn: City Manager

PARKING RIGHTS AGREEMENT

THIS PARKING RIGHTS AGREEMENT (this “**Agreement**”) is made as of the ____ day of December, 2021 (the “**Effective Date**”), by and between the **CITY OF GOODYEAR, ARIZONA**, an Arizona municipal corporation (the “**City**”), **GSQ GOODYEAR PARKING GARAGE, LLC**, an Arizona limited liability company (“**Owner**”), and **GLOBE CORPORATION**, an Illinois corporation (“**Globe**”). The City, Owner and Globe are sometimes referred to herein collectively as the “**Parties**”, or, individually, as a “**Party**”. Other capitalized terms used in this Agreement shall have the meanings ascribed to them parenthetically throughout this Agreement (inclusive of the Recitals below) or as specifically defined in Section 2 of this Agreement.

RECITALS

A. The City, Globe Land Investors, LLC, a Delaware limited liability company (“**GLI**”), and Globe are parties to that certain Development Agreement dated as of August 19, 2019 and recorded on August 23, 2019 as Document No. 2019-0652583 of the Official Records of Maricopa County, Arizona (the “**Development Agreement**”).

B. Pursuant to the Development Agreement, GLI has agreed to convey certain real property to the City, as legally described and depicted on Exhibit A hereto (the “**City Property**”).

C. Pursuant to Section 4.1(b)(i) of the Development Agreement, Globe is obligated to construct on certain real property owned by Owner legally described and depicted in Exhibit B hereto (the “**Property**”) an above-ground parking structure (the “**Garage**”), in which Garage 327 parking spaces in the locations set forth in Exhibit D attached hereto (subject to (i) any changes to such locations mutually agreed upon by Globe and the City after the completion of the Garage, it being acknowledged that neither Party has any obligation to so agree to a change of location of the City Spaces except as provided in Section 7(e) hereof, and (ii) the provisions of Section 7(e) hereof) (the “**City Spaces**”), are required to be subject to the easement granted in Section 3 hereof by Owner in favor of the City for off-street public parking for the benefit of the City Property and for use by the City and the general public at large. The Parties acknowledge and agree that Globe will solely perform, or cause to be performed, the construction and development activities described in this Agreement relating to the Garage, and Owner will not perform any such activities.

D. Pursuant to Section 14.27 of the Development Agreement, the City and Owner, as the successor owner to GLI of the Property, are obligated to enter into a parking rights agreement to govern the rights of the City and Owner with respect to the Garage and the City Spaces, and the Parties acknowledge and agree that this Agreement is the required parking rights agreement referenced in, and that this Agreement satisfies in full the requirements of, Section 14.27 of the Development Agreement. For the avoidance of doubt, the Parties acknowledge and agree that the City has no rights in, and has no control over, the Garage or the parking spaces in the Garage except only with respect to the express rights and obligations set forth in this Agreement.

E. The Parties desire to enter into this Agreement to set forth the Parties' rights and obligations with respect to the Garage and the City Spaces.

AGREEMENTS

Now, therefore, in consideration of the foregoing recitals and the representations and mutual promises contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of all of which is hereby acknowledged, the Parties agree as follows:

1. **INCORPORATION OF RECITALS.** The accuracy of the above Recitals is confirmed and all of the above-mentioned Recitals are incorporated herein and are hereby made substantive provisions of this Agreement.

2. **DEFINITIONS.** In this Agreement:

(a) **"Access Facilities"** means as defined in Section 6.

(b) **"Access Rights"** means as defined in Section 3.

(c) **"Agreement"** means this agreement and all Exhibits hereto, as amended and restated or supplemented by the Parties in writing from time to time. References to Sections or Exhibits are to this Agreement unless otherwise qualified. The Recitals set forth in Recitals A through E, inclusive, are incorporated herein by reference and form a part of this Agreement.

(d) **"Allocable Share"** means fifty percent (50%), the Parties acknowledging that the City has agreed to contribute toward the Operating Expenses for the Garage in a percentage greater than the proportionate share that would result from dividing the number of City Spaces by the total number of parking spaces in the Garage to reflect the additional maintenance burden resulting from the requirement that the Garage be open for public parking during the Public Parking Times.

(e) **"Applicable Laws"** means the federal, state, county and local laws (statutory and common law) and ordinances, including the City Code, which apply to the development of the Property from time to time.

(f) **"Approved Plans"** means as defined in Section 6.

(g) “**A.R.S.**” means the Arizona Revised Statutes as now or hereafter enacted or amended.

(h) “**Business Day**” means any day other than a Saturday, a Sunday or a public or bank holiday or the equivalent for banks generally under the laws of the State of Arizona. Use of the word “day,” as opposed to “Business Day,” means calendar day.

(i) “**City**” means the Party designated as City on the first page of this Agreement.

(j) “**City Code**” means the Code of the City of Goodyear, Arizona, as amended from time to time, including, without limitation, the City of Goodyear Zoning Ordinance of May, 1999, as amended from time to time.

(k) “**City Council**” means the City Council of the City.

(l) “**City Property**” means as defined in Recital B.

(m) “**City Spaces**” means as defined in Recital C.

(n) “**City Spaces Easement**” means as defined in Section 3.

(o) “**Commencement of Construction**” means the date on which both of the following have occurred: (a) any building permit necessary to undertake the construction of the Garage (exclusive of interim permits, such as “hauling” permits, issued in the ordinary course of construction) has been issued and (b) Globe has entered into a binding construction contract with a qualified and licensed contractor to construct the Garage authorized by the building permit, and such contractor has either (i) commenced preliminary grading of the Property, (ii) placed any construction materials, supplies or equipment on the Property, (iii) placed construction offices (including trailers and temporary offices) on the Property and erected necessary fencing, or (iv) otherwise mobilized construction on the Property for the Garage as authorized by the building permit.

(p) “**Completed**” means as defined in Section 24.26.

(q) “**Completion of Construction**” means the date on which a certificate of occupancy or other appropriate approval has been issued by the City for the Garage enabling the use thereof for the purposes set forth herein.

(r) “**Deed of Trust**” means as defined in Section 22.

(s) “**Denial**” means as defined in Section 21.3(e).

(t) “**Designated Lenders**” means as defined in Section 24.21.

(u) “**Defaulting Party**” means as defined in Section 21.3

(v) **“Development Agreement”** means as defined in Recital A.

(w) **“Effective Date”** means the date on which this Agreement has been adopted and approved by the City Council and executed by duly authorized representatives of all Parties.

(x) **“Enforced Delay”** means as defined in Section 21.3(e).

(y) **“Event of Default”** means as defined in Section 21.

(z) **“Failure”** means as defined in Section 21.3(e).

(aa) **“Garage”** means as defined in Recital C.

(bb) **“Garage Payment”** means as defined in Section 12.

(cc) **“Garage Plans”** means as defined in Section 6.

(dd) **“Globe”** means the Party designated as Globe on the first page of this Agreement, and its successors and assigns.

(ee) **“Governmental Authority”** means the City.

(ff) **“Holder”** means as defined in Section 22.

(gg) **“Insurance Requirements”** means as defined in Section 17.

(hh) **“Lender”** and **“Lenders”** mean as defined in Section 24.21.

(ii) **“Non-Defaulting Party”** means as defined in Section 21.3.

(jj) **“Non-Disturbance Agreement”** means as defined in Section 22.

(kk) **“Non-Performing Party”** means as defined in Section 21.2.

(ll) **“Operating Expenses”** means as defined in Section 13.

(mm) **“Order”** means as defined in Section 21.3(e).

(nn) **“Owner”** means the Party designated as Owner on the first page of this Agreement, and its successors and assigns.

(oo) **“Parking Control Improvements”** means as defined in Section 7(e)

(pp) **“Parking Control Plans”** means as defined in Section 7(e).

(qq) **“Party”** or **“Parties”** means as designated on the first page of this Agreement.

(rr) **“Paying Party”** means as defined in Section 21.1.

(ss) **“Permits”** means all permits, consents, approvals, authorizations, waivers, certificates and approvals from the Governmental Authority that are required for the planning, design, construction, completion and occupancy of the Garage.

(tt) **“Person”** means any individual, general partnership, limited partnership, firm, association, corporation, limited liability company, trust or any other form of business or governmental entity.

(uu) **“Private Thoroughfares”** means all streets, roads, passageways, driveways, curb cuts, bridges, sidewalks and rights of way, now or hereafter constructed within the Property, together with all accompanying surface improvements thereon, as the same may be modified, relocated or reconfigured by Globe, subject to and in accordance with the provisions of this Agreement, from time to time; provided, however, any streets, roads or rights of way located within the Property which are publicly dedicated shall not be deemed to be Private Thoroughfares.

(vv) **“Property”** means as defined in Recital C.

(ww) **“Required Modifications”** means as defined in Section 12.

(xx) **“Taxes”** means as defined in Section 16.

(yy) **“Third Party”** means any Person other than a Party or an affiliate of any Party.

(zz) **“Transient Revenue”** means all revenue generated daily from the use, occupancy or lease of parking spaces in the Garage that is paid or payable to Owner, City or Globe, other than revenue that is generated by Owner or Globe from its or their issuance of parking permits or other parking rights, or designations of reserved, exclusive or restricted parking rights, that allow the possessors of those permits or rights to access the non-City Spaces without having to pay a visitor, an hourly and/or an event pay to park fee.

(aaa) **“Use and Operations Plan”** means a plan to be mutually agreed upon by Owner or Globe and the City for the use and operation of the Garage, to include such matters as the Parties deem to be appropriate for inclusion in such plan.

3. EASEMENTS IN FAVOR OF CITY. Subject to (i) the Completion of Construction of the Garage, (ii) the terms of this Agreement and (iii) Owner’s right to limit or prohibit access to Owner’s portions of the Garage that are not City Spaces or Access Facilities (such Owner’s portions include parking spaces that are not City Spaces and entrances, exits, driveways, drive aisles and sidewalks that are not needed for access to and from the City Spaces) that may be used solely by Owner’s tenants, visitors, licensees, guests or designees, Owner hereby grants to the City, and the City hereby accepts from Owner, (a) a perpetual and irrevocable, exclusive right and easement, appurtenant to and for the benefit of the City Property, upon the terms and conditions set forth in this Agreement, for the use of the City, the City Spaces

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on the terms set forth in this Agreement (the “**City Spaces Easement**”), (b) a perpetual and irrevocable, non-exclusive right and easement, appurtenant to and for the benefit of the City Property, for the City and the general public at large to use certain entrances, exits and driveways, other paved drive aisles and sidewalks and elevators and stairwells from time to time located in the Garage necessary and appropriate for reasonable access to and from the City Spaces, but such right and easement shall not include any such driveways, paved drive aisles, sidewalks, elevators or stairwells accessing the non-City Spaces in the Garage which have been designated by Owner for use solely with respect to the non-City Spaces and which are not necessary or appropriate for access to the City Spaces (the “**Access Rights**”) and (c) a perpetual and irrevocable, non-exclusive right and easement, appurtenant to and for the benefit of the City Property, to utilize the Private Thoroughfares now existing or hereafter constructed on the Property that are reasonably necessary or appropriate for vehicular and pedestrian access to and from the City Spaces and any public streets providing access to the Garage so as to provide for the passage of motor vehicles and pedestrians to and from the City Spaces to such public streets; provided, however, no easement is granted over those portions of the Garage or the Private Thoroughfares which are not reasonably necessary or reasonably appropriate for access from public streets to and from the City Spaces. The easements granted by Owner to the City pursuant to this Agreement are perpetual and run with the land as a burden on the Property in favor of the City, the City Property and the City’s successors and assigns.

