

RESOLUTION NO. 2026-2518

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, APPROVING THE DEVELOPMENT AGREEMENT WITH RG LAND PARTNERS, LLC., FOR THE DESIGN, CONSTRUCTION, OPERATION, AND MAINTENANCE OF A REGIONAL PARKING GARAGE, POLICE SUBSTATION, AND PUBLIC OPEN SPACE AMENITIES WITHIN GOODYEAR CIVIC SQUARE.

WHEREAS, Goodyear Civic Square ("GSQ") is a mixed-use development in the City of Goodyear, Arizona consisting of approximately 150-acres designed to become the City's premier cultural and lifestyle destination anchored by the City's new city hall, state-of-the-art library, a two-acre public park, a public parking garage and bordered by the Bullard Wash along the western boundary of the new city hall;

WHEREAS, to support the City's vision of GSQ as a gathering place for its residents for events such as festivals, concerts and parades and the continued development of retail and commercial development, the City desires to facilitate the design and construction of a publicly owned regional parking garage containing approximately six hundred (600) parking spaces, together with a police substation and public open space;

WHEREAS, the Development Agreement provides for the construction of the garage, police substation and open space amenities by the owner/developer of GSQ, the city's responsibilities for the costs of the improvements, and the ownership and responsibility for the maintenance of the improvements; and

WHEREAS, the Development Agreement is intended to be a development agreement pursuant to A.R.S. § 9-500.05.

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

SECTION 1. The Mayor and Council of the City of Goodyear, hereby approve the Development Agreement with RG Land Partners, LLC., a Delaware limited liability company attached hereto as Exhibit "1" for the design, construction, operation and maintenance of a Regional Parking Garage, Police Substation, and Public Open Space Amenities within Goodyear Civic Square, which is intended to be a development agreement pursuant to A.R.S. § 9-500.05.

SECTION 2. The City Manager is hereby authorized and directed to execute the Development Agreement attached hereto as Exhibit "1" and the City Manager or his/her designee is hereby authorized and directed to take any and all actions and to execute any and all documents necessary to carry out the intent of this Resolution and the terms of this Development Agreement, including approving budget amendments to the FY2026 Budget as needed to allow for payments required under the terms of this Agreement.

SECTION 3. Resolution 2026-2518 shall be effective as provided by law.

PASSED AND ADOPTED by the Mayor and Council of the City of Goodyear, Maricopa County, Arizona, by a _____ vote, this 27th day of April, 2026.

Joe Pizzillo, Mayor

Date: _____

ATTEST:

APPROVED AS TO FORM:

Jasmine Pernicano, City Clerk

Roric Massey, City Attorney

EXHIBIT “1”

**DEVELOPMENT AGREEMENT WITH RG LAND PARTNERS, LLC
REGIONAL PARKING GARAGE**

(On the following pages)

When recorded, return to:
City of Goodyear
1900 North Civic Square
Goodyear, Arizona 85395
Attn: City Manager

DEVELOPMENT AGREEMENT (REGIONAL GARAGE)

THIS DEVELOPMENT AGREEMENT (“**Agreement**”) is made as of the ____ day of _____, 2026, by and between the CITY OF GOODYEAR, ARIZONA, an Arizona municipal corporation (“**City**”) and RG LAND PARTNERS, LLC, a Delaware limited liability company (“**RGLP**”). The City and RGLP 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 this Agreement.

1. RECITALS

- A. Goodyear Civic Square ("GSQ") is a mixed-use development in the City of Goodyear, Arizona consisting of approximately 150-acre designed to become the City's premier cultural and lifestyle destination anchored by the City's new city hall, state-of-the-art library, a two-acre public park, a public parking garage and bordered by the Bullard Wash along the western boundary of the new city hall.
- B. To support the City's vision of GSQ as a gathering place for its residents for events such as festivals, concerts and parades and the continued development of retail and commercial development, the City desires to facilitate the design and construction of a publicly owned regional parking garage containing approximately six hundred (600) parking spaces, together with a police substation and public open space.
- C. RGLP (a joint venture formed between Globe Land Investors, LLC (“**GLI**”) and principals of RED Development (“**RED**”)) owns property within GSQ.
- D. The City is authorized to enter into development agreements pursuant to A.R.S. § 9-500.05 and has determined that a development agreement is an appropriate mechanism to establish the terms and conditions under which certain public improvements may be designed, constructed, owned, operated, and maintained within GSQ.
- E. RGLP has agreed, subject to the terms and conditions of this Agreement, to donate the Garage Parcel to the City for development of the Project, recognizing that such

land contribution is a material component of the public-private framework contemplated by the Parties.

- F. The Parties previously entered into a City Council approved non-binding Letter of Intent dated November 7, 2025 (“**LOI**”), which outlined preliminary concepts related to the Project. This Agreement is in accord with the LOI. The LOI is referenced herein solely for background purposes and does not create binding obligations, and all binding obligations of the Parties are set forth exclusively in this Agreement.
- G. The Parties intend that the design and construction of the Project will be subject to applicable public procurement requirements, including A.R.S. Title 34, and that nothing in this Agreement is intended to waive, limit, or modify such statutory requirements.
- H. The Parties desire to enter into this Agreement pursuant to A.R.S. § 9-500.05 to set forth their respective rights and obligations relating to the Project, with the intent that this Agreement be recorded, run with the land as provided by law, and provide a clear procedural framework while preserving flexibility for future development and municipal action.

2. 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.** Terms not defined elsewhere in this Agreement have the following meaning unless a different meaning clearly appears from the context:
 - (a) “**Affiliate(s)**” means, with respect to a specified person or entity, any other person or entity that directly or indirectly controls, is controlled by, or is under common control with such person or entity.
 - (b) “**Agreement**” means this Agreement and all Exhibits attached hereto, as amended and restated or supplemented in writing from time to time. References to Sections or Exhibits are to this Agreement unless otherwise qualified. The Recitals set forth herein are incorporated herein by reference and form a part of this Agreement.
 - (c) “**Applicable Laws**” means the federal, state, county and local laws (statutory and common law) ordinances, rules, regulations, permit requirements, and other requirements and official policies of the City which apply to the development of the Project and the Private Parcels.

- (d) **"City Improvements"** means the improvements as more fully described in Section 3.1 and the subsections therein except for the Public Open Space Improvements.
- (e) **"City Improvements Project Costs"** means all hard and soft costs incurred directly by or on behalf of RGLP in connection with the development, design, permitting, procurement, construction, equipping, and delivery of the City Improvements, including without limitation costs of architects, engineers, contractors, subcontractors, testing, inspection, construction administration, insurance, bonds, legal representation related to public bidding, surveyors, Development Manager Fees (as defined in Section 4.5), and other customary development costs. City Improvements Project Costs shall exclude : legal fees incurred by RGLP related to the Project other than legal fees related to complying with Title 34's public bidding requirements; land acquisition costs or land value; financing costs, interest, issuance costs, or reserves; taxes, costs to satisfy liens, judgements, assessments, including costs for reallocating assessments, or other obligations recorded against the Garage Parcel that are objected to by the City; RGLP overhead; and other costs not expressly approved by the City, which shall include costs RGLP would otherwise incur in the absence of this Agreement (collectively, **"Ineligible Costs"**).
- (f) **"Development Manager"** means RGLP, acting as the City's development manager and project developer for the delivery of the City Improvements, including responsibility for administering design and construction procurements, managing contractors, controlling project schedules and budgets, and delivering the completed City Improvements, subject to City oversight and Applicable Laws
- (g) **"Effective Date"** means the date the Resolution adopted by the City Council approving this Agreement becomes effective.
- (h) **"Final Acceptance"** means a written document executed by the City accepting the City Improvements subject to the satisfaction of the requirements set forth in Section 7.15.
- (i) **"Garage Parcel"** means the real property to be conveyed to the City by RGLP, as described in Section 8.1, upon which the Garage and Police Substation will be developed, which is generally depicted in Exhibit "B." A legal description of the Garage Parcel, which will be an independent platted lot and will be provided by RGLP and attached to this Agreement as Exhibit "B-1" prior to the conveyance of the Garage Parcel, which shall be subject to the approval of the City.
- (j) **"Lot 19"** means the real property upon which the Garage Parcel and the Public Open Space Access Easement are to be located and which is legally described on Exhibit "A".

- (k) **“Project”** means the coordinated planning, design, permitting, construction, ownership, operation, and maintenance of the City Improvements and the Public Open Space Improvements as further described herein.
- (l) **“Property Owners Association”** means GSQ Owners Association, Inc., an Arizona non-profit corporation, established pursuant to the GSQ CC&Rs (as defined in Section 8.7
- (m) **“Pre-Development Costs”** means reasonable third-party costs incurred for conceptual design, engineering coordination, and related studies prior to commencement of construction.
- (n) **“Private Parcels”** means the real property subject to the GSQ CC&Rs.
- (o) **“Public Open Space Access Easement”** is the easement RGLP is to convey to the City as described in Section 8.2.
- (p) **“Public Open Space Easement Area”** means the real property generally depicted in Exhibit "B" over which RGLP is to convey to the City a Public Open Space Access Easement providing public access to the open space and amenities that will be developed thereon pursuant to this Agreement. A legal description of the Public Open Space Access Easement Area will be provided by RGLP and attached to this Agreement as Exhibit "B-2" prior to the conveyance of the Garage Parcel, which shall be subject to the approval of the City.
- (q) **“Separate City Costs”** means City internal staffing costs, City legal fees, City Council costs, financing issuance costs, and any costs expressly excluded from reimbursement under this Agreement.
- (r) **“Successors and Assigns”** means any person or entity that succeeds to or is assigned any interest in all or part of the Garage Parcel, the Public Open Space Easement Area and the Private Parcels.

3. **PROJECT DESCRIPTION, FINDINGS, AND PUBLIC PURPOSE**

3.1. **Project Overview and Components.** The Project consists of a coordinated program of public facilities and improvements within GSQ, intended to serve the general public, the City, GSQ, and surrounding development. The Project includes, without limitation:

- (a) a City-owned, multi-level regional parking garage containing approximately six hundred (600) parking spaces and related improvements to be located on the Garage Parcel (the **“Garage”**);
- (b) an approximately 1,500 square foot shell that includes all required electrical wiring, plumbing pipes, mechanical systems, and HVAC ductwork for utility services needed to serve the building upon buildout together with associated parking and site improvements, which will be finished by the City as a police

substation to provide public safety services to GSQ and the surrounding area and which is to be located on the Garage Parcel (the “**Police Substation**”);

- (c) privately owned but publicly accessible open space, including pedestrian walkways, plaza areas, landscaping, and related civic amenities located (the “**Public Open Space Improvements**”) to be located on the Public Open Space Easement Area; and
- (d) all related and necessary on-site and off-site infrastructure and improvements, including utilities; drainage; hardscape, except for street, road or access improvements; landscape; lighting; signage; and appurtenant facilities required to support the Garage and Police Substation.

Notwithstanding the foregoing, the final size, configuration, and number of parking spaces within the Garage shall be subject to available City funding, City approval, and compliance with Applicable Laws, and nothing herein shall be construed as a guarantee that the Garage will be constructed with approximately six hundred (600) parking spaces.

3.2. Relationship to Existing GSQ Development. The Parties acknowledge that the Project supports the city's vision of GSQ as a gathering place for its residents for events such as festivals, concerts and parades as well as the broader GSQ mixed use development. The location, design, and configuration of the City Improvements are intended to complement adjacent private development within GSQ, promote a pedestrian-oriented environment, in support of the city's vision for GSQ. The design of the Garage shall be consistent with the design of the existing parking garage located on Lot 7 of the Final Plat of Goodyear Civic Square Parcel "A" at Estrella Falls recorded in the Official Records of Maricopa County Recorder, Maricopa County, AZ at Book 1577, Page 1 (Instrument 202110249393) and the design of the Police Substation shall be consistent with and complement the design of the Garage.

Except as expressly provided herein, nothing in this Agreement shall obligate the City to construct nor be deemed to be the City's construction of improvements for the benefit of any specific private development, nor shall this Agreement be construed to confer development rights, density entitlements, or vested rights upon RGLP or any third party.

3.3. Parking Purpose and Use. The Garage is intended to function as a City-owned regional parking facility under the operational control of the City, and is intended to provide parking for a mix of City facilities, public uses, and development within GSQ. There shall be no residential parking allowed in the Garage; and, unless otherwise agreed to by separate agreement, which may be administratively approved by the City Manager or his/her designee, there shall be no hotel parking, no convention center parking, and no overnight parking in the Garage.

- (a) Subject to the terms and conditions set forth herein, the City agrees that up to 450 of the parking spaces in the Garage may be counted towards the minimum parking spaces required under Applicable Laws for development within the Private Parcels. None of the parking spaces in the Garage may be counted towards

the parking requirements for residential development; and unless otherwise agreed to by separate agreement which may be administratively approved by the City Manager or his/her designee, none of the parking spaces in the Garage may be counted towards the parking requirements for any of the following types of development within the Private Parcels: hotels and convention center.

- (b) The counting of the 450 parking spaces towards the minimum parking spaces described above is conditioned upon the Garage being constructed pursuant to this Agreement having a minimum of 600 parking spaces. If the Garage has fewer than 600 parking spaces, the 450 parking spaces shall be reduced by 75% of the number of parking spaces below 600 parking spaces. For example, if the Garage upon completion only has 550 spaces, the number of parking spaces that may be counted towards the minimum parking spaces required under Applicable Laws for development within the Private Parcels shall be reduced by 75% of the shortage or 38 parking spaces ($.75 \times (600-550) = 38$) reducing the number of parking spaces that may be counted towards the minimum parking requirements towards the minimum parking spaces required under Applicable Laws for development within the Private Parcels, shall from 450 to 412 ($450 - 38$). Similarly, if the number of parking spaces exceeds 600, then the 450 spaces described above shall increase proportionally by 75% of the additional spaces constructed.
- (c) The City and RGLP grant Property Owners Association the sole authority to designate the number of parking spaces that may be counted towards the requirement under Applicable Law for an individual Private Parcel. In no event shall the Property Owners Association designate more than the total number of parking spaces available to the Private Parcels described in sections 3.3(a) and 3.3(b) above.

3.4. Phasing and Sequencing. The Garage, Police Substation, Public Open Space Improvements, and related infrastructure are intended to be designed and constructed as a single integrated phase. Notwithstanding the foregoing, the City retains discretion to modify sequencing or implementation timing based on funding availability, procurement requirements, or other municipal considerations.

3.5. Public Purpose and Findings. The City hereby finds and declares that the Project serves a valid public purpose by, among other things:

- (a) enhancing mobility and public parking availability for City and private sponsored events and for adjacent retail and commercial developments;
- (b) supporting public safety services through the provision of a police substation;
- (c) providing publicly accessible open space and civic amenities;
- (d) supporting economic development within the City; and
- (e) furthering the goals and policies of the City's General Plan and applicable planning documents.

3.6. No Guarantee of Scope or Timing. Nothing in this Article or elsewhere in this Agreement shall be construed as a guarantee that any specific component of the Project will be constructed, or that construction will occur according to any particular schedule, absent satisfaction of the conditions precedent set forth in this Agreement and the appropriation of funds by City Council. The Parties acknowledge the intent that completion of the Garage is targeted to align with the opening of certain GSQ retail uses; provided, however, that such timing is not guaranteed and is subject to City approval and appropriation.

3.7. Project Schedule; Retail Opening Target. The Parties acknowledge that certain retail tenants within the GSQ development are anticipated to open for business on or about February 2027, and that the Garage is intended to support such retail activity, but there is no guarantee that the Garage will be completed by February 2027.

The Parties further acknowledge that the anticipated retail opening timeframe is provided for planning and coordination purposes only. Nothing in this Agreement shall be construed to:

- (a) require the City to complete the Project or any component thereof by a date certain;
- (b) create a contractual obligation to meet or achieve any particular construction milestone or completion date; or
- (c) give rise to damages, penalties, or claims of default based on the timing of Project completion.

All Project scheduling remains subject to City approval, appropriation of funds, procurement under Applicable Laws, and other conditions precedent set forth in this Agreement. RGLP waives any and all claims it may have against the City for the failure of the Garage to be completed by February 2027.

3.8 Prior Planning Materials. The Parties acknowledge that conceptual planning, feasibility analysis, and test-fit work has been undertaken in connection with the Project prior to execution of this Agreement. The City intends, to the extent practicable and consistent with Applicable Laws and procurement requirements, to consider such prior planning materials as background information to inform the Project's goals, scope, and design intent; provided, however, that nothing herein shall be construed to require the City to adopt any such materials or to limit the City's discretion under A.R.S. Title 34.

4. RGLP ROLE AND PROJECT MANAGEMENT

4.1. Appointment of Development Manager and Project Developer. The City hereby appoints RGLP as the Development Manager and project developer for the Project, responsible for the delivery of the City Improvements in accordance with this Agreement, subject to City oversight and Applicable Laws.

4.2. No Agency; Independent Developer. Notwithstanding RGLP's appointment as Development Manager and project developer, RGLP is an independent contracting party and is not an agent, partner, joint venturer, or representative of the City. Nothing in this Agreement shall be construed to authorize RGLP to bind the City, incur obligations on behalf of the City, or act as the City's legal representative, except as expressly approved in writing by the City in accordance with Applicable Laws. Nothing in this Agreement shall be construed to create any fiduciary duty or agency relationship between the City and RGLP.

4.3. Scope of Development Manager Services. RGLP shall be responsible for the design, construction, and delivery of the City Improvements to the City in accordance with the terms of this Agreement, which obligations include by way of example, but not limitation, all of the following activities:

- (a) procuring, retaining and managing architects, engineers, and other consultants;
- (b) procuring, retaining, and managing construction contractors and subcontractors;
- (c) coordinating and overseeing all construction activities;
- (d) managing project schedules, budgets, and cost controls;
- (e) reviewing and approving pay applications, change orders, and close-out documentation;
- (f) coordinating inspections, testing, and commissioning;
- (g) delivering the City Improvements in accordance with plans approved by the City.

Notwithstanding RGLP's responsibility for procuring all contracts related to the Project, all procurements subject to A.R.S. Title 34 shall be conducted by RGLP and approved by the City. The City shall reasonably assist RGLP, at no cost to RGLP, with procuring the contracts required for the design and construction of the City Improvements in accordance with the requirements of A.R.S. Title 34.

4.4. Standard of Care. RGLP shall perform its Development Manager services in a commercially reasonable manner consistent with the standard of care exercised by experienced development managers on similar public projects.

4.5. Development Manager Fee. In consideration for RGLP's development and delivery of the City Improvements pursuant to this Agreement, the City agrees to pay to RGLP a fee (the "Development Manager Fee") in an amount equal to three percent (3%) of the City Improvements Project Costs, less those costs expressly excluded below.

For purposes of this Agreement, 'City Improvements Project Costs' has the meaning set forth in Section 2(e).

Notwithstanding the foregoing, the following items shall not be included for purposes of calculating the Development Manager Fee:

- (a) Separate City Costs;
- (b) legal fees incurred by RGLP;
- (c) the Ineligible Costs described in Section 2(e);
- (e) taxes, development fees, impact fees, or permit fees payable to the City
- (f) the costs of furniture, unattached trade fixtures, equipment, public art, or artwork; and
- (g) Development Manager Fees.

Except as otherwise provided in this Agreement, the Development Manager Fee shall be earned proportionately as City Improvements Project Costs are incurred and shall be paid monthly, subject to City approval and compliance with Applicable Laws, based on invoices submitted by RGLP with reasonable supporting documentation.

Upon the City's issuance of Final Acceptance accepting the City Improvements, which shall not be issued until the Garage Parcel has been conveyed to the City, the Development Manager Fee shall be reconciled based on final City Improvements Project Costs, and any remaining balance shall be paid within thirty (30) days following Final Acceptance, subject to appropriation.

4.6. Development Delivery Structure. RGLP shall, as Development Manager, be responsible for delivering the City Improvements and completing the Public Open Space Improvements in compliance with Applicable Laws. RGLP shall procure, contract with, and manage architects, engineers, contractors, and other consultants necessary for the design and construction of the City Improvements and the Public Open Space Improvements, and shall administer all such contracts. All contracts entered for the design and construction of the City Improvements and the Public Open Space Improvements to be constructed by RGLP pursuant to this Agreement shall: include normal and customary warranties for the work to be performed and the systems being installed with a minimum warranty of one year for the Garage and Substation structure; name the City as a third-party beneficiary; include a provision that allows the City to assume the contracts in the event of a default by RGLP; include terms indemnifying, holding harmless, and defending the City, its elected and appointed officials and its employees from all claims arising from or related to the work undertaken pursuant to the contracts; and require that all warranties related to the work performed under the contracts be assigned to the City. RGLP shall not commence vertical construction until the Garage Parcel and Public Open Space Access Easements have been conveyed to the City. RGLP shall prior to commencement of vertical construction provide the City with complete copies of all contracts entered for the design and construction of the City Improvements and the Public Open Space Improvements.

The City may designate a Capital Improvement Program Manager or other representative to monitor progress, budgets, and compliance; provided, however, that such oversight shall not relieve RGLP of its responsibility for delivery of the City Improvements nor be deemed control over construction means or methods.

4.7. Delivery Responsibility. RGLP shall be solely responsible for the sequencing, coordination, and day-to-day management of the design and construction of the City Improvements and Public Open Space Improvements, including coordination among contractors, consultants, and suppliers. City oversight, approvals, or reviews under this Agreement shall not be construed as participation in or responsibility for the design of the City Improvements and Public Open Space Improvements or the construction means or methods for the completion of such improvements.

5. CONDITIONS PRECEDENT; NO OBLIGATION TO PROCEED; TERMINATION

5.1. Conditions Precedent to City Obligations. The City's obligations under this Agreement to pay for the costs of the procurement and construction of the City Improvements and Public Open Space Improvements is expressly conditioned upon satisfaction of the following conditions precedent:

- (a) RGLP's conveyance of the Garage Parcel and Public Open Access Easement to the City;
- (b) RGLP's compliance with all Applicable Laws.

Failure to satisfy any condition precedent shall relieve the City of any obligation to proceed and shall not constitute a default by the City.

5.2. Termination. This Agreement may be terminated as follows:

- (a) by mutual written agreement of the Parties;
- (b) by the City if the City exercises its right to terminate pursuant to Section 8.3;
- (c) by the City upon a material default by RGLP that remains uncured as set forth in Section 12.3; or
- (d) by RGLP upon a material default by the City that remains uncured as set forth in Section 12.3.