4. **TERM.** This Agreement shall be effective upon execution by the Parties. The term of this Agreement shall be perpetual.

5. **SOUTH GARAGE.** In the event that Owner or an affiliate of Owner, including GLI, hereafter contemplates constructing an above-ground parking structure in the location specified on Exhibit C hereto (the “**South Garage**”) immediately south of West Plaza View on the northernmost portion of Lot 2 of the Final Plat Goodyear Civic Square Parcel “A” at Estrella Falls, recorded March 5, 2021, in Book 1577, Page 1, of Official Records of the County Recorder of Maricopa County, Arizona, the City shall have the right to approach Globe and request the right to negotiate for parking spaces in such contemplated South Garage; for the avoidance of doubt, such right shall only apply to a parking garage if it is located immediately south of and adjacent to West Plaza Drive in the location shown on Exhibit C hereto, the Parties acknowledging that such right does not apply to any other parking garage that may be constructed on said Lot 2. Notwithstanding the foregoing, neither Owner nor the City shall have any rights or obligations with respect to the other Party relating to the South Garage or any parking spaces constructed therein unless the Parties hereafter agree in writing, without any obligation so to do. In no event shall the City have any rights whatsoever to relocate any of the City Spaces into the South Garage.

6. **PLANS FOR THE GARAGE AND ACCESS RIGHTS.** With regard to the Garage, Globe shall work closely with the City Manager, or the City Manager's designee, to develop the plans for the Garage. The City shall have the right to timely provide information regarding the Garage to Globe. Prior to or concurrently with submitting any application for a building permit from the City for the Garage, Globe shall prepare, based on the plans developed pursuant to the second preceding sentence, and submit to the City Manager plans and specifications for (i) the Garage, including the location of the City Spaces therein, (ii) the

entrances, exits, driveways and other paved areas proposed to be subject to the Access Rights (collectively, the “**Access Facilities**”), (iii) the other entrances, exits, driveways and parking areas proposed to be constructed by Globe in connection with the Garage, and (iv) the initially contemplated signage on the Property relating to the City Spaces and to the other parking spaces in the Garage (collectively, the “**Garage Plans**”). The Garage Plans shall show the proposed initial location of the City Spaces and the Access Facilities. The City Spaces shall have a width (in respect of non-handicapped parking spaces) of not less than 9 feet and in respect of handicapped parking spaces, in the size legally required. The Parties acknowledge that submittal of the Garage Plans to the City Manager is for the sole purpose of providing the City Manager information relating to the proposed Garage for purposes of the City Manager determining that Globe has satisfied its obligations under Sections 4.7 and 14.27 of the Development Agreement and this Agreement. Accordingly, the City Manager shall give approval of the Garage Plans if said plans (i) contain the required number of City Spaces in accordance with Recital C of this Agreement and Section 4.1(b)(i) of the Development Agreement; (ii) locate the City Spaces as required pursuant to Exhibit D attached hereto; (iii) identify Access Facilities providing reasonable access to the City Spaces; (iv) include reasonable signage identifying the City Spaces; and (v) do not violate the provisions of this Agreement and Section 14.27 of the Development Agreement. The City Manager shall approve or disapprove the Garage Plans within twenty (20) days after the City Manager’s receipt of the Garage Plans. The City Manager’s disapproval shall include the specific reasons for such disapproval and shall specify the changes required to obtain approval. In the event of the City Manager’s disapproval, Globe shall revise the Garage Plans and submit the revised Garage Plans to the City Manager for the City Manager’s review and approval as provided above. The City Manager shall approve or disapprove the revised Garage Plans in writing within fifteen (15) days after the City Manager’s receipt of such revised Garage Plans, which approval or disapproval shall be given in accordance with the requirements of the preceding sentences, and if the City Manager determines that the revised Garage Plans still do not satisfy the requirements of Section 14.27 of the Development Agreement and this Agreement, then any such disapproval of the City Manager shall include the specific reasons for disapproval and shall specify the changes required to obtain approval. Upon the City Manager’s subsequent disapproval, Globe shall further revise the then current Garage Plans and shall submit the further revised Garage Plans to the City Manager for the City Manager’s review and approval pursuant to the foregoing provisions of this paragraph. If at any time the City Manager does not timely indicate its approval or disapproval of the submitted Garage Plans within the specified timeframe set forth in this Section 6, then the City Manager shall be deemed to have approved such Garage Plans. The Garage Plans submitted by Globe and approved by the City Manager pursuant to this Section 6 are hereinafter called the “**Approved Plans**”. The City Manager’s review and approval of the Approved Plans, which shall be separate from and in addition to all other necessary City approvals, is intended solely to enable the City to protect its interests as user of the City Spaces and Access Facilities. Such right shall not be construed to create any obligation on the part of the City to review and/or approve the Garage or Access Facilities on behalf of the general public or any Person other than the City. In the event the City Manager disapproves Globe’s plans and specifications for the Garage or Access Facilities after Globe has submitted plans and specifications to the City Manager as provided above, and if Globe believes such disapproval was not reasonable or not otherwise permitted by this Agreement, then either

the City or Globe shall have the right to submit the matter to the dispute resolution provisions as set forth in Section 13 of the Development Agreement for resolution.

Notwithstanding the foregoing, the Garage Plans have been approved by the Parties prior to the execution of this Agreement, and thus the Parties acknowledge and agree that such approved Garage Plans satisfy the requirements of this Section 6 and constitute the Approved Plans for purposes of this Agreement.

7. RELOCATION OR ALTERATION OF CITY SPACES OR ACCESS FACILITIES. Owner hereby retains, and shall have the right, from time to time, to:

(a) change the location of any portion of the Access Facilities to another similar area shown on the Approved Plans, so long as the change of location does not unreasonably interfere with the access of the City and the general public at large to the City Spaces and the Access Facilities and to continuously provide the City and the general public at large with reasonably convenient access to and from the City Spaces, as they may currently exist or as they may be relocated pursuant to the terms of this Agreement; provided, however, the Parties acknowledge that, if a location is changed, or if repair, maintenance or replacement of the City Spaces and/or the Access Facilities is being undertaken, Owner or its designee shall have the right to perform such work, and in such event, Owner or its designee shall reasonably attempt to minimize the inconvenience resulting therefrom to the use of the City Spaces or the Access Facilities;

(b) grant additional non-exclusive easements and other similar rights with respect to the Access Facilities, including without limitation utility easements and licenses, as Owner may reasonably deem necessary or appropriate, provided that such additional easements and rights do not materially adversely affect the use by the City and/or the general public of the Access Facilities and the City Spaces;

(c) temporarily close or restrict some portions of the City Spaces and/or the Access Facilities, at reasonable times and for reasonable periods, for the purpose of performing, or having performed, repairs to and/or maintenance of the City Spaces and/or the Access Facilities; provided, however, that any physical change to the site plan for the Garage shall be approved by the City's Development Services Department if such approval is required pursuant to the Goodyear City Code; and expressly provided, further, that: (i) at least one method of vehicular and pedestrian access to the City Spaces shall be maintained at all times except as may be due to Enforced Delay (as defined in Section 21.3(e) below); (ii) Owner shall provide written notice to the City no less than ten (10) Business Days in advance of any such planned restriction or closure, unless in the case of an emergency in which event subsequent notice shall be provided as soon as reasonably possible thereafter; and (iii) Owner shall use commercially reasonable efforts to minimize such restriction or closure to only that extent reasonably necessary for the repairs and/or maintenance;

(d) designate non-City Spaces as reserved, exclusive or restricted parking spaces within the Garage for the exclusive use of Owner's designees, or for visitor parking, so

long as the City Spaces remain available in the Garage as required pursuant to the terms of this Agreement; and

(e) Notwithstanding anything to the contrary in this Agreement, on sixty (60) days' prior notice to the City, elect to change, or elect to cause Globe to change, the number and location of the City Spaces and the non-City Spaces, and the accompanying Access Facilities and Access Rights, in the Garage so as to provide and allow for parking control equipment, facilities, gates and related items (the "**Parking Control Improvements**"). The plans for the installation of the Parking Control Improvements, and for the change in location of the City Spaces and Access Facilities (the "**Parking Control Plans**") must be submitted to the City for review and approval in the same manner as set forth in Section 6 with respect to the Garage Plans; provided, however, that the City's rights of approval or disapproval with respect to the Parking Control Plans shall not be limited to the matters set forth in Section 14.27 of the Development Agreement, but rather shall be limited only to the City's exercise of its commercially reasonable discretion as to such approval or disapproval. Upon the City's approval of the Parking Control Plans, Owner shall proceed to implement, or cause Globe to proceed to implement, the Parking Control Improvements and the change in location of the City Spaces and the Access Facilities in strict accordance with the approved Parking Control Plans. The parties acknowledge that parking spaces will be lost as a result of the installation of the Parking Control Improvements. In the event that the number of parking spaces in the Garage is reduced due to adding such Parking Control Improvements, then notwithstanding anything to the contrary in this Agreement, the number of parking spaces in the Garage to which each of Owner and the City would thereafter be entitled would be determined by (i) taking the total cost of the Garage (which the parties agree is deemed to be \$13,933,827) and dividing such number by (ii) the reduced number of parking spaces in the Garage, in order to then determine the revised cost of each parking space in the Garage. The number of City Spaces would then be determined by dividing (y) the City's contribution to the cost of the Garage (which is \$5,000,000) by (z) such revised cost of each parking space in the Garage, and then the number of the non-City Spaces to which Owner shall be entitled shall equal the difference between the then total number of parking spaces in the Garage and subtracting therefrom the number of parking spaces to which the City is entitled pursuant to this sentence. Therefore, notwithstanding anything to the contrary in this Agreement, from and after the date of installation of the Parking Control Improvements (I) the references in this Agreement to City Spaces, Access Facilities, Access Rights and the remaining parking spaces to which Globe is entitled shall be changed accordingly, and (II) notwithstanding anything to the contrary in Recital C of this Agreement, the number of City Spaces shall be reduced to the amount calculated pursuant to the preceding sentence; provided, however, that in no event shall the number of City Spaces be reduced below 300 without the City's prior written consent, which consent may be granted or withheld in the City's sole and absolute discretion. The costs associated with installing the Parking Control Improvements shall be deemed to be Operating Expenses during the year incurred. In the event the Parking Control Improvements installed by Owner include any access gate, vehicle identification system, key or card entry system, or other restraints on access over, across or upon the Access Facilities or the City Spaces, Owner shall provide to the City the combination and/or one (1) key, sticker or access card for each of the City Spaces located on or within such restricted area, as are necessary to provide access to and from the Access Facilities and the City Spaces.

Except as expressly provided in Section 7(e) above, neither Party shall have any right to change the location of the City Spaces without the prior written consent of the other Party, which consent may be granted or withheld in such other Party's sole and absolute discretion.

8. USE OF CITY SPACES. The City shall have the right to use the City Spaces for the purpose of providing vehicle parking for the City and the general public at large, in accordance with the terms of this Agreement. The City acknowledges and agrees that the use of the unreserved City Spaces for vehicle parking for the general public at large shall, without limitation, include the use of the unreserved City Spaces by guests, customers, vendors and suppliers of the facilities Owner intends to cause Globe to construct on the Property or on real property near or adjacent to the Property. The City further acknowledges and agrees that the use of the unreserved City Spaces by such guests, customers, vendors and suppliers may from time-to-time result in all of the unreserved City Spaces being used by such guests, customers, vendors and suppliers. Consistent with Recital D, the Parties acknowledge and agree that, except as otherwise expressly provided in this Agreement, the City has the right to designate the users of the City Spaces and to make all decisions with respect to the designation of the City Spaces as exclusive to the City's designees or otherwise available to the public, as it deems appropriate, including, without limitation, designating all or any portion of the City Spaces as reserved or exclusive spaces and/or to designate any City Space as a visitor space, so long as the non-City Spaces remain available in the Garage as required pursuant to the terms of this Agreement.