5.3. Effect of Termination. Upon termination of this Agreement, the Parties shall be relieved of any further obligations hereunder, except for obligations that expressly survive termination.

5.4. TCO. The City shall issue a Temporary Certificate of Occupancy prior to Final Acceptance allowing parking within the Garage upon a determination by the City's

Building Official that the Garage can be safely occupied. The determination of the City's Building Official shall be at the sole discretion of the City's Building Official who may impose an expiration date for the TCO and stipulations that must be satisfied for the Temporary Certificate of Occupancy to remain in effect.

6. COSTS, FUNDING, FINANCIAL TERMS

6.1. General Allocation of Costs. Each Party shall bear its own costs and expenses incurred in connection with the negotiation and execution of this Agreement. Nothing herein shall be construed as obligating the City to fund, reimburse, or pay any costs unless expressly approved by the City and subject to appropriation.

6.2. City Funding; Appropriation Requirement. Any financial participation by the City in the Project is expressly subject to approval by the City Council and the appropriation of funds in accordance with applicable law.

6.3. Pre-Development Costs. Any pre-development costs incurred by RGLP, including costs associated with conceptual design, feasibility analysis, or coordination activities, shall be incurred at RGLP's sole cost and risk unless reimbursement is expressly authorized by the City in writing.

6.4. No Financing Obligation. Nothing in this Agreement shall be construed as requiring the City to issue bonds, incur debt, or otherwise finance the Project. Any financing mechanism shall be subject to separate approval by the City and compliance with Applicable Laws.

6.5. Garage Design. In exchange for the payments and disbursements set forth below, RGLP shall deliver to the City a multi-level regional parking garage with approximately 600 spaces constructed and an approximately 1500 square foot Police Substation within the Garage Parcel that meet the requirements set forth in this Agreement.

7. PAYMENT DRAWS AND DISBURSEMENT MECHANICS

7.1. Draw Structure. Subject to the terms and conditions set forth in this Agreement, and subject to City approval and compliance with Applicable Laws, City funding for the Project shall be disbursed in progress-based monthly draws ("**Draws**"). Draws are intended to reimburse eligible, Project-related costs incurred in connection with the design and construction of the City Improvements as set forth herein.

(a) The City's reimbursement obligation for the costs RGLP incurs in the design and construction of the Garage and all ancillary improvements related and necessary on-site improvements, including utilities; drainage; hardscape, except for street, road or access improvements; landscape; lighting; signage; and appurtenant facilities required to support the Garage is capped at twenty million dollars (\$20,000,000).

(b) The City's reimbursement obligation for the costs RGLP incurs in the design and construction of the Police Substation and all ancillary improvements related and

necessary on-site improvements, including utilities; drainage' hardscape, except for street, road or access improvements; landscape; lighting; signage; and appurtenant facilities required to support the Police Substation is capped at one million dollars (\$1,000,000).

- (c) The City's reimbursement obligation for the Public Open Space Improvements is limited to fifty-percent of the reimbursement eligible costs RGLP incurs in the design and construction of the Public Open Space Improvements up to a maximum of one million dollars (\$1,000,000).
- (d) To secure the conveyance of the Garage Parcel and the Public Open Space Access Easement as required in this Agreement, the City shall not be required to pay any draws for the construction of the City Improvements and Public Open Space Improvements, which includes the costs identified in Sections 7.2 (b) through (i) below and the Development Manager Fee on such costs, until the Garage Parcel and Public Open Space Access Easement have been conveyed to the City.

7.2. Eligible Costs. Subject to City approval and compliance with Applicable Laws, eligible costs for reimbursement through Draws (“**Eligible Costs**”) shall include all City Improvements Project Costs, except for Ineligible Costs, incurred by or on behalf of RGLP in connection with the development, design, permitting, procurement, construction, equipping, and delivery of the City Improvements as described in Section 2(e) , including without limitation:

- (a) architectural, engineering, and other professional services except legal services other than legal fees incurred in complying with Title 34's public bidding requirements;
- (b) construction costs, including costs of the general contractor, subcontractors, and suppliers;
- (c) construction management, project administration, scheduling, cost control, and field supervision costs;
- (d) insurance, bonds, and surety costs required in connection with the construction of the City Improvements;
- (e) testing, inspection, surveying, geotechnical, and environmental services;
- (f) permits, governmental approvals, and third-party review fees (excluding City development impact fees);
- (g) temporary utilities, site security, safety measures, and construction facilities;
- (h) commissioning, punch-list completion, close-out, and warranty administration costs;
- (i) approved contingencies incorporated into the Project budget; and
- (j) the Development Manager Fee payable pursuant to Section 4.5.

7.3. Payment of Contractors by RGLP. RGLP shall be responsible for the timely payment of all contractors, subcontractors, consultants, and vendors retained in connection with the design and construction of the City Improvements. Reimbursement by the City through Draws shall be made only for Eligible Costs actually incurred and

paid by RGLP as provided herein. All Draws submitted to the City are subject to City review, approval, appropriation, and compliance with Applicable Laws.

7.4. Draw Requests. Each Draw request shall be submitted in a form approved by the City and shall include reasonable supporting documentation requested by the City, which shall include invoices, lien waivers, and certifications and shall have been reviewed and approved by RGLP.

7.5. Review and Approval. The City shall review each Draw request for compliance with this Agreement, Applicable Laws, and available appropriations. The City may approve, partially approve, or reject a Draw request in its reasonable discretion. Approval of a Draw does not constitute acceptance of the underlying work.

7.6. Timing of Payment. Approved Draws shall be paid in accordance with the terms set forth herein. The City shall have no obligation to advance funds or make payments in excess of the maximum amounts for the City Improvements and the Public Open Space Access Improvements as described in Section 7.1 and the subsections therein.

7.7. Withholding; Audit Rights. The City may withhold payment for disputed, incomplete, or non-compliant work. The City retains the right to audit all Draw requests and supporting documentation in accordance with its record retention policies.

7.8. No Guarantee of Funding. The Draw procedures set forth herein do not obligate the City to fund the Project beyond amounts set forth in this Agreement.

7.9. Limited Reimbursement of Pre-Title 34 Architectural and Engineering Costs. Notwithstanding Section 6.3 or any provision of this Agreement to the contrary, the Parties acknowledge that certain architectural and engineering services related to the Garage have been performed by or on behalf of RGLP prior to initiation of procurement under A.R.S. Title 34. Subject to City approval, the City shall reimburse RGLP for eligible architectural and engineering costs for the City Improvements, including architectural and engineering costs incurred prior to the execution of this agreement and Title 34 procurement up to a maximum of \$500,000. The reimbursements provided hereunder are part of the City's reimbursement obligation under Section 7.1(a) above.

Any such reimbursement shall be processed through the Draw procedures set forth in this Article 7 as a discrete reimbursement draw not tied to construction progress, subject to City review and approval, shall be limited to costs directly related to the Garage, and shall be contingent upon execution of this Agreement.

7.10. Construction Cost Risk. Except for City-directed scope changes or delays, RGLP shall be responsible for contracting for and delivering the City Improvements within the maximum amounts set forth in Section 7.1 and the subsections therein.

7.11. No Third-Party Reliance; No Beneficiaries. No contractor, consultant, or other third party shall be deemed a third-party beneficiary of this Agreement, nor shall any such party be entitled to rely upon any payment, approval, inspection, or review by the City as

evidence of acceptance, approval, or completion of any portion of the City Improvements.

7.12. Acceptance of City Improvements. Payment of any Draw, including final payment, shall not constitute acceptance of any portion of the City Improvements. Acceptance of the City Improvements occurs only when the City issues Final Acceptance of the City Improvements or any component thereof.

7.13. City Payments, Payment Request Requirements. This Section 7.13 is intended to supplement and further detail the Draw procedures set forth in Sections 7.1 through 7.12. Subject to the express limitations set forth in this Agreement, the City shall reimburse Eligible Costs incurred in connection with the City Improvements through monthly progress-based Draws (each, a “**Payment Request**”).

(a) Submission of Payment Requests. RGLP shall submit Payment Requests not more than once per calendar month. Each Payment Request shall include, as applicable:

- (i) an Application and Certificate for Payment (AIA Document G702, or then-current equivalent) executed by RGLP certifying the percentage and value of work completed during the applicable payment period and that all work for which reimbursement is requested has been performed in accordance with this Agreement and applicable construction contracts procured pursuant to A.R.S. Title 34;
- (ii) a summary schedule identifying each line item of the approved City Improvements budget and the approved budget for the Public Open Space Improvements, including total budgeted amount, amounts previously reimbursed, amount requested, and remaining balance;
- (iii) invoices and conditional lien waivers from contractors and subcontractors furnishing labor or materials for which reimbursement is requested, which shall be in substantially the form required by A.R.S. § 33-1008;
- (iv) unconditional lien waivers for the prior reimbursements paid by the City demonstrating that the City's payment was received and distributed to the contractors and subcontractors that furnished the labor and materials for which the City's payment was made and that the lien/bond rights for those costs are released;
- (v) to the extent the Development Manager Fee is included in the Payment Request, invoices from RGLP for the Development Manager Fee shall illustrate the calculation of the Development Manager Fee;
- (vi) a continuation sheet (AIA Document G703, or equivalent); and
- (vii) invoices and supporting documentation from architects, engineers, and other design professionals performing services during the applicable period, to the extent not otherwise included above.

- (b) Review and Approval. Within twenty-one (21) days of receipt of a Payment Request from RGLP, the City shall review each Payment Request and shall approve or disapprove the Payment Request and pay RGLP for approved Payment Requests
- (c) Disapproval. If the City disapproves a Payment Request, the City shall provide written notice specifying the reasons for disapproval within the applicable review period.
- (d) Limited Waiver. City approval of any Payment Request despite the existence of an unmet condition shall constitute a waiver only with respect to that specific Payment Request and shall not waive such condition for future Payment Requests.
- (e) Withholding. The City may withhold approval of all or a portion of any Payment Request to the extent reasonably necessary to protect the City from loss due to any of the following:
 - (i) an uncured material default by RGLP;
 - (ii) defective or non-conforming work not timely remedied; or
 - (iii) failure to timely pay contractors or consultants, absent a bona fide dispute.
- (f) Disputed Amounts. In the event of a dispute regarding a Payment Request, the City shall pay all undisputed amounts, and RGLP shall continue performance. Disputed amounts shall be paid upon resolution of the dispute in accordance with this Agreement.

7.14. Conditions to Final Payment. The City's obligation to make final payment of approved Eligible Costs for the City Improvements and Development Manager Fee, is subject to the satisfaction of the conditions set forth in this Article 7 and the following conditions:

- (a) Conveyances. Conveyance of the Garage Parcel in accordance with the requirements of Section 8.1, the conveyance to the City of the Public Open Access Easement in accordance with the requirements of Section 8.2.
- (b) RGLP shall have satisfied in full the McDowell Road Improvement District Assessment(s) for the assessment parcel that includes the Garage Parcel in full or, if such assessment was reallocated as set forth in Section 8.5, RGLP shall have satisfied the Garage Parcel Assessment.
- (c) Completion of Work. The City Improvements shall have been completed in accordance with this Agreement, approved plans and specifications, and Applicable Laws, including completion and correction of all punch-list items.
- (d) Inspections and Approvals. All required inspections, certifications, and approvals by applicable governmental authorities shall have been obtained, including

issuance of a final certificate of occupancy, if applicable, and all permits and authorizations necessary for lawful use and operation of the City Improvements.

- (e) Contractor and Consultant Certifications. RGLP shall deliver to the City certifications from the applicable contractors and design professionals retained pursuant to A.R.S. Title 34 confirming that the City Improvements have been completed in accordance with approved plans and Applicable Laws, that no uncured notices of violation or non-conformity remain outstanding, that all required utility connections have been completed, and that the City Improvements are ready for occupancy or use.
- (f) Conditional Waiver and Release on Final Payment. Receipt of a conditional waiver and release on final payment for all work performed within the Garage Parcel.
- (g) Personal Property. To the extent personal property will be included as part of the City Improvements that will be owned by the City, RGLP shall deliver to the City a bill of sale and inventory describing such personal property, free and clear of liens.
- (h) Close-Out Deliverables. The City shall have received, or received a written commitment for delivery within a reasonable period, of:
 - (i) final as-built plans, record drawings, or specifications certified by the contractor and architect of record, as applicable;
 - (ii) operating manuals and maintenance instructions; and
 - (iii) an assignment of warranties and copies of all applicable warranties relating to the City Improvements in the form attached hereto as Exhibit C.

If the conditions set forth in subsections (a) through (e) herein have been satisfied, the City may release final payment except for an amount reasonably estimated to cover the cost of any outstanding close-out deliverables, which amount may be retained until such items are delivered.

- (i) No Waiver of Acceptance Standards. Final payment shall not constitute acceptance of any defective or non-conforming work, nor shall it waive any rights of the City under this Agreement or Applicable Laws.

7.15. Conditions to Final Acceptance. The City shall issue Final Acceptance of the City Improvements after the Final Payment is made and all of the close-out deliverables identified in Section 7.14(g) above and the final unconditional lien waivers for the Project have been received by the City.

8. LAND CONVEYANCE

8.1. Conveyance Obligation; Garage and Police Substation. In exchange for the City's commitments under this Agreement, and subject to the terms and conditions of this Agreement, RGLP shall convey to the City by special warranty deed and free of all liens, taxes, assessments, monetary obligations, and all other encumbrances objected to by the City, the Garage Parcel.

8.2. Conveyance Obligation: Public Open Space Access Easement. Subject to the terms and conditions of this Agreement, RGLP shall convey to the City, at no cost to the City, free of all liens, taxes, monetary obligations, and other encumbrances objected to by the City, a perpetual Public Open Space Access Easement that grants, public use of pedestrian walkways, plaza areas, and pedestrian furniture and other improvements usable by the public over through and across the Public Open Space Easement Area as defined in Section 2(p) above. The easement(s), which shall be consented to by the Property Owners Association, shall require the Property Owners Association to operate, maintain, repair, and replace the improvements constructed within the Public Open Space Easement Area at its sole cost and expense and to defend, indemnify and hold harmless the City for any and all claims asserted against it arising from, related to or alleged to have arisen from or to be related to the use of the Public Open Space Easement. The easement shall run with the land but shall include a provision that allows the Public Open Space Access Easement to be relocated subject to the administratively approved revised written easement agreement of the City and the then owner of the Public Open Space Easement Area on the relocation and the amenities to be constructed within the relocated easement.

8.3. Conditions for City Acceptance of Conveyances. The City may refuse to accept the conveyance of the Garage Parcel if the City determines that the Phase 1 Environmental site assessment that is to be provided pursuant to Section 8.13 indicates the presence of potential environmental liabilities within the Garage Parcel or if RGLP fails to clear all of the title exceptions applicable to the Garage Parcel objected to by the City as provided in Sections 8.7 & 8.8. If the City refuses to accept the conveyance of the Garage Parcel as provided herein, the City may terminate this Agreement. The City may refuse to accept the conveyance of the Public Open Space Access Easement if the City determines that the Phase 1 Environmental site assessment that is to be provided pursuant to Section 8.13 indicates the presence of potential environmental liabilities within the Public Open Space Easement Area or if RGLP fails to clear all title exceptions applicable to the Public Open Space Easement Area objected to by the City as provided in Sections 8.7 & 8.8. If the City refuses to accept the conveyance of the Public Open Space Access Easement, the City shall not be required to reimburse RGLP for any of the costs associated with the Public Open Space Improvements.

8.4. Timing of Conveyance. Conveyance of the Garage Parcel and the Public Open Space Access Easement shall occur prior to commencement of any vertical construction of the City Improvements and the Public Open Access Improvements.

8.5. Acts Affecting the Garage Parcel and Public Open Space Easement Area. From and after the Effective Date and until conveyance of the Garage Parcel and the Public Open Space Access Easement to the City, RGLP shall not, without the prior written consent of the City:

- (a) enter into or create any lease, license, occupancy right, improvement district, community facilities district, owners' association, mortgage, pledge, or other encumbrance affecting the Garage Parcel or the Public Open Space Easement Area, except for leases or occupancy rights that will be terminated prior to conveyance;
- (b) create or agree to any new exception to title affecting the Garage Parcel or the Public Open Space Easement Area, or amend any permitted exception; or
- (c) take any action that would materially impair RGLP's ability to convey the Garage Parcel or the Public Open Space Easement Area in accordance with this Agreement.

Except as provided herein, RGLP shall timely pay all real property taxes attributable to periods prior to conveyance of the Garage Parcel and shall ensure that no taxes become delinquent prior to conveyance. Prior to the conveyance of the Garage Parcel, RGLP shall, at its sole cost and expense: (i) satisfy in full the McDowell Road Improvement District Assessment(s) for the assessment parcel that includes the Garage Parcel in full or (ii) apply to reallocate the portion of the McDowell Road Improvement District Assessment(s) for the assessment parcel that includes the Garage Parcel attributable to the Garage Parcel (the "**Garage Parcel Assessment**") and provide the City with financial assurances in a form and in an amount acceptable to the City Manager or his/her designee to ensure payment of the Garage Parcel Assessment upon completion of the reallocation.

8.6. Entry. The City and its agents and representatives shall be entitled to enter upon the Garage Parcel and the Public Open Space Easement Area for inspection, soils report, environmental report, and examination prior to the Conveyance Date. To the extent permitted by law, the City hereby indemnifies, defends and holds RGLP harmless from any out-of-pocket damages or liabilities (including reasonable attorney's fees) arising from the activities of the City, its agents or representatives on the Garage Parcel or the Public Open Space Easement Area. Notwithstanding anything contained in this Agreement to the contrary, the City's obligation to indemnify RGLP as set forth herein shall survive the conveyance to the City of the Garage Parcel and the Public Open Space Easement Area and any termination of this Agreement. Notwithstanding anything contained in the Agreement to the contrary, if the City does not proceed with the acquisition of the Garage Parcel or the Public Open Space Access Easement, the City shall restore the property to as good a condition as practicable prior to this examination of the property, which obligation shall survive the termination of this Agreement.

8.7. Condition of Title. Subject to the provisions of Section 8.8, the Garage Parcel and the Public Open Space Access Easement shall be conveyed free and clear of all liens,

assessments, taxes, monetary obligations and all other encumbrances objected to by the City.

8.8. Preliminary Title Commitment. Within thirty (30) days after the Effective Date, RGLP shall deliver to the City a commitment for an ALTA Policy of Title Insurance (the "Title Commitment") for the Garage Parcel and the Public Open Space Easement Area, together with legible copies of all documents referenced therein. The policy amount shall be Three Million Dollars (\$3,000,000.00).

The City shall have the right, within thirty (30) days of receipt of the Title Commitment, to review and approve the Title Commitment and any amendments thereto. RGLP shall not be allowed to execute or agree to record any additional title exceptions following the delivery of the Title Commitment without the City's approval. The City shall have the right to further review and approve any amended Title Commitment if additional material adverse exceptions are raised that do not result from the acts of the City. If the City does not object to any matters shown on the Title Commitment within such thirty (30) day period, the City shall be deemed to have approved the matters shown on the Title Commitment. RGLP shall not be required to remove or cure title exceptions that do not materially interfere with the City's ownership, operation, maintenance and use of the City Improvements or the exercise of the rights granted to the City under the Public Open Space Access Easement, as reasonably determined by the City and disclosed to the City prior to conveyance. The Parties agree that the application of the Declaration of Covenants, Conditions, Restrictions and Easements for GSQ Regional Center recorded in document 2024 0548135 (the "**GSQ CC&Rs**") will materially interfere with the City's ownership, operation, maintenance, and use of the City Improvements located on the Garage Parcel. Accordingly, RGLP, as the Declarant under the GSQ CC&Rs, shall, prior to conveyance of the Garage Parcel, amend the provisions in the GSQ CC&Rs to eliminate the Garage Parcel from the property subject to the GSQ CC&Rs and record such amendment in the official records of the Maricopa County. If RGLP is unable or unwilling to remove any matters which the City has objected to the City may acquire the property subject to such matters or terminate this agreement by providing written notice to RGLP.

RGLP shall be under an affirmative obligation, on or before conveyance of the Garage Parcel and the Public Open Space Access Easement, to eliminate or cause to be removed, released, bonded around, or insured over, in accordance with Applicable Laws, the following title matters, without objection by the City:

- (a) any voluntary financing liens or monetary encumbrances created by or through RGLP that are capable of being satisfied by payment;
- (b) any judgment liens, mechanics' or materialmen's liens, tax liens, or other non-consensual monetary liens against RGLP affecting the property;
- (c) improvement district assessments on the Garage Parcel; and

All title exceptions not objected to by the City in writing prior to conveyance shall be deemed approved as permitted exceptions. Nothing in this Section shall be construed to obligate the City to accept title subject to any unapproved material adverse exception.

8.9. No Reversionary Interest. The Parties acknowledge and agree that, upon conveyance, the Garage Parcel shall be owned by the City in fee simple, and RGLP shall retain no reversionary interest or right of reacquisition unless the City thereafter elects to not proceed with construction of the City Improvements.

8.10. Liens and Encumbrances. Neither RGLP nor any contractor, subcontractor, consultant, or other person claiming by, through, or under RGLP shall place, or permit to be placed, any lien or other encumbrance against any portion of the Garage Parcel, any City-owned interest therein, except for those liens or encumbrances expressly approved by the City and identified as permitted exceptions to title.

In the event any lien or encumbrance is recorded against the Garage Parcel, or City-owned improvements in violation of this Section, RGLP shall, at its sole cost and expense, promptly cause such lien or encumbrance to be released, discharged, or bonded around in accordance with Applicable Laws, so as to remove the lien as a cloud on title.

8.11. ALTA Survey. Prior to conveyance of the Garage Parcel and the Public Open Space Access Easement, RGLP shall provide to the City, at RGLP's sole cost and expense, a current ALTA/NSPS Land Title Survey of the Garage Parcel and the Public Open Space Easement Area, prepared by a licensed surveyor acceptable to the City. The City shall have a period of thirty (30) days from its receipt of the Survey (the "Survey Review Period") to approve the Survey.

8.12. Environmental Assessment. Prior to conveyance of the Garage Parcel and the Public Open Space Easement Area, RGLP shall provide the City with a current Phase I Environmental Site Assessment prepared in accordance with applicable ASTM standards. RGLP makes no representation or warranty regarding environmental conditions except as expressly set forth in this Agreement.