9. CHARGE FOR USE OF CITY SPACES; GARAGE REVENUE. Unless approved by the City, neither Owner nor the City shall charge the general public at large for any use of the City Spaces pursuant to this Agreement. Nothing contained herein shall limit or restrict Owner from charging for any designated, reserved or otherwise restricted parking spaces within the Garage that are not City Spaces, and to install, operate and maintain such parking gates, barriers or other facilities which Owner may desire or which may be necessary in order to ensure the designated reserved and/or restricted nature of such parking spaces, so long as such measures do not materially restrict, impede or interfere with the reasonable use of the City Spaces or Access Facilities. Owner shall retain all revenue, including Transient Revenue, received by Owner or by the City generated from fees charged by Owner or the City for the use, occupancy or lease of the parking spaces in the Garage; provided, however, that all Transient Revenue received by Owner or the City shall be paid to Owner and shall be used and applied by Owner solely toward the payment of the Operating Expenses, so as to reduce the Operating Expenses payable by the Parties pursuant to Section 13 below; and provided further, however, for the avoidance of doubt, if the City receives any Transient Revenue, all such Transient Revenue shall be paid to Owner and shall be used and applied by Owner solely toward the payment of the Operating Expenses.

10. USE OF ACCESS FACILITIES. The City shall have the right to use the Access Facilities for the purpose of access by vehicles operated by the general public or by City employees, guests, customers, vendors and suppliers to and from the City Spaces, in accordance with the terms of this Agreement.

11. PUBLIC PARKING. Subject to the City's compliance with its obligations in Section 13 below and to the duties of Owner to cause the timely maintenance, repair or

replacement of the Garage and/or the Access Facilities as required in this Agreement, Owner must make the Garage available for public parking use, and the Access Facilities available for public access, during weekends and official State holidays, and on Mondays through Fridays, during hours that will be agreed upon by the City and Owner from time to time and set forth in the Use and Operation Plan (the "**Public Parking Times**"); provided, however, that such public parking and public access shall not conflict with the parking rights of third parties that have been granted reserved, exclusive or restricted use of parking spaces on the Property, including, without limitation, any rights to reserved parking spaces granted by Owner.

12. CONSTRUCTION OF GARAGE. Owner shall, at Owner's sole cost and expense, and without any contribution by the City other than the amount the City is required to pay towards the cost of construction of the Garage pursuant to Section 6.7 of the Development Agreement (the "**Garage Payment**"), cause Globe to construct or cause to be constructed the Garage, the City Spaces and the Access Facilities substantially in accordance with the Approved Plans. The Parties acknowledge that Globe has caused the Commencement of Construction to occur with respect to the Garage prior to the Effective Date. Globe shall cause Completion of Construction of the Garage to occur on or before June 30, 2022, or by such later date as may be mutually approved by the City and Globe, which approval shall not be unreasonably withheld. Globe shall use reasonable efforts to secure any necessary construction easements, licenses or permits required in connection with the construction of the Garage. If any code, law, rule or regulation of general application requires any change to or modification of the Garage or the Access Facilities, the City shall so advise Owner thereof, and Owner shall thereafter use reasonable efforts to promptly cause Globe to make or cause to be made such change or modification (the "**Required Modifications**"); provided, however, Owner shall first have the right to cause Globe or a third party to challenge, by appropriate legal and administrative actions and proceedings, the validity or applicability of any such code, law, rule or regulation to the Garage and/or the Access Facilities. Owner expressly acknowledges and agrees that any City approval provided pursuant to this Agreement, including but not limited to the City Manager's approval of plans and specifications for the Garage pursuant to Section 6 above and the City Manager's approval of the Parking Control Plans pursuant to Section 7 above, shall be given by the City acting in a proprietary capacity as the owner and user of the City Spaces, and shall be in addition to and not in substitution for or satisfaction of any other approval required to be obtained by Owner from the City pursuant to any applicable ordinance, code, law, rule or regulation. The City shall pay directly, or if requested by Owner shall reimburse Owner for, an amount equal to the City's Allocable Share of the cost of the Required Modifications, at the same time that Owner pays its share of the cost of such Required Modifications.

13. OPERATION, MAINTENANCE AND REPAIR. Subject to the City's compliance with its obligations set forth below in this Section 13, Owner shall, or Owner shall cause its designee to, at all times during the term of this Agreement, operate the Garage and maintain the Garage and the Access Facilities in good order, condition and repair and in accordance with the practices prevailing in the operation of similar parking facilities in the metropolitan Phoenix, Arizona area. The City acknowledges that a portion of the City Spaces may occasionally be temporarily unavailable for use during the performance of routine maintenance and repair activities. Without limiting the generality of the foregoing, Owner or a management company or other third party hired by Owner shall:

(a) maintain the surface of the Garage and the Access Facilities in a smooth condition, evenly covered with the type of surfacing described in the Approved Plans, or with a substitute that is in all respects substantially similar in quality, appearance and durability to the surfacing material described in the Approved Plans;

(b) promptly remove all paper, refuse and debris from, periodically wash and thoroughly sweep the Garage and the Access Facilities;

(c) maintain such appropriate entrance, exit and directional signs, markers and lights as are reasonably required for the Garage and the Access Facilities, and clean, maintain, repair and replace such signs, markers and lights;

(d) clean and relamp lighting fixtures in the Garage and on the Access Facilities;

(e) maintain, repair and replace striping delineating the individual City Spaces and the Access Facilities; and

(f) maintain, repair and replace landscaping and irrigation systems adjacent to the Garage and the Access Facilities.

The City shall pay to Owner or its designee the City's Allocable Share of all maintenance costs, repair costs, fees paid to the property management or parking management firm operating the Garage and the Access Facilities, costs of work performed by or for Owner pursuant to this Section 13, Taxes, costs associated with the Insurance Requirements, costs of all work associated with having the Garage and the Access Facilities and their operations comply with law, cost of the work contemplated in Section 7(e) if Owner makes the election described therein, costs of any future improvements agreed upon by the Parties pursuant to Section 20, signage costs, and all other costs and expenses incurred by Owner in connection with the Garage and the Access Facilities, and associated facilities, which are incurred after the Garage has been constructed (collectively, the "**Operating Expenses**"). For the avoidance of doubt, and notwithstanding anything to the contrary in this Agreement except the provisions of the following paragraph, any and all costs and expenses associated with the ownership, operation, maintenance, repair or use of the Garage (and the underlying real property associated therewith) shall be shared by Owner and the City, such that the City shall be responsible and timely pay for its Allocable Share thereof and Owner shall be responsible for the remaining portion of all such costs. The Parties acknowledge that the City has agreed to contribute toward the Operating Expenses for the Garage in a percentage greater than the proportionate share that would result from dividing the number of City Spaces by the total number of parking spaces in the Garage to reflect the additional maintenance burden resulting from the requirement that the Garage be open for public parking during the Public Parking Times.

Notwithstanding anything to the contrary contained in this Agreement, Operating Expenses shall not include any of the following: (i) any costs incurred in connection with or directly related to the original construction of the Garage and Access Facilities; (ii) principal and/or interest payments on any financing relating to the Garage and/or Access Facilities; (iii) expenses in connection with the services or other benefits of a type which are not provided to the

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City Spaces but which are provided to other parking spaces in the Garage, including, without limitation, costs associated with any gates or other security devices used only for parking spaces that do not include any City Spaces (and, for the avoidance of doubt, the City agrees that it shall timely pay itself any expenses incurred in connection with services or other benefits of a type which are not provided to the non-City Spaces but which are provided to the City Spaces only, including, without limitation, costs associated with any gates or other security devices used only for the City Spaces that do not include any non-City Spaces, and all such expenses to be paid by the City shall not constitute Operating Expenses hereunder); (iv) except as may be required to be paid by the management agreement for the manager of the Garage and the Property, salaries and bonuses of officers and executives of Owner or its affiliates and any compensation paid to employees of Owner or its affiliates not directly attributable to services rendered solely in connection with the operation and maintenance of the Garage and Access Facilities and any administrative costs of Owner not directly attributable to services rendered solely in connection with the operation and maintenance of the Garage and Access Facilities; (v) except as may be required to be paid by the management agreement for the manager of the Garage and the Property, any costs representing an amount paid to a person, firm, corporation or other entity related to Owner which is in excess of the amount which would have been paid in the absence of such relationship; (vi) Owner's general overhead, salaries and benefits of personnel or any other administrative charges in excess of a market rate management fee paid to Owner or its designee in connection with the management of the Garage and Access Facilities; (vii) any utility charges for the Garage that are not separately metered for just the Garage such that the charges are commingled with utility charges relating to other improvements that are not part of the Garage; and (viii) any property taxes levied against the Garage (over and above its pro rata share thereof) if the Garage is not then a separate tax parcel and for which the County Assessor does not make available a determination of the value of the improvements constituting the Garage and Access Facilities separate from the value of all other land and improvements included within the tax parcel.

Prior to December 1 of the year before a calendar year, commencing after completion of the Garage, Owner shall prepare an estimated annual budget for the contemplated Operating Expenses expected to be incurred, including a then estimated amount of Transient Revenue expected to be received, during such calendar year, and Owner shall furnish such estimated annual budget to the City for its review; if the City does not agree with Owner's estimated annual budget of the Operating Expenses for such calendar year, the Parties shall meet to attempt to agree thereon. If the Parties agree thereon, then on or before the first day of each month of the applicable calendar year, the City shall pay to Owner the City's monthly Allocable Share of the difference between the estimated Operating Costs and the estimated Transient Revenue, as set forth on the approved estimated annual budget; if the Parties fail to agree on such estimated annual budget, then the amount to be paid by the City to Owner in advance on the first day of each month of the applicable calendar year shall equal the City's Allocable Share of 103% of the actual Operating Expenses incurred less Transient Revenue received (as appropriately adjusted for a full calendar year) for the preceding calendar year. If the City prefers, it may pay its estimated Allocable Share annually in advance. Within sixty (60) days after the end of each calendar year, (a) Owner or its management company shall provide to the City a statement, setting forth the actual Operating Expenses incurred during the preceding calendar year, the amount of Transient Revenue received by Owner and applied toward the cost of the Operating

Expenses, the amount paid by the City during such calendar year for the City's Allocable Share of Operating Expenses, and a reconciliation of the share of the Operating Expenses required to be paid by Owner and the City during such calendar year, and (b) the City shall provide to Owner a statement setting forth the amount of Transient Revenue received by the City. The City shall pay to Owner, or Owner shall pay to the City, within thirty (30) days of the City's receipt of the Maintenance Expense statement, any sums due from one Party to the other Party as a result of such reconciliation so that the City pays an amount equal to its Allocable Share of the Operating Expenses and Owner pays the remaining amount of such Operating Expenses.

Owner shall instruct its management company or other third party to maintain accurate books and records of the Operating Expenses and the Transient Revenue, and the City shall have the right to inspect and audit such books and records applicable to each calendar year, so long as such audit is made and completed within six (6) months after the end of the applicable calendar year. Such inspection and audit shall be conducted at the City's expense, during regular business hours at a location designated by Owner and not more than once in any calendar year. The City shall give Owner not less than twenty (20) days' prior notice of its intention to conduct such audit. If the audit concludes that the City has overpaid or underpaid its Allocable Share of the Operating Expenses, the applicable Party shall promptly reimburse the other Party directly for such overpayment, which reimbursement shall be made no later than thirty (30) days after the Parties' approval of such audit.