- (a) Additional Environmental Reports. Within thirty-five (35) days after the Effective Date, RGLP shall deliver to the City true and correct copies of any soils, hydrology, geotechnical, geological, or similar environmental reports in RGLP's possession relating to the Garage Parcel and the Public Open Space Easement Area. Delivery of such reports shall be for informational purposes only and shall not be deemed a representation or warranty as to environmental conditions.
- (b) Certification. Prior to conveyance of the Garage Parcel and the Public Open Space Access Easement, RGLP shall cause the Phase I Environmental Site Assessment to be certified to the City by the environmental professional who prepared such assessment.

8.13. As-Is Conveyance; No Reliance; Release. The City acknowledges and agrees that the Garage Parcel will be conveyed "AS IS, WHERE IS, AND WITH ALL FAULTS,"

without representations or warranties of any kind, express or implied, except as expressly set forth in this Agreement or the conveyance instrument. The City further acknowledges that neither RGLP nor any of its affiliates, members, managers, partners, officers, employees, or consultants has made any representation, warranty, statement, or guaranty regarding the Garage Parcel, and that the City has not relied and will not rely upon any such matters except as expressly stated herein.

The City expressly acknowledges that the Garage Parcel is undeveloped, that development will require approvals, dedications, exactions, and compliance with Applicable Laws, and that all such matters shall be the City's sole responsibility following conveyance. Any information provided by or on behalf of RGLP regarding the Garage Parcel is provided for informational purposes only, without warranty, and subject to the City's independent investigation and verification.

To the maximum extent permitted by law, and except for RGLP's express obligations under this Agreement, the City, on behalf of itself and its successors and assigns, releases and discharges RGLP and its affiliates from any and all claims arising out of or relating to the physical condition of the Garage Parcel as of the date of conveyance, including subsurface conditions, environmental conditions, zoning or land use matters, and the suitability of the Garage Parcel for the City Improvements; provided, however, that nothing herein shall be deemed to release claims arising from gross negligence, willful misconduct, or violations of applicable environmental laws.

9. OWNERSHIP OPERATIONS AND MAINTENANCE

9.1. Ownership of City Improvements. Upon conveyance of the Garage Parcel and the acceptance of the City Improvements pursuant to a Final Acceptance issued by the City, the Garage, and Police Substation, and related infrastructure constructed within the Garage Parcel, shall be owned by the City in fee simple.

9.2. Operation and Maintenance Responsibility. Except as expressly provided in Section 9.5 (Maintenance Cost Allocation for Garage), or in a separate agreement approved by City, the City shall be solely responsible for the operation, maintenance, repair, and replacement of the City Improvements following their completion and Final Acceptance by the City.

9.3. Standards of Maintenance. The City shall operate and maintain the Garage in a manner consistent with generally applicable City standards for similar public facilities, subject to availability of funds and Applicable Laws.

9.4. Parking Operations. The City, in its sole discretion, shall be responsible for determining and setting all rules, policies, and regulations governing the operation, management, and use of the Garage. Nothing in this Agreement shall be construed to grant RGLP or Property Owners Association any right to control or participate in parking operations unless expressly set forth in a separate agreement.

9.5. Maintenance Cost Allocation.

- (a) Maintenance. In exchange for the right to count parking spaces towards their requirement under Applicable Law, the Property Owners Association shall share the ongoing maintenance, repair, and replacement costs for the Garage (exclusive of the Police Substation, which shall be maintained by the City's expense) with Property Owners Association responsible for 50% of the such costs, as more particularly set forth in this Section 9.5 unless otherwise modified by written agreement with the City.
- (b) Documentation of Cost-Sharing. The Parties acknowledge that the allocation and administration of Maintenance Costs may be further documented in a separate maintenance or operations agreement approved by the Parties; provided, however, that the obligation to share Maintenance Costs as set forth in this Section 9.5 shall not be negated solely by the absence of such separate agreement and that any City payment obligation remains subject to appropriation.
- (c) Scope of Maintenance Costs. For purposes of this Section, "Maintenance Costs" shall include routine maintenance, structural repairs, resurfacing, cleaning, lighting, security systems, and other costs customarily associated with the operation and upkeep of a public parking structure, as reasonably determined by the City.
- (d) Adjustment for Future Expansion. In the event the Garage is expanded in the future to provide additional parking spaces, the allocation of Maintenance Costs shall be equitably adjusted so that the Party benefiting from such additional parking capacity bears responsibility for the Maintenance Costs attributable to the additional spaces, as determined pursuant to a separate written agreement approved by the Parties.
- (e) Nothing in this Agreement shall obligate the City to implement payment procedures or administrative mechanisms for Maintenance Costs except as approved by the City; provided, however, that the cost-sharing obligation set forth in Section 9.5(a) shall remain binding.
- (f) No Operational Control. The Property Owners Association contributions toward Maintenance Costs, shall not confer any right or obligation to control, manage, or operate the Garage, all of which shall remain within the sole discretion of the City.

9.6. No RGLP Liability. RGLP shall not be responsible for, and shall have no liability for, the operation, use, maintenance, or condition of the City Improvements that the City is to own following their conveyance and Final Acceptance by the City.

9.7. No Third-Party Rights. Nothing in this Article shall be construed to create rights in any third party, including without limitation any tenants, users, or occupants of GSQ or adjacent properties except for the rights of the Property Owners Association to determine which Private Parcels may count the applicable parking spaces in the Garage toward their requirements under Applicable Law.

9.8. Survival. The provisions of Sections 9.2 through 9.7 inclusive, including all subsections therein shall survive the expiration or termination of this Agreement.

10. CITY REPRESENTATIONS

The City represents and warrants to RGLP that:

10.1. Authority. The City has the full right, power and authorization to enter into and perform this Agreement and each of the City's obligations and undertakings under this Agreement, and the City's execution, delivery and performance of this Agreement have been duly authorized and agreed to in compliance with the requirements of the City Code.

10.2. Funding. The City represents and warrants that, prior to commencement of construction of the City Improvements (or any material component thereof), the City Council will have approved and appropriated funds as set forth in this Agreement.

10.3. Approvals. All consents and approvals necessary to the execution, delivery and performance of this Agreement have been obtained, and no further action needs to be taken in connection with such execution, delivery and performance.

10.4. Further Assurances. The City will execute and acknowledge, when appropriate, all documents and instruments and take all actions necessary to implement, evidence and enforce this Agreement.

10.5. Litigation. The City knows of no litigation, proceeding, initiative, referendum, investigation or threat of any of the same contesting the powers of the City or its officials with respect to this Agreement that has not been disclosed in writing to RGLP.

10.6. Enforceability. This Agreement (and each undertaking of the City contained herein) constitutes a valid, binding and enforceable obligation of the City, enforceable according to its terms, except to the extent limited by bankruptcy, insolvency and other laws of general application affecting creditors' rights and by equitable principles, whether considered at law or in equity. The City will defend the validity and enforceability of this Agreement in the event of any proceeding or litigation arising from its terms that names the City as a party or which challenges the authority of the City to enter into or perform any of its obligations hereunder and will cooperate with RGLP in connection with any other action by a third party in which RGLP is a party and the benefits of this Agreement to RGLP are challenged. The severability and reformation provisions of Section 16.23 shall apply in the event of any successful challenge to this Agreement or to any provision hereof.

10.7. No Conflict. The execution, delivery and performance of this Agreement by the City is not prohibited by, and does not conflict with, any other agreements, instruments, judgments or decrees to which the City is a party or is otherwise subject.

10.8. No Improper Payments. The City has not paid, given or received from, and will not pay, give or receive from, any Third Party any money or other consideration for obtaining

this Agreement other than normal costs of conducting business and costs of professional services such as the services of architects, engineers and attorneys.

10.9. Counsel. The City has been assisted by counsel of its own choosing in connection with the preparation and execution of this Agreement.

10.10. No Adverse Actions. The City has no knowledge, and the City has received no notice, of any plan, study or effort of regulatory authorities which would materially adversely affect the use of the Garage Parcel, or any portion thereof, for its intended uses or any intended public improvements which will result in any charge being levied against, or any lien assessed upon, or any special assessment lien on the Garage Parcel or any portion thereof, and the City will not take any such action.

10.11. Assessments and Moratoria. The City has no knowledge, and the City has received no notice, of any plan, study or effort of regulatory authorities which would materially adversely affect the use of the Garage Parcel, or any portion thereof, for its intended uses or any intended public improvements which will result in any charge being levied against, or any lien assessed upon, or any special assessment lien on the Garage Parcel or any portion thereof, and the City will not take any such action. Except for assessments levied in connection with the existing McDowell Road Improvement District, the City has no knowledge of any improvement district assessments, special assessments or community facilities assessments which have been levied against the Garage Parcel or any existing water, sewer or building moratoria on the Garage Parcel.

11. REPRESENTATIONS BY RGLP

RGLP, in its capacity as owner and Development Manager, represents and warrants to the City that, as of the Effective Date:

11.1. Authority. RGLP has the full right, power and authorization to enter into and perform this Agreement and each of RGLP's obligations and undertakings under this Agreement, and the execution, delivery and performance of this Agreement by RGLP have been duly authorized and agreed to in compliance with RGLP's organizational documents.

11.2. Approvals. All consents and approvals necessary to the execution, delivery, and performance of this Agreement by RGLP have been obtained; provided, however, RGLP makes no representation that the Garage Parcel has been released from lender lien as of the Effective Date. Any release of the Garage Parcel from lender's collateral shall be obtained in connection with the conveyance of the Garage Parcel to the City, and RGLP shall not be required to obtain such release until such conveyance.

11.3. Further Assurances. RGLP will execute and acknowledge, when appropriate, all documents and instruments and take all actions reasonably necessary to implement, evidence and enforce this Agreement.

11.4. Litigation. As of the Effective Date, RGLP has no knowledge of any litigation, proceeding or investigation pending or threatened against RGLP which would materially impair RGLP's ability to perform its obligations under this Agreement and which has not been disclosed in writing to the City.

11.5. Enforceability. This Agreement (and each undertaking of RGLP contained herein) constitutes a valid, binding and enforceable obligation of RGLP, enforceable according to its terms, except to the extent limited by bankruptcy, insolvency and other laws of general application affecting creditors' rights and by equitable principles, whether considered at law or in equity. RGLP will defend the validity and enforceability of this Agreement in the event of any proceeding or litigation arising from its terms that names RGLP as a party or which challenges RGLP's authority to enter into or perform its obligations hereunder and will cooperate with the City in connection with any other action by a third party in which the City is a party and the benefits of this Agreement to the City are challenged. The severability and reformation provisions of Section 16.24 shall apply in the event of any successful challenge to this Agreement or any provision hereof.

11.6. No Conflict. The execution, delivery and performance of this Agreement by RGLP is not prohibited by, and does not conflict with, any other agreements, instruments, judgments or decrees to which RGLP is a party or by which it is bound.

11.7. No Improper Payments. RGLP has not paid, given or received from, and will not pay, give or receive from, any third party any money or other consideration for obtaining this Agreement other than normal costs of conducting business and costs of professional services such as the services of architects, engineers and attorneys.

11.8. Assessments and Moratoria. RGLP has no knowledge, and RGLP has received no notice, of any plan, study or effort of regulatory authorities which would materially adversely affect the use of the Garage Parcel, or any portion thereof, for its intended uses or any intended public improvements which will result in any charge being levied against, or any lien assessed upon, or any special assessment lien on the Garage Parcel or any portion thereof, and RGLP will not take any such action. Except for assessments levied in connection with the existing McDowell Road Improvement District, RGLP has no knowledge of any improvement district assessments, special assessments or community facilities assessments which have been levied against the Garage Parcel or any existing water, sewer or building moratoria on the Garage Parcel.