14. MANAGEMENT. Subject to the requirements of this Agreement, including without limitation the provisions of Section 11, Owner shall have and retain the power and authority, for itself or its designees, to establish and consistently apply and enforce reasonable, lawful and non-discriminatory rules and regulations governing the use of the Garage; provided that such rules shall not unreasonably impair the use and enjoyment of the easements created pursuant to Section 3 hereof. Without limiting the generality of the foregoing, the rules and regulations adopted by Owner or its designee pursuant to this Section 14 shall include rules and regulations that:

(a) prohibit the use of the City Spaces or the Access Facilities for the parking of any vehicle overnight except as authorized by the Parties from time to time;

(b) prohibit the use of the Garage or the Access Facilities for the parking of any inoperable vehicle, any vehicle not displaying a current license plate or any vehicle which has one or more tires that are not inflated;

(c) provide for the removal or exclusion from the Garage or the Access Facilities of any Person or vehicle creating a nuisance or unreasonable disturbance or using or attempting to use the Garage or the Access Facilities in violation of any applicable rule or regulation adopted by Owner pursuant to this Section 14 or any Applicable Law;

(d) provide for Owner's removal of any vehicle parked or placed in the Garage or any of the Access Facilities in violation of any rule or regulation adopted by Owner pursuant to this Section 14 or any Applicable Law; and

(e) provide for the designation of the business hours of the Garage, which shall initially be 6:00 a.m. – 6:00 p.m. Monday through Friday and 6:00 a.m. – 12:00 p.m. Saturday; provided, however, the Parties shall have the right to mutually agree to change such business hours from time to time.

Notwithstanding anything to the contrary in this Agreement, neither Owner, Globe nor any third party shall have any liability or obligation whatsoever if any third party (including the City or its employees, tenants, visitors or invitees) does not comply with any rules and regulations adopted by Owner or its designees. In addition, such rules and regulations may include, and are expected to include, the right of Owner to designate reserved, exclusive or restricted parking spaces in non-City Spaces, which reserved, exclusive or restricted spaces shall be exclusive to the designated party 24 hours a day, 7 days a week, for parking by such designated party. All responsibility for damage to or theft of any vehicles or any contents thereof are expressly assumed by the owners of such damaged or stolen vehicles, and no bailment of any kind shall be assumed or implied by the terms of this Agreement. Neither Owner, Globe nor the City shall have any liability whatsoever for any damage or theft to any vehicles or any contents thereof.

15. OPERATIONS STANDARDS. Owner shall comply with all local, state or federal codes, laws, rules and regulations applicable to its actions in the Garage and the Access Facilities, and the City shall comply with all local, state or federal codes, laws, rules and regulations applicable to its actions in the Garage and the Access Facilities. Owner shall use commercially reasonable efforts to cause the operations of the Garage to comply with applicable local, state or federal codes, laws, rules and regulations, but Owner shall have no liability if any third party violates any laws in the Garage, so long as Owner, after notice thereof, uses commercially reasonable efforts to attempt to cause such violations to cease. In addition, Owner shall operate and manage the Garage in a manner consistent with the operation of similar parking garages in the Phoenix, Arizona metropolitan area. Nothing in this Agreement, including, without limitation, the language set forth in Recital D, above, is intended to or shall be deemed to waive, limit, diminish or relinquish any eminent domain, police or taxing power of the City or any other governmental entity having jurisdiction over Owner or the Property, including without limitation any power of the City pertaining to the acceptance, processing or approval or disapproval of any application for any site plan, building, occupancy or other approval, certificate or permit relating to the Property or any portion thereof, including without limitation the Garage and the Access Facilities.

16. TAXES. During the term of this Agreement, and subject to the City's obligation to pay its Allocable Share of the Taxes pursuant to Section 13, Owner shall pay all Taxes with respect to the Property before the same become delinquent. "**Taxes**" shall mean all real property taxes, possessory interest taxes, government property lease excise taxes or personal property taxes assessed against the buildings and improvements within the Property, assessments, whether arising from any improvement or special taxing district, or otherwise, excises, levies, license and permit fees, and all other charges of whatsoever kind and nature and whether any of the foregoing be general or special, ordinary or extraordinary, foreseen or unforeseen, which at any time may be imposed upon the Property and/or the buildings or improvements thereon.

17. INSURANCE.

(a) During the term of this Agreement, and subject to the City's obligation to pay its Allocable Share thereof pursuant to Section 13, Owner shall at all times obtain and maintain in effect a property insurance policy that, at a minimum, covers the Garage (including the City Spaces) and the Access Facilities. To the extent that the policy covers improvements other than the Garage and the Access Facilities, the policy shall, by way of endorsement, expressly provide that any loss suffered under such policy as a result of any claim made with respect to improvements other than the Garage and the Access Facilities shall not cause any reduction in the coverage afforded with respect to the Garage (including the City Spaces) and the Access Facilities that are unrelated to any such claim. The insurance policy shall be issued in an amount not less than one hundred percent (100%) of full replacement cost for any fire loss of the Garage and the Access Facilities, on a broad form "All Risk" property policy with reasonably available sublimits available in the insurance marketplace for other losses such as flood, earthquake, rents, soft costs, landscaping, law and ordinance and such other coverages typically carried by owners of first class parking facilities in the greater Phoenix market, providing protection against any and all perils generally included within the "All Risk" classification, and which shall name Owner and the City as loss payees.

(b) In addition, during the term of this Agreement, and subject to the City's obligation to pay its Allocable Share thereof pursuant to Section 13, Owner shall at all times maintain, or cause to be maintained, commercial general liability insurance that covers the Garage (including the City Spaces) and the Access Facilities in an amount not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate, with an umbrella policy that follows the form of the governing policy of not less than Five Million Dollars (\$5,000,000) per occurrence, together with not less than One Million Dollars (\$1,000,000) combined single limit automobile liability. Such coverage amounts may be increased at the request of either Party if such coverage amounts are no longer consistent with typical coverage amounts maintained for general liability coverage with respect to parking facilities for similar mixed-use projects of similar condition in areas comparable to the area in which the Garage is located. The foregoing liability insurance policy (i) shall be written on an occurrence basis, (ii) shall name the City as "additional insured", (iii) shall be primary on a non-contributory basis, (iv) shall be issued by an insurer authorized to do business in the State of Arizona, with a financial rating of not less than A-VIII, as rated in the most current edition of Best's Key Rating Guide (or similar or better rating from a similar insurance rating agency, if Best's is no longer in existence), (v) shall not be cancelled or non-renewed, nor shall any material change be made to the policy, without at least thirty (30) days prior written notice to each Party, and (vi) shall have a deductible not in excess of \$50,000 (with respect to bodily injury and course of construction) and not in excess of \$100,000 (with respect to completed operations), or such other deductible as then is consistent with similar insurance policies for similar properties.

(c) The requirements for insurance set forth in Sections 17(a) and 17(b) shall be hereinafter referred to as the **"Insurance Requirements"**. The City shall not take any action, or allow to be taken any action, which would cause such insurance to be unavailable;

and, provided further, however, if any of the Insurance Requirements are not generally available and customarily acquired at such time, then such Insurance Requirements shall be deemed amended to conform with then generally available and customary insurance requirements. Upon request of the City at any time, including prior to the Completion of Construction of the Garage, Owner shall deliver to the City certificates of insurance evidencing that the insurance required by the Insurance Requirements is in full force and effect. Prior to the expiration of any such policy, Owner shall deliver to the City an updated certificate of insurance evidencing that the insurance coverage required by the then Insurance Requirements has been renewed and is in full force and effect; if Owner fails to timely do so, Owner shall not be in default or breach of this obligation so long as Owner, within twenty (20) days of receipt of written notice from the City of such failure, delivers to the City such a certificate of insurance. The Parties acknowledge that the Insurance Requirements may be satisfied by means of master policies; provided, however, the cost of insurance coverage under a master policy covering more than the Garage shall be Operating Expenses only to the extent of the premium equitably allocated to the Garage.

18. HAZARDOUS MATERIALS. Neither Owner nor the City shall produce, dispose, transport, treat, use or store any hazardous material or hazardous waste in the Garage or on the Access Facilities in violation of environmental laws; each Party understands and acknowledges that neither Party shall be responsible for the actions of any third party other than itself. For the purposes of this Agreement, the terms “**hazardous material**” and “**hazardous waste**” shall mean and include any material or substance that is subject to regulation, now or at any time during the term of this Agreement, under any local, state or federal code, law, rule, regulation, court order or decree, or administrative guideline, order or policy relating to the environment, natural resources, animal or human health, safety (occupational or otherwise) or industrial hygiene.

19. SIGNS. The City and Owner shall meet regarding signage to be constructed near or adjacent to the Garage indicating that those City Spaces that have not been designated by the City as reserved, exclusive or restricted spaces are “Public Parking” available for public use, which “Public Parking” signage shall located in accordance with the parties' reasonable agreement with respect thereto. Once so agreed upon and as reflected on the Garage Plans, Owner shall cause Globe to install such signage. Once such signage has been installed, except as may be required in connection with Owner’s election under Section 7(e), neither Owner nor Globe shall take any action to, or provide any consent or approval to, modify or relocate such signage without the City's prior written consent, which consent shall not be unreasonably withheld. Owner shall not erect or maintain signs at any location in the Garage or on the Property that state that the City Spaces are not available for use by the public.

20. FUTURE IMPROVEMENTS. No Party shall make any structural alterations to the City Spaces or the Access Facilities except as follows:

(a) Owner shall cause Globe to complete the Garage in accordance with the Development Agreement and this Agreement.

(b) Any other structural modifications shall require the consent of the other Parties.

(c) No Party has consented to or promised to consent to any other structural modifications.

(d) Except as described in Section 12, no Party is obligated to perform any other structural modifications.

21. EVENTS OF DEFAULT. Each of the following shall be an “Event of Default” under this Agreement:

21.1 Monetary Default. The failure by a Party hereto (the “**Paying Party**”) to make a payment of money due under this Agreement within fifteen (15) days after (i) such payment is due and payable under this Agreement and (ii) a Party has given the Paying Party written notice of such failure.

21.2 Non-Monetary Default. The failure, other than a failure described in Section 21.1 above, by a Party hereto (the “**Non-Performing Party**”) to observe or perform, in any material respect, any covenant, agreement or obligation under this Agreement within thirty (30) days after (i) such observance or performance is required under this Agreement and (ii) another Party hereto has given the Non-Performing Party written notice of such failure; provided, however, that if it is not reasonably possible to cure such failure within such thirty-day cure period, such cure period shall, if and so long as the Non-Performing Party has commenced a cure of such failure within such thirty-day period and thereafter diligently pursues such cure, be extended for the additional time reasonably required to complete such cure.

21.3 Remedies for Event of Default. Upon the occurrence of any Event of Default, and at any time thereafter while the Event of Default continues, a non-defaulting Party hereto (the “**Non-Defaulting Party**”) may, at the Non-Defaulting Party’s option and from time-to-time, exercise all, any or any combination of the following remedies, in any order and repetitively:

(a) Performance or Payment by Non-Defaulting Party. The Non-Defaulting Party may pay or perform, or cause to be paid or performed, for the account of the Non-Performing Party (the “**Defaulting Party**”) and at the Defaulting Party’s sole cost and expense, any or all payments or performance required under this Agreement to be paid or performed by the Defaulting Party, without any liability of the Non-Defaulting Party for any loss or damage that may be sustained or incurred by the Defaulting Party as a result of such payment or performance by the Non-Defaulting Party, and following which payment or performance by the Non-Defaulting Party the Defaulting Party shall immediately upon demand by the Non-Defaulting Party reimburse the Non-Defaulting Party for all such payments made by the Non-Defaulting Party and all costs and expenses incurred by the Non-Defaulting Party in connection with such performance, together with interest thereon at the rate of ten percent (10%) per annum from the date such payment was made or such cost or expense was incurred by the Non-Defaulting Party.

(b) Specific Performance. The Non-Defaulting Party may seek a court order compelling specific performance of the Defaulting Party's obligations under this Agreement.

(c) Actual Damages; Waiver of Consequential Damages. The Non-Defaulting Party may pursue an action for actual damages and all other remedies to which the Non-Defaulting Party may then be entitled at law, in equity or under the provisions of this Agreement; provided that all Parties hereto waive the right to recover consequential, special or punitive damages. The City hereby agrees that if an Event of Default occurs pursuant to Section 21.1 above on the part of the City, Owner shall have recourse against the City's Limited Sales Taxes (as defined below) for recovery of the monetary amounts due to Owner hereunder. The City's obligation to make payments of any amounts due under this Agreement, including amounts due after an Event of Default under Section 21.1 on the part of the City, is limited to payment from the Limited Sales Taxes and shall in no circumstance constitute a general obligation of, or a pledge of the full faith and credit of, the City, the State of Arizona, or any of its political subdivisions, or require the levy of, or be payable from the proceeds of, any ad valorem taxes. The City may, at the City's sole option, pay the amounts due under this Agreement from its other funds as permitted by law and as the City may determine from time to time, but Owner acknowledges that it has no claim hereunder to such other funds and that any recovery hereunder by Owner for an Event of Default by the City pursuant to Section 21.1 shall be limited to recovery from the Limited Sales Taxes. No payments payable by the City hereunder shall be payable out of any ad valorem taxes imposed by the City or from bonds or other obligations, the payment of which the City's general taxing authority is pledged, unless (i) the same shall have been duly budgeted by the City according to law, (ii) such payment or payments shall be within the budget limitations of the statutes of the State of Arizona, and (iii) any such bonded indebtedness or other obligation is within the debt limitations of the Constitution of the State of Arizona. For purposes of this Agreement, "**Limited Sales Taxes**" shall mean all of the City's unrestricted transaction privilege (sales) taxes which the City now or hereafter validly imposes, provided that the Mayor and City Council may impose other transaction privilege (sales) taxes in the future, the uses of revenue from which may be restricted, at the discretion of such City Council and which, if so restricted, will not be deemed Limited Sales Taxes for purposes of this Agreement. Revenues generated by the City from building permits and development impact fees will not be deemed Limited Sales Taxes for purposes of this Agreement. The City represents and warrants to Owner and to Globe that, as of the date hereof, the annual amount of Limited Sales Taxes, excluding any revenues of the City from building permits, development impact fees and restricted Limited Sales Taxes, was at least \$68,000,000 for the City's current fiscal year; such representation is made only as of the date hereof.

(d) Recovery of Amounts Due. The Non-Defaulting Party may pursue collection of any monetary amounts due under this Agreement.

(e) Enforced Delay in Performance for Causes Beyond Control of Parties. Whether stated or not, all periods of time in this Agreement are subject to this Section 21.3(e). Neither the City nor Owner, nor Globe, as the case may be, shall be considered not to have performed its obligations under this Agreement in the event of unavoidable delay (an

“**Enforced Delay**”) due to (1) causes beyond its control and without its fault, negligence or failure to comply with Applicable Laws, including, but not restricted to, acts of God, acts of public enemy, acts of the federal, state and local government (except the actions of the City shall not be considered an Enforced Delay), acts of the other Party, acts of a third party, litigation concerning the validity and enforceability of this Agreement or relating to transactions contemplated hereby (including the effect of petitions for initiative or referendum), fires, floods, epidemics, pandemics, quarantine, restrictions, strikes, embargoes, labor disputes, and unusually severe weather or the delays of subcontractors or materialmen due to such causes, act of a public enemy, terrorism or act of terror (including but not limited to bio-terrorism or eco-terrorism), nuclear radiation, declaration of national emergency or national alert, blockade, insurrection, riot, labor strike or interruption, extortion, sabotage, or similar occurrence or any exercise of the power of eminent domain, condemnation, or other taking by the action of any governmental body on behalf of any public, quasi-public or private entity, or declaration of moratorium or similar hiatus directly affecting the Property (whether permanent or temporary) by any public, quasi-public or private entity; (2) the order, judgment, action, or determination of any court, administrative agency, governmental authority or other governmental body other than, in the case of the City, the City or the City Council or one of its departments, divisions, agencies, commissions or boards (collectively, an “**Order**”) which delays the completion of the work or other obligation of the Party claiming the delay; or the suspension, termination, interruption, denial or failure of removal (collectively, a “**Failure**”) of issuance of any permit, license, consent, authorization or approval necessary to Owner’s or Globe’s undertakings pursuant to this Agreement, unless it is shown that such Order or Failure is the result of the fault, negligence or failure to comply with Applicable Laws by the Party claiming the delay; provided, however, that the contesting in good faith of any such Order or Failure shall not constitute or be construed or deemed as a waiver by a Party of an Enforced Delay; (3) the denial of an application, failure to issue, or suspension, termination, delay or interruption (collectively, a “**Denial**”) in the issuance or renewal of any permit, approval or consent required or necessary in connection with Owner’s or Globe’s undertakings pursuant to this Agreement, if such Denial is not also the result of fault, negligence or failure to comply with Applicable Laws by the Party claiming the delay; provided that the contesting in good faith or the failure in good faith to contest any such Denial shall not constitute or be construed or deemed as a waiver by a Party of any Enforced Delay; (4) the failure of any contractor, subcontractor or supplier to furnish services, materials or equipment in connection with Owner’s or Globe’s undertakings pursuant to this Agreement, if such failure is caused by Enforced Delay, if and to the extent, and only so long as the Party claiming the delay is not reasonably able, after using its best efforts, to obtain substitute services, materials or equipment of comparable quality and cost; and (5) failure of a Party to meet any agreed upon milestones for the applicable task. Enforced Delay shall also include the discovery of differing subsurface site conditions or hazardous substances on, at or affecting the Property not disclosed by any applicable geotechnical report or environmental assessment or otherwise not known by or disclosed to the Party or Parties affected thereby; the discovery of funerary objects or archaeological resources or artifacts on, at or affecting the Property requiring repatriation, study, removal or further acts mandated by federal or state law; or the discovery of endangered species on, at or affecting the Property. In no event will Enforced Delay include any delay resulting from general economic or market conditions, nor from the unavailability for any reason of any particular contractors, subcontractors, vendors, investors or lenders desired by Owner or Globe

in connection with the applicable task. In the event of the occurrence of any such Enforced Delay, the time or times for performance of the obligations of the Party claiming delay shall be extended for a period of the Enforced Delay.

(f) Remedies Cumulative. The rights and remedies of the Parties hereto under this Agreement are intended to be and shall be cumulative, and the exercise or attempted exercise by a Party hereto of a given remedy shall not preclude or limit the right or ability of such Party to exercise, at the same or at any different time, any other remedy or remedies.

22. NON-DISTURBANCE, SUBORDINATION AND ATTORNMENT. In the event that, on the date of recordation of this Agreement, any deed of trust or mortgage (each a “**Deed of Trust**”) is recorded as a lien against all or any portion of the Garage by Owner, then Owner shall obtain a written agreement (the “**Non-Disturbance Agreement**”), in recordable form and with the provisions set forth below (with such provisions in a form reasonably satisfactory to the City), by which the beneficiary or mortgagee under such Deed of Trust (the “**Holder**”):

(a) recognizes this Agreement;

(b) agrees that in the event of any foreclosure or action under or pursuant to, or any acceptance of any conveyance or transfer in lieu of any such foreclosure or action under or pursuant to such Deed of Trust, the City’s ownership, possession and use of the City Spaces and the Access Rights shall not be disturbed;

(c) agrees that the City shall not, so long as there is no Event of Default by the City under this Agreement, be named as a defendant or other party in any action or proceeding brought by or for the benefit of such Holder under such Deed of Trust (except solely to the extent required to complete a judicial foreclosure, but such foreclosure would still otherwise be subject to this Non-Disturbance provision and in no event shall the City have any liability to such Holder); and

(d) agrees that, in the event the Holder acquires Owner’s interest in the Garage, the Holder and its successors and assigns with respect to the Garage shall recognize and accept the City’s rights to use the City Spaces and the Access Rights under this Agreement.

23. CONDEMNATION AND CASUALTY.

(a) In the event any governmental entity other than the City acquires the Garage by condemnation or right of eminent domain then, unless Owner elects, by notice to the City within thirty (30) days, to relocate the City Spaces elsewhere on the Property, this Agreement may thereafter be terminated by any Party, effective sixty (60) days after receipt of written notice to the other Parties unless, during such sixty (60) day period, Owner notifies the City of its election to relocate the City Spaces elsewhere on the Property. In the event of such termination, Owner shall, from the net proceeds of any condemnation award or payment in lieu of an award actually received by Owner with respect to such acquisition, pay to the City an amount equal to the Garage Payment.

3618860.7

4813-4730-4109v14/9799-0111

(b) If at any time during the term of this Agreement the Garage or any portion thereof shall be damaged or destroyed by fire or other occurrence of any kind or nature, ordinary or extraordinary, foreseen or unforeseen, Owner shall immediately secure the Garage and undertake temporary repairs and work necessary to protect the public and to protect the Garage from further damage. Owner shall have a commercially reasonable time (at least 180 days) to decide whether or not to rebuild the damaged improvements. If Owner elects to rebuild the damaged improvements, Owner at its sole cost and expense, and whether or not the insurance proceeds, if any, shall be sufficient for the purpose, shall proceed with reasonable diligence to repair, alter, restore, replace or rebuild the same as nearly as possible to its value, condition and character immediately prior to such damage or destruction. In such event, all insurance proceeds on account of such damage or destruction under the policies of insurance required hereunder, less the cost, if any, incurred in connection with the adjustment of the loss and the collection thereof shall be paid to Owner. If Owner elects not to rebuild the City Spaces, then the City may terminate this Agreement upon sixty (60) days' written notice, unless Owner notifies the City during such sixty (60) day period of its intent to rebuild, and Owner shall pay to the City an amount equal to the Garage Payment.

24. MISCELLANEOUS PROVISIONS.

24.1 Governing Law; Choice of Forum. This Agreement shall be deemed to be made under, shall be construed in accordance with, and shall be governed by the internal, substantive laws of the State of Arizona (without reference to conflict of law principles). Any action brought to interpret, enforce or construe any provision of this Agreement shall be commenced and maintained in the Superior Court of the State of Arizona in and for the County of Maricopa (or, as may be appropriate, in the Justice Courts of Maricopa County, Arizona, or in the United States District Court for the District of Arizona, if, but only if, the Superior Court lacks or declines jurisdiction over such action). The Parties irrevocably consent to jurisdiction and venue in such courts for such purposes and agree not to seek transfer or removal of any action commenced in accordance with the terms of this Section 24.1.