11.9. RGLP has no knowledge of any written notices of any uncured violations of any governmental regulations relating to the Garage Parcel or that any such uncured violations exist.

11.10. To RGLP's knowledge, there has been no production, disposal or storage on the Garage Parcel of any hazardous waste (or other toxic or radioactive substance or matter) in violation of Applicable Laws, RGLP has not received any written notices of any uncured violation of hazardous waste statutes or regulations relating to the Garage Parcel. To RGLP's knowledge, as of the Effective Date there is no proceeding or inquiry by any authority with respect to any uncured environmental law violations on the Garage Parcel,.

11.11. To RGLP's knowledge, RGLP has not received any written notice that any portion of the Garage Parcel is now being or has ever been used for the discharge or disposal of a pollutant or waste in violation of Applicable Laws which remains uncured, for the treatment or disposal of refuse or sewage in violation of Applicable Laws, or for the operation of any underground storage tanks in violation of Applicable Laws.

11.12. Counsel. RGLP has been assisted by counsel of their own choosing in connection with the preparation and execution of this Agreement.

12. NON-PERFORMANCE

12.1. Events of Non-Performance by RGLP. An “Event of Non-Performance” by RGLP under this Agreement shall mean the occurrence of any of the following events, provided that such event remains uncured after the expiration of the applicable cure period set forth in Section 12.3:

- (a) Failure by RGLP to comply with material dates or milestones expressly required of RGLP under this Agreement relating to the commencement or completion of the City Improvements, if any, as approved by the City pursuant to Applicable Laws (a “**Construction Failure**”);
- (b) Any representation or warranty made by RGLP in this Agreement that was materially inaccurate when made or becomes materially inaccurate during the Term and has a material adverse effect on the City;
- (c) The recordation of any mechanic’s, materialmen’s, or other lien against the Garage Parcel or City Improvements prior to completion of the City Improvements, unless RGLP bonds around or otherwise discharges such lien within a reasonable period after notice;
- (d) Any prohibited assignment or transfer of this Agreement in violation of Article 14;
- (e) Failure by RGLP to comply with its indemnity or insurance obligations under this Agreement; or
- (f) Failure by RGLP to perform any other material covenant or obligation expressly required of RGLP under this Agreement.

12.2. Events of Non-Performance by the City. An “Event of Non-Performance” by the City under this Agreement shall mean the occurrence of any of the following events, provided that such event remains uncured after the expiration of the applicable cure period set forth in Section 12.3:

- (a) Any representation or warranty made by the City in this Agreement that was materially inaccurate when made or becomes materially inaccurate during the Term; or

- (b) Failure by the City to perform any material covenant or obligation expressly required of the City under this Agreement, excluding any action or inaction that is expressly subject to City Council approval or appropriation of funds.

12.3. Grace Periods; Notice and Cure. Upon the occurrence of an Event of Non-Performance by any Party, the non-defaulting Party shall provide written notice to the non-performing Party specifying the nature of the Event of Non-Performance. The non-performing Party shall have:

- (a) Thirty (30) days to cure an Event of Non-Performance;
- (b) if such Event of Non-Performance is not reasonably capable of being cured within such period, such longer period (not to exceed an additional sixty (60) days) as is reasonably necessary, provided that the cure is commenced within the applicable period and diligently pursued to completion.

Notwithstanding anything to the contrary herein, failure by the City to appropriate funds, include the Project in a capital improvement program, approve financing, or elect to proceed with construction of the Project or any phase thereof shall not constitute an Event of Non-Performance, provided, however, the City's failure to do so shall relieve RGLP of the obligations set forth herein.

12.4. Remedies for Event of Non-Performance. If an Event of Non-Performance is not timely cured in accordance with Section 12.3, the non-defaulting Party may exercise the following remedies, subject to the limitations set forth herein and Applicable Laws:

- (a) Remedies of the City. Subject to the provisions of this Agreement and Applicable Laws, the City's remedies for an uncured Event of Non-Performance by RGLP shall include:
 - (i) If the Event of Non-Performance consists of a Construction Failure relating to RGLP's failure to cause commencement of construction of the City Improvements following all required City approvals and appropriations, the City may terminate this Agreement and cease payment of City Payments for costs first incurred after termination.
 - (ii) With respect to any other uncured Event of Non-Performance by RGLP, the City may terminate this Agreement and pursue any remedies available at law or in equity; provided, however, that the City waives any right to recover consequential, incidental, punitive, or exemplary damages.
 - (iii) The City may seek injunctive or mandamus-type relief to address public safety concerns or to enjoin activities not in compliance with this Agreement.
- (b) Remedies of RGLP. Subject to Applicable Laws, RGLP's remedies for an uncured Event of Non-Performance by the City shall be limited to:

- (i) Recovery of amounts expressly owed and appropriated under this Agreement; and
- (ii) Injunctive or mandamus-type relief requiring the City to perform nondiscretionary obligations expressly required by this Agreement.

RGLP expressly waives any claim for consequential, incidental, punitive, or exemplary damages arising from an Event of Non-Performance by the City.

12.5. Delays; Waivers. No delay or failure by any Party to exercise any right or remedy shall operate as a waiver of such right or remedy, nor shall any waiver of an Event of Non-Performance constitute a waiver of any subsequent Event of Non-Performance.

12.6. Enforced Delay. Neither Party shall be deemed in Event of Non-Performance for delays caused by events beyond its reasonable control, including acts of God, governmental actions, litigation, labor disputes, severe weather, or similar causes (“**Enforced Delay**”), provided that the affected Party promptly notifies the other Party and uses commercially reasonable efforts to resume performance.

Enforced Delay shall not include delays resulting solely from the City’s discretionary decision not to appropriate funds or proceed with the Project.

12.7. Rights and Remedies Cumulative. Except as expressly limited herein, the rights and remedies of the Parties under this Agreement are cumulative and not exclusive.

13. **DISPUTE RESOLUTION, INSURANCE, INDEMNIFICATION, LIMITATION OF LIABILITY**

13.1. Representatives. To further the cooperation of the Parties in implementing this Agreement, the City and RGLP shall each designate and appoint a representative to act as a liaison among the City and its various departments and RGLP, respectively, with respect to coordination and administration of matters arising under this Agreement.

The initial representative of the City shall be the City Manager, or such other person as the City may designate from time to time by written notice to RGLP (the “**City Representative**”). The initial representative of RGLP shall be its designee identified by RGLP from time to time by written notice to the City (the “**RGLP Representative**”).

The City Representative and the RGLP Representative shall be available at all reasonable times to discuss and review the performance of the Parties and the development, design, and construction of the Project. Designation of a representative pursuant to this Section is intended for coordination and communication purposes only and shall not be construed to authorize any representative to amend this Agreement, bind the designating Party, or waive any rights or obligations under this Agreement unless expressly authorized in writing in accordance with this Agreement.

13.2. Impasse. The City acknowledges and agrees that it is desirable for RGLP to proceed rapidly with the implementation of this Agreement and the development of the Project. Accordingly, to the extent not inconsistent with Applicable Laws, the Parties agree that if at any time RGLP believes an impasse has been reached with City staff on any issue affecting the Project which is not an Event of Non-Performance, RGLP shall have the right to immediately appeal to the City Representative for an expedited decision pursuant to this Section 13.2.

If the issue on which an impasse has been reached is an issue where a final decision can be reached by City staff, the City Representative shall give RGLP a final administrative decision within seven (7) business days after receipt of RGLP's request for an expedited decision.

If the issue on which an impasse has been reached is one where a final decision requires action by the City Council, the City Representative shall request a City Council hearing on the issue to take place at the first regular council meeting scheduled thirty (30) days after RGLP's request for an expedited decision; provided, however, that if the issue is appropriate for review by the City's Planning and Zoning Commission, the matter shall be submitted to the Planning and Zoning Commission at the first scheduled Planning and Zoning Commission meeting thirty (30) days after RGLP's request for an expedited decision, and then to the City Council at its first meeting following the Planning and Zoning Commission hearing and the applicable public notice period.

Each of the Parties agrees to continue to use reasonable good faith efforts to resolve any impasse pending such expedited decision. Except as otherwise provided herein, the City Improvements are for the benefit of the City and RGLP shall have no claim against the City for delays in the completion of the City Improvements.

13.3. Mediation. If there is a dispute arising under this Agreement that is not an Event of Non-Performance and which the applicable Parties cannot resolve between themselves within the time frame set forth in Section 13.2, or which is not resolved to the satisfaction of RGLP as provided in Section 13.2, the Parties agree that there shall be a ninety (90) day moratorium on litigation, during which time the Parties shall attempt to settle the dispute by non-binding mediation prior to the commencement of litigation.

The mediation shall be conducted under the Commercial Mediation Rules of the American Arbitration Association, but shall not be administered by the AAA unless the Parties agree in writing, in which case all administrative fees shall be divided equally between the City and RGLP.

The matter in dispute shall be submitted to a mediator mutually selected by the City and RGLP. If the Parties are unable to agree upon the selection of a mediator within ten (10) days, then within five (5) days thereafter, the Parties shall request that the Presiding Judge of the Superior Court of the State of Arizona, in and for Maricopa County, appoint the mediator.

The mediator selected shall have at least ten (10) years of experience in mediating or arbitrating disputes relating to commercial real estate or development matters. The costs of the mediation shall be divided equally between the City and RGLP.

The results of the mediation shall be nonbinding, and any Party shall be free to initiate litigation upon the conclusion of the later of (i) the mediation or (ii) the ninety (90) day moratorium on litigation. The mediation shall be completed in one (1) day or less, shall be confidential and private, and shall otherwise be governed by A.R.S. § 12-2238.

13.4. RGLP Insurance. During any period in which RGLP is performing Development Manager services under this Agreement, RGLP shall maintain commercially reasonable liability insurance coverage.

13.5. No Construction Insurance Obligation. RGLP shall not self-perform construction but shall be responsible for managing and administering construction activities through contractors retained in compliance with A.R.S. Title 34. Construction insurance, including builder's risk and liability insurance in amounts reasonably acceptable to the City, shall be maintained by the applicable contractors in accordance with their contracts and Applicable Laws.

13.6. Indemnification by RGLP. RGLP shall indemnify, defend, and hold harmless the City, its elected and appointed officials, directors, employees, and agents from and against any claims, damages, liabilities, losses, or expenses, including reasonable attorneys' fees, arising out of RGLP's development management, construction management, or delivery of the City Improvements, except to the extent caused by the City's negligence or willful misconduct.

13.7. Indemnification by City. To the fullest extent permitted by law, the City shall indemnify, defend, and hold harmless RGLP and its members, managers, officers, and agents from and against any claims, damages, liabilities, losses, or expenses, including reasonable attorneys' fees, arising out of the City's operation, or maintenance of the City Improvements except to the extent caused by RGLP's negligence or willful misconduct.

13.8. Governmental Immunity. Nothing in this Agreement shall be construed to waive, limit, or modify any immunities, defenses, or limitations of liability available to the City under applicable law.

13.9. Survival. The following provisions of this Article 13 shall survive the expiration or termination of this Agreement: Sections 13.3; 13.6, 13.7 and 13.8.