24.2 Agreement Runs with Land. It is intended that each of the easements, covenants, conditions, restrictions, rights and obligations set forth herein shall run with the land, shall bind any Person now or hereafter acquiring any right, title or interest in or to the Property, and shall inure to the benefit of the respective Parties and their successors, assigns, heirs and personal representatives and any subsequent owner of the Property or the City Property. Upon any transfer of Owner's interest in the Garage, Owner's successors shall, without further action by any Party hereto, be bound by this Agreement and shall receive the rights of Owner hereunder, and upon the effectiveness of such transfer the then Owner shall, without further action by any Party hereto, be released and discharged from all obligations and liabilities of Owner under this Agreement with respect to the transferred property that arise after the effectiveness of such transfer or conveyance. Owner shall provide the City with written notice of transfer of its interest in the Property or any portion thereof.

24.3 No Merger. The ownership of the entirety of the City Property and the Property by the same Person shall not effect a termination of this Agreement.

If to Owner or Globe:

GSQ Goodyear Parking Garage, LLC
c/o Globe Corporation
6730 North Scottsdale Road, Suite 250
Scottsdale, Arizona 85253
Attn: George Getz and Michael J. Olsen
Telephone: (480) 991-0500

With a required copy to:

Mast Law Firm, P.C.
2415 East Camelback Road, Suite 455
Phoenix, Arizona 85016
Attn: Gregory L. Mast
Telephone: (602) 852-5951

(b) Effective Date of Notices. Any notice sent by United States Postal Service certified or registered mail shall be deemed to be effective the earlier of the actual delivery, or three (3) Business Days after deposit in a post office operated by the United States Postal Service. Any notice sent by a recognized national overnight delivery service shall be deemed effective one (1) Business Day after deposit with such service. Any notice personally delivered or delivered through a same-day delivery/courier service shall be deemed effective upon its receipt (or refusal to accept receipt) by the addressee. Any notice sent by email shall be deemed effective if received during business hours in the recipient's location (and otherwise on the next Business Day), and any notice sent by telecopy or telefacsimile machine shall be deemed effective only upon confirmation of the successful transmission by the sender's telecopy or telefacsimile machine. Notwithstanding the foregoing, no payment shall be deemed to be made until actually received in good and available funds by the intended payee. Any Party may designate a different Person or change the place to which any notice shall be given as herein provided.

(c) Payments. Payments shall be made and delivered in the same manner as Notices; provided, however, that payments shall be deemed made only upon actual receipt, in good and available funds, by the intended recipient.

24.7 Time of Essence. Time is of the essence of this Agreement and each provision hereof.

24.8 Section Headings. The Section headings contained in this Agreement are for convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

24.9 Attorneys' Fees and Costs. In the event of a breach by any Party and commencement of a subsequent legal action in an appropriate forum, the prevailing Party or Parties in any such dispute shall be entitled to reimbursement of its reasonable attorneys' fees and court costs, including, but not limited to, its costs of expert witnesses, transportation, lodging and meal costs of the applicable Party and witnesses, costs of transcript preparation and other reasonable and necessary direct and incidental costs of such dispute.

24.10 Waiver. Without limiting the provisions of Section 21.3(e) of this Agreement, the Parties agree that neither the failure nor the delay of any Party to exercise any right, remedy, power or privilege under this Agreement shall operate as a waiver of such right, remedy, power or privilege, nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise of the same or of any other right, remedy, power or privilege, nor shall any waiver of any right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power or privilege with respect to any other occurrence. No waiver shall be effective unless it is in writing and is signed by the Party asserted to have granted such waiver.

24.11 Third Party Beneficiaries. No Person shall be a third party beneficiary to this Agreement, except for transferees or assignees, or except for lenders under Section 24.21.

24.12 Exhibits. Without limiting the provisions of Section 2 of this Agreement, the Parties agree that all references to this Agreement include all Exhibits designated in and attached to this Agreement, such Exhibits being incorporated into and made an integral part of this Agreement for all purposes.

24.13 Integration. This Agreement constitutes the entire agreement among the Parties with respect to the subject matters hereof and supersedes any prior agreement, understanding, negotiation or representation regarding the subject matters covered by this Agreement; for the avoidance of doubt, the provisions of Sections 4.1(b)(i) and 14.27 of the Development Agreement have been integrated into this Agreement and shall be deemed superseded in full, and replaced by, the provisions of this Agreement.

24.14 Further Assurances. Each Party agrees to perform such other and further acts and to execute and deliver such additional agreements, documents, affidavits, certifications, acknowledgments and instruments as any other Party may reasonably require to consummate, evidence, confirm or carry out the matters contemplated by this Agreement or confirm the status of (a) this Agreement as in full force and effect and (b) the performance of the obligations hereunder at any time during its Term.

24.15 Third Party Legal Actions. The Parties agree to participate, at their own expense, and to cooperate in the defense of any action, referendum or other proceeding seeking to challenge, limit or invalidate any provision of this Agreement or which challenges the authority of any Party to enter into this Agreement or to perform any of its obligations hereunder. The severability and reformation provisions of Section 24.4 shall apply in the event of any successful challenge to this Agreement.

24.16 Business Days. If the last day of any time period stated in this Agreement or the date on which any obligation to be performed under this Agreement shall fall on a Saturday, Sunday or legal holiday, then the duration of such time period or the date of performance, as applicable, shall be extended so that it shall end on the next succeeding day which is not a Saturday, Sunday or legal holiday.

24.17 Recordation. Within ten (10) days after this Agreement has been approved by the City and executed by the Parties, the City shall cause this Agreement to be recorded in the Official Records of Maricopa County, Arizona.

24.18 Amendment. No change or addition is to be made to this Agreement except by written amendment executed by all of the Parties. Within ten (10) days after any amendment to this Agreement, such amendment shall be recorded in the Official Records of Maricopa County, Arizona. Upon amendment of this Agreement as established herein, references to “Agreement” shall mean this Agreement as amended by any subsequent amendment. The effective date of any duly processed minor or major amendment shall be the date on which the last representative for the Parties executes such amendment. If, after the effective date of any amendment(s), the Parties find it necessary to refer to this Agreement in its original, unamended form, they shall refer to it as the “Original Parking Rights Agreement”. When the Parties mean to refer to any specific amendment to this Agreement which amendment is unmodified by any subsequent amendments, the Parties shall refer to it by the number of the amendment as well as its effective date.

24.19 Good Faith of Parties. Except where any matter is expressly stated to be in the sole discretion of a Party, in performance of this Agreement or in considering any requested extension of time, each Party agrees that it will act in good faith and will not act unreasonably, arbitrarily or capriciously and will not unreasonably withhold, delay or condition any requested approval, acknowledgment or consent.

24.20 Survival. All rights and obligations contained in this Agreement shall survive the term of this Agreement, and the rescission, cancellation, expiration or termination of this Agreement.

24.21 Rights of Lenders. The City is aware that Owner may obtain financing or refinancing for acquisition, development and/or construction of the real property and/or improvements to be constructed on the Property, in whole or in part, from time to time, by one or more third parties (individually a “**Lender**,” and collectively the “**Lenders**”). In the event of a breach or default by Owner, the City shall provide notice of such breach or default, at the same time notice is provided to Owner, to not more than two (2) of such Lenders as previously designated by Owner to receive such notice (the “**Designated Lenders**”) whose names and addresses were provided by written notice to the City in accordance with Section 24.6. The City shall give Owner copies of any such notice provided to such Designated Lenders and, unless Owner notifies the City that the Designated Lenders names or addresses are incorrect (and provides the City with the correct information) within three (3) Business Days after Owner receives its copies of such notice from the City, the City will be deemed to have given such notice to the Designated Lenders even if their names or addresses are incorrect. Owner may provide notices to other Lenders. Upon request by a Lender, the City will enter into a separate nondisturbance agreement with such Lender, consistent with the provisions of this Section 24.21. If a Lender is permitted, under the terms of its nondisturbance agreement with the City, to cure Owner’s breach or default and/or to assume Owner’s position with respect to this Agreement, the City agrees to recognize such rights of the Lender and to otherwise permit the Lender to assume all of the rights and obligations of Owner thereafter accruing under this Agreement. The City

shall, at any time upon reasonable request by Owner, provide to any Lender an estoppel certificate or other document evidencing that this Agreement is in full force and effect and that no breach or default by Owner exists hereunder (or, if appropriate, specifying the nature and duration of any existing Owner breach or default).

It is contemplated that Owner will obtain the original financing for the construction of the Garage from Enterprise Bank & Trust, a Missouri-chartered trust company, having an address at 3900 East Camelback Road, Suite 180, Phoenix, Arizona 85018. It is contemplated that the loan provided by such lender will be obtained either prior to or promptly after the execution and recordation of this Agreement. As a result, until such loan is paid in full, Enterprise Bank & Trust shall be deemed a Lender under this Section 24.21 and shall be deemed one of the Lenders designated by Owner to receive the notices referenced in the preceding paragraph.

24.22 Nonliability of City Officials, Etc., and of Employees, Members and Partners, Etc. of Owner. No member, official or employee of the City shall be personally liable to Owner or Globe, or any successor in interest of Owner or Globe, in the event of any breach or default by the City or for any amount which may become due to Owner or Globe or any successor in interest, or on any obligation, under the terms of this Agreement. No member, manager, officer or employee of Owner or Globe, and no member, manager, partner, stockholder, director, officer or employee of any manager or member of Owner or Globe or any successor to Owner or Globe, and no affiliate of any such persons or entities, shall be personally liable to the City in the event of any breach or default by Owner or Globe or for any amount which may become due to the City, or on any obligation, under the terms of this Agreement.

24.23 Conflict of Interest Statute. This Agreement is subject to, and may be terminated by the City in accordance with, the provisions of A.R.S. § 38-511.

24.24 Warranty Against Payment of Consideration for Agreement. Owner warrants that it has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Agreement, other than normal costs of conducting business and costs of professional services such as architects, engineers, realtors and attorneys.

24.25 Waiver of Claims Pursuant to A.R.S. § 12-1134, et seq. Owner agrees, understands and acknowledges that the City is entering into this Agreement in good faith and at the specific request of Owner, and further with the understanding that, if the City acts consistently with the terms and conditions herein, it will not be subject to a claim for diminished value of the Property from the Owner. The Owner, on behalf of it and its successors and assigns, intends to encumber the Property with the following agreements and waivers. Owner agrees and consents to all the conditions imposed by this Agreement, Applicable Laws and all permits and approvals issued or granted by the City in furtherance thereof, and by signing this Agreement waives any and all claims, suits, damages, compensation and causes of action the Owner may have now or in the future under the provisions of A.R.S. §§ 12-1134 through and including 12-1136 (but specifically excluding any provisions included therein relating to eminent domain) and resulting from the development of the Property consistent with this Agreement, Applicable Laws and all permits and approvals issued or granted by the City in furtherance thereof or from any “land use law” (as such term is defined in the aforementioned statute paragraphs) permitted

by this Agreement to be enacted, adopted or applied by the City now or hereafter. Owner acknowledges and agrees that the terms and conditions set forth in this Agreement, Applicable Laws and all permits and approvals issued or granted by the City in furtherance thereof cause the fair market value of the Property to equal or exceed the fair market value of the Property in the absence of this Agreement, Applicable Laws and all permits and approvals issued or granted by the City in furtherance thereof, and such “land use laws.”

24.26 City Council Action Requirement. The City and Owner acknowledge that, notwithstanding any language of this Agreement or any subsequent additional document, no act, requirement, payment or other agreed-upon action to be done or performed by the City which would, under any federal, state or city constitution, statute, charter provision, ordinance or regulation, require formal action, approval or concurrence by the City Council, will be required to be done or performed by the City unless and until said formal City Council action has been taken and completed. “**Completed**” under this provision means that such City Council action is no longer subject to referendum action.

[SIGNATURES ON THE FOLLOWING PAGES – PARKING RIGHTS AGREEMENT]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first set forth above.

OWNER

GSQ GOODYEAR PARKING GARAGE, LLC,
an Arizona limited liability company

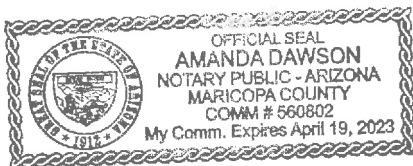
By: Globe Corporation,
an Illinois corporation
Its Sole Member

By: [Signature]
Name: George F. Getz
Title: President

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing Parking Rights Agreement, consisting of 39 pages, including this page and all exhibits, was acknowledged before me this 18th day of November, 2021, by George F. Getz, the President of Globe Corporation, an Illinois corporation, the Sole Member of GSQ Goodyear Parking Garage, LLC, an Arizona limited liability company, who acknowledged that he signed the foregoing instrument on behalf of the company.

WITNESS my hand and official seal.



[Signature]
Notary Public

[SIGNATURES CONTINUED FROM PRECEDING PAGE –
PARKING RIGHTS AGREEMENT]

CITY

CITY OF GOODYEAR, ARIZONA,
an Arizona municipal corporation

By: _____

Its: _____

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
City Attorney

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

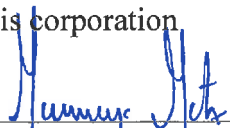
The foregoing Parking Rights Agreement, consisting of ____ pages, including this page and all exhibits was acknowledged before me this ____ day of _____, 2021, by _____, the _____ of the City of Goodyear, Arizona, an Arizona municipal corporation, who acknowledged that he/she signed the foregoing instrument on behalf of the City.

Notary Public

[SIGNATURES CONTINUED FROM PRECEDING PAGE –
PARKING RIGHTS AGREEMENT]

GLOBE

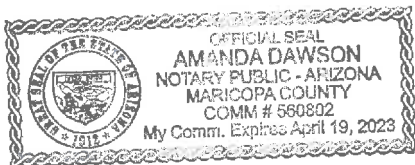
GLOBE CORPORATION,
an Illinois corporation

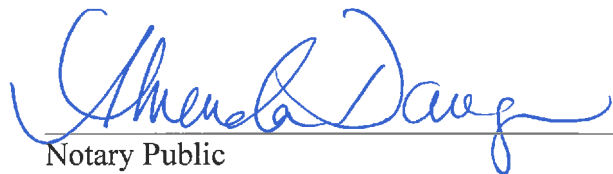
By: 
Name: George F. Getz
Title: President

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing Parking Rights Agreement, consisting of 39 pages, including this page and all exhibits, was acknowledged before me this 18th day of November, 2021, by George F. Getz, the President of Globe Corporation, an Illinois corporation, who acknowledged that he signed the foregoing instrument on behalf of the company.

WITNESS my hand and official seal.




Notary Public

LIST OF EXHIBITS

- | | | |
|-----------|---|------------------------------------|
| Exhibit A | - | Legal Description of City Property |
| Exhibit B | - | Legal Description of Property |
| Exhibit C | - | Location of South Garage |
| Exhibit D | - | Initial Location of City Spaces |

EXHIBIT A
LEGAL DESCRIPTION OF CITY PROPERTY

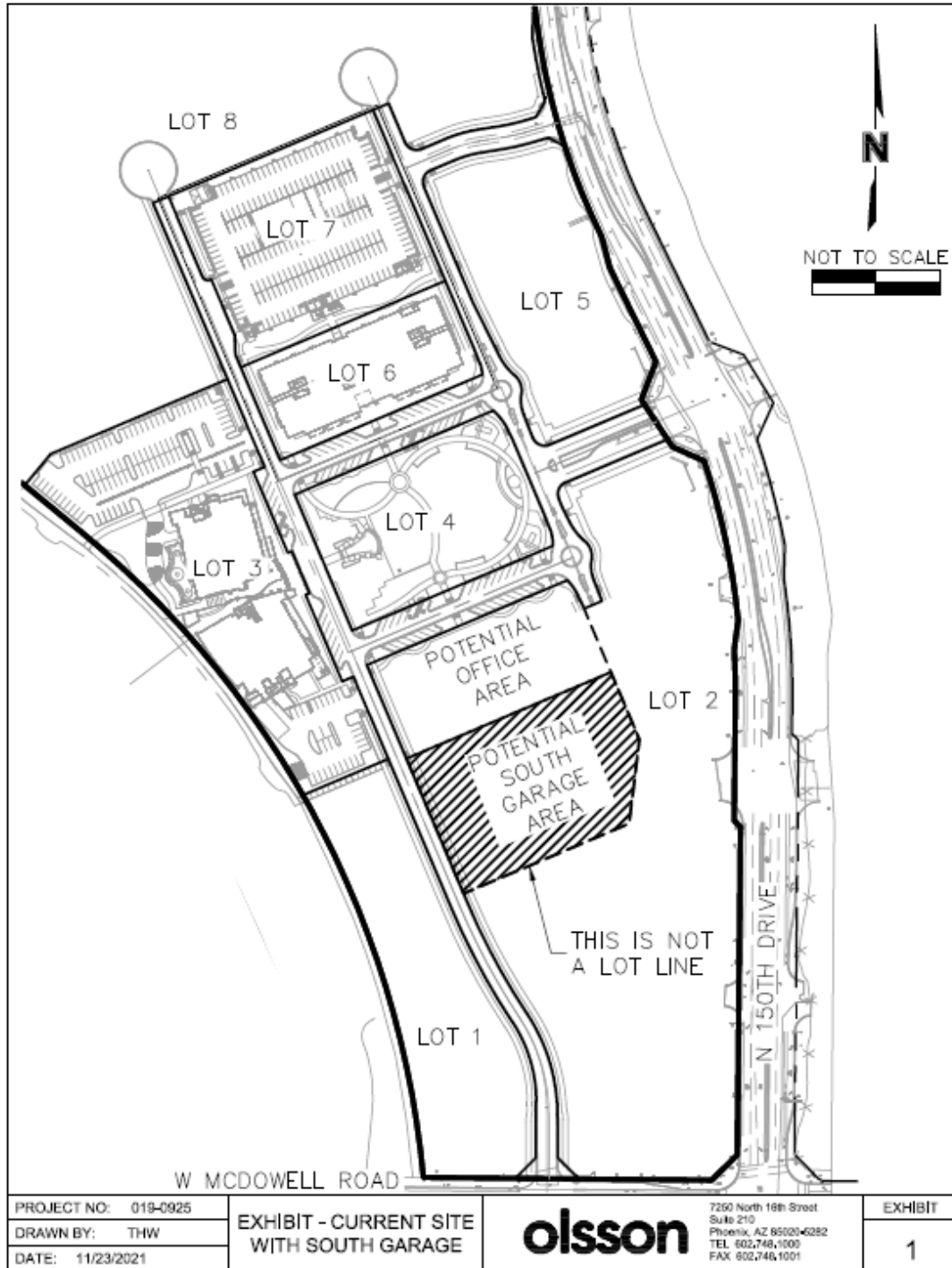
Lots 3 and 4 of the Final Plat Goodyear Civic Square Parcel "A" at Estrella Falls, recorded March 5, 2021, in Book 1577 of Maps, Page 1, of Official Records of the County Recorder of Maricopa County, Arizona.

EXHIBIT B

LEGAL DESCRIPTION OF PROPERTY

Lot 7 of the Final Plat Goodyear Civic Square Parcel "A" at Estrella Falls, recorded March 5, 2021, in Book 1577 of Maps, Page 1, of Official Records of the County Recorder of Maricopa County, Arizona.