14. ASSIGNMENT; TRANSFER

14.1. Prohibition on Assignment. The provisions of this Agreement are binding upon and shall inure to the benefit of the Parties, and all of their Successors and Assigns. Except as expressly permitted herein, RGLP shall not assign, transfer, convey, or otherwise encumber this Agreement or any of its rights or obligations hereunder, in whole or in

part, without the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned, or delayed.

14.2. Permitted RGLP Assignment. Notwithstanding Section 14.1, RGLP may assign this Agreement without City consent to:

- (a) an entity controlling, controlled by, or under common control with RGLP;
- (b) an entity resulting from a merger, consolidation, or reorganization of RGLP; or

An assignment under this Section 14.2 does not relieve the owners of property from obligations that run with the land.

14.3. City Assignment. The City may not assign this Agreement to any governmental entity, authority, or agency succeeding to the City's interest in the Project or the Garage Parcel without RGLP's prior written consent, which consent shall not be unreasonably withheld, conditioned, or delayed.

15. RECORDATION; TERM; COVENANT RUNNING WITH THE LAND

15.1. Recordation. Following execution by the Parties, this Agreement shall be recorded in the Official Records of Maricopa County, Arizona. The City shall be responsible for recordation of this Agreement within ten (10) days of execution as required by A.R.S. § 9-500.05(D). The Parties acknowledge that recordation is intended to provide notice of the terms of this Agreement to successors and assigns.

15.2. Term. This Agreement shall commence on the Effective Date and shall remain in effect until the earlier of: (a) completion of the Project and satisfaction of the Parties' respective obligations hereunder; or (b) termination of this Agreement in accordance with Article 5.

15.3. Survival of Delivery Obligations. Termination of this Agreement shall not relieve RGLP of responsibility for completion of any portion of the City Improvements for which reimbursement has been approved or paid prior to termination, except as expressly provided herein. The obligations described in this Section 15.3 shall survive termination in accordance with, and in addition to, Section 16.14.

15.4. Release Upon Completion or Termination. Upon completion of the Project, or upon termination of this Agreement in accordance with its terms, the City shall, upon written request by RGLP, record a notice evidencing the completion or termination of this Agreement, as applicable, which notice shall release RGLP as applicable from further obligations under this Agreement, except for those provisions that expressly survive.

15.5. Outside Commencement Date. Notwithstanding anything to the contrary contained in this Agreement, if construction of the City Improvements has not commenced on or before the date that is three (3) years following the Effective Date (the "Outside Commencement Date"), this Agreement shall automatically terminate in its entirety on the Outside Commencement Date, without notice, action, or approval by either Party.

The Outside Commencement Date is a material and bargained-for limitation on the duration of this Agreement and shall not be extended, tolled, or waived except by a written amendment approved by the City Council and executed by the Parties prior to the Outside Commencement Date.

Upon expiration pursuant to this Section 15.5:

- (a) this Agreement shall be null and void for all purposes except for those provisions that expressly survive termination as set forth herein;
- (b) neither Party shall be deemed in default or Event of Non-Performance solely as a result of such expiration; and
- (c) neither Party shall have any further obligation, liability, or responsibility under this Agreement except as expressly surviving.

16. MISCELLANEOUS

16.1. Notices. Except as otherwise required by law, any notice required or permitted under this Agreement shall be in writing and shall be given by personal delivery, or by deposit in the United States mail, certified or registered, return receipt requested, postage prepaid, addressed to the Parties at their respective addresses set forth below, or at such other address as a Party may designate in writing pursuant to the terms of this Section, or by any nationally recognized express or overnight delivery service (e.g. Federal Express or UPS), delivery charges prepaid:

If to the City: City of Goodyear
1900 North Civic Square
Goodyear, Arizona 85395
Attn: City Manager

With a required copy to: City of Goodyear
1900 North Civic Square
Goodyear, Arizona 85395
Attn: City Attorney

If to RGLP:
RG LAND PARTNERS, LLC
2502 E Camelback Road, Suite 200
Phoenix, Arizona 85016
Attn: Scott Wagner

With a required copy to: Burch and Cracchiolo
1850 N Central Avenue Suite 1700
Phoenix, Arizona 85004
Attn: Ed Bull

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

16.3. 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.

16.4. Waiver. Without limiting the provisions of Section 12.5 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.

16.5. Third Party Beneficiaries. No person or entity shall be a third party beneficiary to this Agreement, except for permitted transferees, assignees, or lenders under Section 14.2

to the extent that they assume or succeed to the rights and/or obligations of RGLP under this Agreement as required by Section 14.2, and except that the indemnified parties referred to in Sections 13.6 and 13.7 (or elsewhere in this Agreement) shall be third-party beneficiaries of such indemnification provisions.

16.6. 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.

16.7. Integration. Except as expressly provided herein, 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.

16.8. 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 expressly contemplated by this Agreement or confirm the status of (a) this Agreement is in full force and effect and (b) the performance of the obligations hereunder at any time during its Term. This Section 16.8 is intended to supplement, and not limit or supersede, the further assurances obligations set forth in Sections 10.3 and 11.3.

16.9. 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 16.24 shall apply in the event of any successful challenge to this Agreement.

16.10. Days. References to “days: in this Agreement shall mean calendar days; provided, however, 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.

16.11. Covenants Running with Land; Inurement. The covenants, conditions, terms, and provisions of this Agreement that relate to the Garage Parcel, Public Open Space Easement Area, and the Private Parcels shall run with the land and shall be binding upon and inure to the benefit of the Parties and their respective permitted Successors and Assigns.

Wherever the term “Party” or the name of any particular Party is used in this Agreement, such term shall include such Party’s permitted Successors and Assigns.

16.12. Amendment. This Agreement may be amended only by a written instrument approved by the City Council and executed by the Parties. Any amendment to this Agreement shall be recorded in the Official Records of Maricopa County, Arizona in accordance with A.R.S. § 9-500.05.

16.13. 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.

16.14. Survival. Termination, expiration, or completion of this Agreement shall not relieve any Party of any obligation which, by its nature or by express terms, is intended to survive such termination, expiration, or completion. Without limiting the foregoing, the following provisions shall expressly survive:

- (a) Section 3.3 (Parking Purpose and Use) including subsection 3.3(a) through (c) inclusive
- (b) Section 9.2 (Parking Operations)
- (c) Section 9.5 (Cost Sharing Obligation) including subsections 9.5 (a) through (f) inclusive and the subsections therein;
- (d) Article 12, solely with respect to Events of Non-Performance occurring prior to termination;
- (e) Section 13.3 (Mediation);
- (f) Section 13.6 (Indemnification by RGLP);
- (g) Section 13.7 (Indemnification by City);
- (h) Section 13.8 (Governmental Immunity);
- (i) Section 16.3 (Attorneys’ Fees and Costs);
- (j) Section 16.4 (Waiver);
- (k) Section 16.11 (Covenants Running with the Land);
- (l) Section 16.16 (Nonliability of City and RGLP Employees)
- (m) Section 16.17 (Conflict of Interest Statute);

(n) Section 16.19 (Waiver of Claims Pursuant to A.R.S. § 12-1134, et seq.);

(o) Section 16.22 (Governing Law; Venue);

(p) Section 16.23 (Severability); and

(q) Section 8.6 (Entry; Indemnification).

16.15. Rights of Lenders. The City is aware that RGLP may obtain financing or refinancing for the City Improvements, 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 an Event of Non-Performance by RGLP, the City shall provide notice of such Event of Non-Performance, at the same time notice is provided to RGLP, to not more than two (2) of such Lenders as designated by RGLP to receive such notice (the “**Designated Lenders**”) whose names and addresses will provided by written notice to the City. The City shall give RGLP copies of any such notice provided to such Designated Lenders and, unless RGLP 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 RGLP 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. RGLP may provide notices to other Lenders. Upon request by a Lender, the City will enter into a separate nondisturbance agreement with such Lender. If a Lender is permitted, under the terms of its nondisturbance agreement with the City, to cure the Event of Non-Performance and/or to assume RGLP’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 RGLP thereafter accruing under this Agreement. The City shall, at any time upon reasonable request by RGLP, provide to any Lender an estoppel certificate or other document evidencing that this Agreement is in full force and effect and that no Event of Non-Performance by RGLP exists hereunder (or, if appropriate, specifying the nature and duration of any existing Event of Non-Performance).

16.16. Nonliability of City and RGLP Employees. No member, official or employee of the City shall be personally liable to RGLP, or any successor in interest of RGLP, in the event of any Event of Non-Performance by the City or for any amount which may become due to RGLP or any successor in interest, or on any obligation, under the terms of this Agreement. No member, manager, officer or employee of RGLP, and no member, manager, partner, stockholder, director, officer or employee of any manager or member of RGLP or any successor to RGLP, and no Affiliate of any such persons or entities, shall be personally liable to the City in the event of any Event of Non-Performance by RGLP or for any amount which may become due to the City, or on any obligation, under the terms of this Agreement.

16.17. 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.

16.18. Warranty Against Payment of Consideration for Agreement. RGLP 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.

16.19. Waiver of Claims Pursuant to A.R.S. § 12-1134, et seq. RGLP agrees, understands and acknowledges that the City is entering into this Agreement in good faith and at the specific request of RGLP, 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 Garage Parcel. RGLP on behalf of it and its successors and assigns, intends to encumber the Garage Parcel with the following agreements and waivers. RGLP agrees and consents to all the conditions imposed by this Agreement, the General Plan, 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 RGLP 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 Garage Parcel consistent with this Agreement, the General Plan, 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. RGLP acknowledges and agrees that the terms and conditions set forth in this Agreement, the General Plan, Applicable Laws and all permits and approvals issued or granted by the City in furtherance thereof cause the fair market value of the Garage Parcel to equal or exceed the fair market value of the Garage Parcel in the absence of this Agreement, the General Plan, Applicable Laws and all permits and approvals issued or granted by the City in furtherance thereof, and such “land use laws.”

16.20. City Council Action Requirement. The City and RGLP 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.

16.21. 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.

16.22. Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona. Venue for any action arising out of this Agreement shall lie exclusively in the Superior Court of the State of Arizona in and for Maricopa County.

16.23. Severability. Each Party believes that the execution, delivery and performance of this Agreement are in compliance with all Applicable Laws. However, in the unlikely event that any provision of this Agreement is declared void or unenforceable (or is construed as requiring the City to do any act in violation of any Applicable Laws, constitutional provision, law, regulation, City code or City charter), such provision shall be deemed severed from this Agreement and this Agreement shall otherwise remain in full force and effect; provided that this Agreement shall retroactively be reformed to the extent reasonably and legally possible, but in all events must be reformed, in such a manner so that the reformed agreement (and any related agreements effective as of the same date) provides essentially the same rights and benefits (economic and otherwise) to the Parties as if such severance and reformation were not required. The Parties further agree, in such circumstances, to do all acts and to execute all amendments, instruments and consents necessary to accomplish and to give effect to the purposes of this Agreement, as reformed.

16.24. Counterparts; Electronic Signatures. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one instrument. A manually signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement provided however, Owner shall deliver an original executed copy of this Agreement to the City for recordation in the Official Records of Maricopa County.