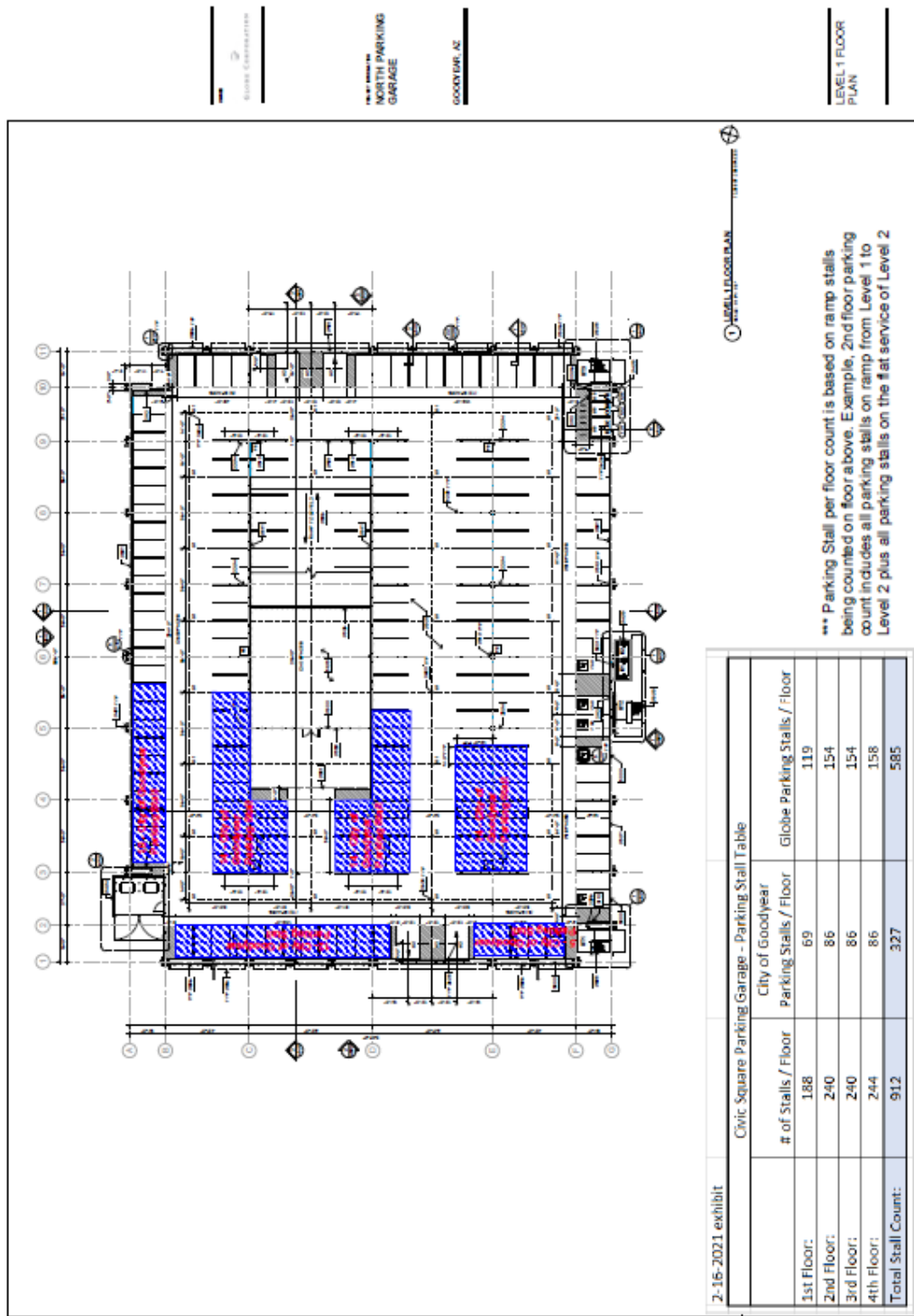
EXHIBIT C
LOCATION OF SOUTH GARAGE



3618860.5
4813-4730-4109v14/9799-0111

EXHIBIT D

INITIAL LOCATION OF CITY SPACES



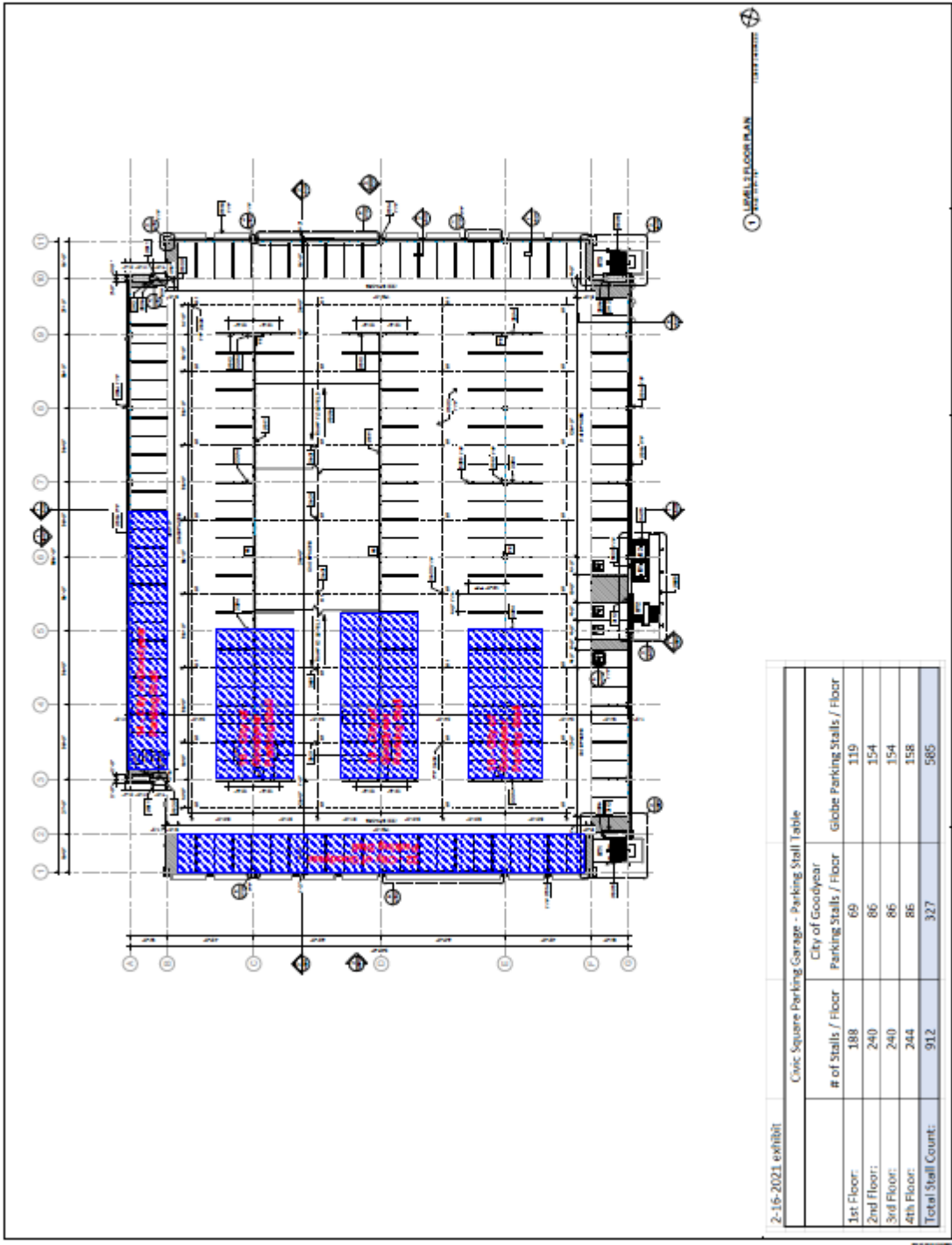


EXHIBIT 'B'

NON-DISTURBANCE AGREEMENT

[On the following pages]

This instrument prepared by
and after recording return to:

Kris M. Dekker, Esq.
Spencer Fane LLP
1000 Walnut Street, Suite 1400
Kansas City, Missouri 64106
(816) 292-8130

NON-DISTURBANCE AGREEMENT

THIS NON-DISTURBANCE AGREEMENT ("Agreement"), dated December 6, 2021, is made between CITY OF GOODYEAR, ARIZONA, an Arizona municipal corporation (the "City"), and ENTERPRISE BANK & TRUST, a Missouri chartered trust company ("Lender").

RECITALS:

A. Lender has funded a commercial mortgage loan (the "Loan") to GSQ Goodyear Parking Garage, LLC, Arizona limited liability company ("Owner"), and GSQ Goodyear Office, LLC, Arizona limited liability company, secured by a mortgage, deed of trust or other security instrument (the "Mortgage") encumbering the land described on Exhibit A, attached hereto and incorporated herein by reference, together with improvements thereon (the "Property") in addition to other property.

B. By a certain Parking Rights Agreement among Owner and City dated December 6, 2021 (together with all amendments, options, extensions and renewals, the "Parking Agreement"), Owner has granted to City certain parking and access rights with respect to portions of the Property (the "Parking Rights").

C. City and Lender desire to agree upon the relative priorities of their interests in the Property and their rights and obligations if certain events occur.

NOW, THEREFORE, the parties hereto intending to be legally bound hereby, for and in consideration of the mutual covenants contained herein, the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, agree as follows:

1. Recitals. All of the above Recitals are hereby incorporated herein by reference and are made a part hereof.

2. Non-Disturbance. Lender and City hereby agree that, so long as City complies with the terms, conditions and covenants of the Parking Agreement and performs its obligations under the Parking Agreement, (a) Lender will take no action that will interfere with or disturb City's use of the Parking Rights or other rights under the Parking Agreement, and (b) in the event Lender or

other purchaser of the Property (each a “Successor Owner”) becomes the owner of the Property by foreclosure, conveyance in lieu of foreclosure or otherwise, (i) the Property shall remain subject to the Parking Agreement and Successor Owner shall recognize City as a holder of the Parking Rights for the remainder of the term of the Parking Agreement in accordance with the provisions thereof and shall perform and observe the obligations “Owner” thereunder, subject to the terms of this Agreement, and (ii) City shall recognize Successor Owner as the “Owner” under the Parking Agreement for the remainder of the term of the Parking Agreement, and continue to perform and observe its obligations thereunder. Subject to the foregoing, the Parking Agreement, together with all rights, remedies, options, liens and charges created thereby, now is and shall remain junior, inferior, subject and unconditionally subordinate to the lien, operation and effect of the Mortgage and the indebtedness secured thereby and to all renewals, modifications, consolidations, replacements, additional advances, future advances and extensions thereof.

3. Limitation of Liability. Notwithstanding any other provisions of this Agreement or the Parking Agreement to the contrary, Successor Owner shall not be (a) liable for any act or omission of any prior owner of the Property; (b) subject to any offsets or defenses which City might have against any prior owner of the Property; or (c) bound by any amendment or modification of the Parking Agreement, or any waiver of any of the terms thereof, made without Lender’s written consent.

4. Casualty; Condemnation. Notwithstanding anything to the contrary contained in the Parking Agreement, at Lender’s option, the provisions of the Loan Documents (as defined in the Mortgage) shall control the distribution and application for all insurance proceeds payable with respect to any casualty at the Property and of all awards or other compensation payable for the condemnation of all or any portion of the Property or any interest therein or by way of negotiated settlement or conveyance in lieu of condemnation; provided, however, nothing contained in this Agreement shall require City to pay Lender any proceeds that City separately receives for City’s separate claims due to such casualty or condemnation. Any right of the City to receive payment from Owner under Section 23 of the Parking Agreement as result of Owner’s election not to rebuild the Garage (as defined in the Parking Agreement) following a casualty or condemnation shall be subordinate to Lender’s right to receive full repayment of the Loan.

5. Lender’s Rights Under the Parking Agreement. City hereby acknowledges and agrees that so long as the Mortgage remains outstanding and unsatisfied, Lender shall constitute a “Lender” under the Parking Agreement.

6. Notices. Any and all notices, elections or demand permitted or required to be made under this Agreement shall be in writing, signed by the party giving such notice, election or demand and will be deemed delivered or made upon the earlier of actual receipt if sent by overnight courier or hand-delivered or three (3) days after same is mailed by registered or certified mail, return receipt requested, with sufficient postage affixed, and addressed to the parties as follows:

If to the City:

City of Goodyear
190 North Litchfield Road
Goodyear, Arizona 85338
Attn: Ms. Julie Arendall, City Manager

With a required copy to:

Gust Rosenfeld PLC
One East Washington, Suite 1600
Phoenix, Arizona 85004
Attn: Frank S. Tomkins, Esq.
Telephone: (602) 257-7476
Facsimile: (602) 254-4878

If to Lender at:

Enterprise Bank & Trust
Attn: Andrew Romano
3900 East Camelback Road, Suite 180
Phoenix, Arizona 85018

Such addresses may be changed by notice pursuant to this paragraph, but notice of change of address is effective only upon receipt.

7. Binding Effect. This Agreement shall be binding upon all the parties hereto, their heirs, successors and assigns and all of those holding title under any of them, and the pronouns herein shall include, where appropriate, either gender or both, singular or plural. If Lender assigns the Mortgage, all obligations and liability of Lender hereunder shall terminate as of the date of such assignment.

8. Non-Waiver. No indulgence, waiver, election or non-election by Lender under the Mortgage or any other Loan Documents shall affect this Agreement.

9. Modification of Agreement. The parties hereby agree that this document contains the entire agreement between the parties, and this Agreement shall not be modified, changed, altered or amended in any way except through written amendments signed by all of the parties hereto.

10. Governing Law. It is agreed that the laws of the State in which the Property is located shall govern the construction and interpretation of this Agreement and the rights and obligations set forth herein.

11. Attorneys' Fees. In the event of any legal or equitable action, including any appeals or bankruptcy proceedings, which may arise hereunder between or among the parties hereto, the prevailing party shall be entitled to recover its costs and its reasonable attorneys' fees and paralegal fees.

12. Severance. The invalidity or unenforceability of any portion of this Agreement shall not affect the remaining provisions and portions hereof.

13. Exculpation. In the event Lender or any affiliate of Lender (for purposes of this paragraph, the term "Lender" shall include any corporation, partnership or limited liability company owned or controlled by Lender) acquires title to the Property and succeeds to the interest of Owner under the Parking Agreement, then, anything in the Parking Agreement or this Agreement to the contrary notwithstanding, Lender shall have no personal liability for any damages resulting from its default under the terms of the Parking Agreement, and City agrees that it shall look solely to the estate and interest of Lender in the Property for the collection of any

judgment (or other judicial process) requiring the payment of money by Lender in the event of any default or breach by Lender with respect to any of the terms, covenants and conditions of the Parking Agreement to be observed and/or performed by Lender, and no other assets of Lender shall be subject to levy, execution or other procedures for the satisfaction of City's remedies.

14. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. The Agreement shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the parties reflected hereon as the signatories.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;
SIGNATURE PAGES FOLLOW]**

Notary Public

LENDER:

ENTERPRISE BANK & TRUST, a Missouri
chartered trust company

By: _____

Print Name: _____

Title: _____

ACKNOWLEDGMENT

STATE OF _____)
) ss:
COUNTY OF _____)

On this _____ day of _____, 2021, before me personally appeared _____, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be, and acknowledged that he signed the above document.

(seal)

Notary Public

EXHIBIT A

Lot 7, Final Plat of Goodyear Civic Square Parcel "A" at Estrella Falls, recorded March 5, 2021 in Book 1577, Page 1 (Instrument No. 2021-0249393), official records of Maricopa County Recorder, Arizona.