16.25. Construction and Page Numbering. The terms and provisions of this Agreement represent the results of negotiations among the Parties, each of which has been or has had the opportunity to be represented by counsel of its own choosing, and none of which has acted under any duress or compulsion, whether legal, economic or otherwise. Consequently, the terms and provisions of this Agreement shall be interpreted and construed in accordance with their usual and customary meanings, and the Parties each hereby waive the application of any rule of law which would otherwise be applicable in connection with the interpretation and construction of this Agreement that ambiguous or conflicting terms or provisions contained in this Agreement shall be interpreted or construed against the Party who prepared or whose attorney prepared the executed Agreement or any earlier draft of the same. The Page numbering of this Agreement is exclusive of the Exhibits.

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

Signatures, Acknowledgments, and Exhibits Continued on Following Pages

RG LAND PARTNERS, LLC,
a Delaware limited liability company

By: GOODYEAR PRINCIPALS, LLC
a Delaware limited liability company,
its Managing Member

By: _____
Name: Michael L. Ebert
Title: Manager

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this _____ day of _____, 2026, by Michael L. Ebert, the Manager of Goodyear Principals, LLC, a Delaware limited liability company, the Managing Member of RG Land Partners, LLC, a Delaware limited liability company, on behalf of said entities.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

My Commission Expires:

Signatures, Acknowledgments, and Exhibits Continued on Following Pages

CITY
CITY OF GOODYEAR, ARIZONA,
an Arizona municipal corporation

By: _____
Kini Knudson
Its: Interim City Manager

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing Development Agreement, consisting of ____ pages, including this page and all exhibits was acknowledged before me this ____ day of _____, 2026 by Kini Knudson, the Interim City Manager 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

My Commission Expires:

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
City Attorney

Exhibits Continued on Following Page

List of Exhibits

Exhibit A – Legal Description of Lot 19

Exhibit B – Depiction of Garage Parcel and Public Open Space Easement Area

- Exhibit B-1—Legal Description of Garage Parcel
- Exhibit B-2 – Legal Description of Public Open Space Easement Area

Exhibit C – Form Assignment of Warranties

Exhibit D POA Consent

Exhibit A

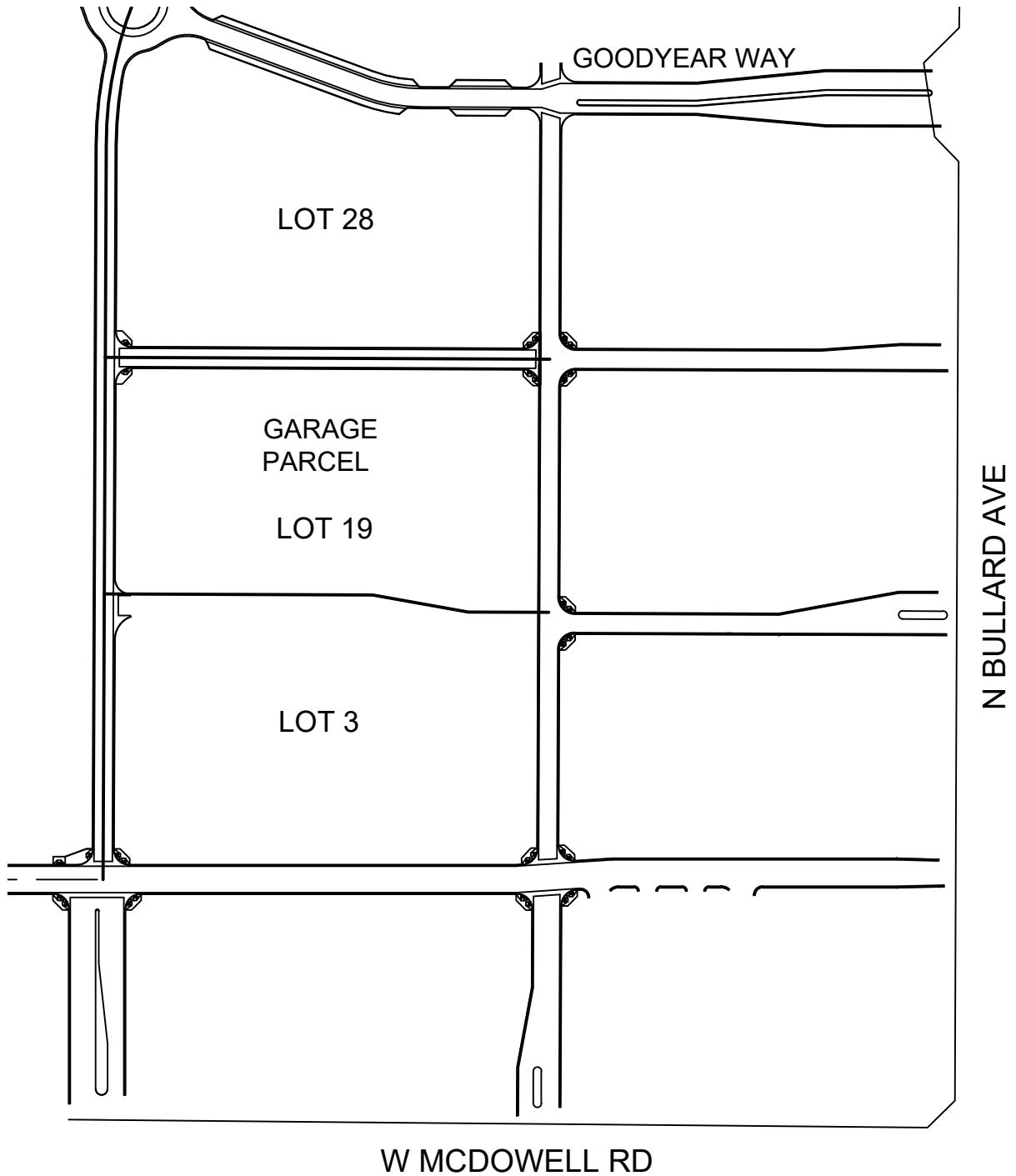
Legal Description of Lot 19

Lot 19 of the Replat of Lot 19 for Goodyear Regional Center recorded in Book 1913
Page 43 of the official records of Maricopa County, Arizona.

Exhibit B

Depiction of Garage Parcel and Public Open Space Easement Area within Lot 19

(Attached)



SCALE 1" = 200'

EXHIBIT

4550 North 12th Street
Phoenix, Arizona 85014
Phone 602-264-6831
<http://www.cvlci.com>

LOT 19 - BLOCK C2 VICINITY MAP

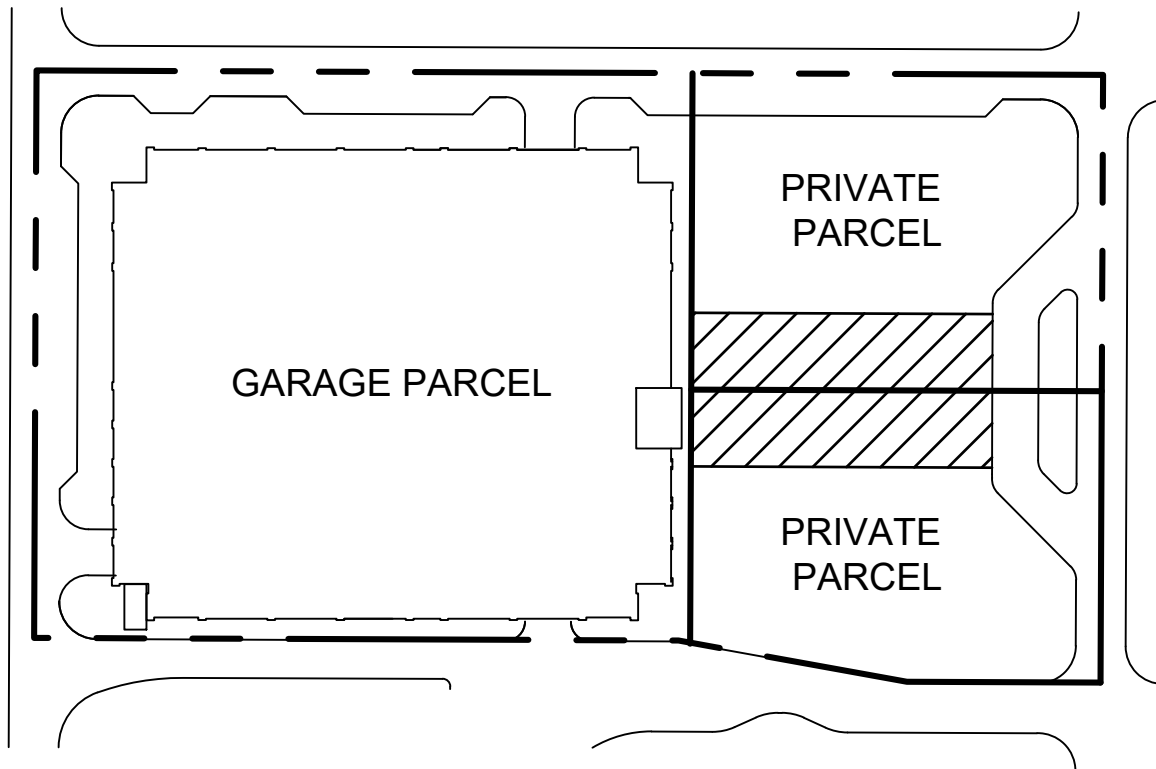
GSQ - GOODYEAR REGIONAL CENTER



1 OF 2



PUBLIC OPEN SPACE EASEMENT AREA



SCALE 1" = 100'

EXHIBIT

4550 North 12th Street
Phoenix, Arizona 85014
Phone 602-264-6831
<http://www.cvlci.com>

LOT 19 - BLOCK C2

GSQ - GOODYEAR REGIONAL CENTER



2 OF 2

Exhibit B-1

Legal Description of Garage Parcel

(To be provided in future.)

Exhibit B-2

Legal Description of Public Open Space Easement Area

(To be provided in the future.)

Exhibit C

FORM OF ASSIGNMENT OF WARRANTIES

ASSIGNMENT OF WARRANTIES

For and in consideration of the sum of ten dollars and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, RG Land Partners, LLC, a Delaware Limited Liability Company (“**Assignor**”), hereby transfers and assigns, on a non-exclusive basis, to the City of Goodyear, an Arizona municipal corporation (“**Assignee**”), all of Assignor’s right, title, and interest in and to the warranties and guaranties listed on Exhibit “A” attached hereto. Notwithstanding the foregoing, Assignor shall retain the non-exclusive rights in and to such warranties and guaranties as necessary in order to pursue any rights it may have against the parties giving such warranties and guaranties independent of Assignee’s rights, including, without limitation, rights to indemnity against such parties.

Assignor has executed this Assignment this ____ day of _____, 20__.

ASSIGNOR:

RG LAND PARTNERS, LLC,
a Delaware limited liability company

By: GOODYEAR PRINCIPALS, LLC
a Delaware limited liability company,
its Managing Member

By: _____
Name: Michael L. Ebert
Title: Manager

Exhibit D

PROPERTY OWNER'S ASSOCIATION CONSENT AND ASSUMPTION

(Attached)

CONSENT AND ASSUMPTION OF RESPONSIBILITIES

This Consent and Assumption of Responsibilities (“Consent Agreement”) is made as of _____, 2026, by and between the City of Goodyear, an Arizona municipal corporation (“**City**”), and GSQ Owners Association, Inc., an Arizona non-profit corporation (“**Association**”), with reference to that certain Development Agreement (Regional Garage) (the “**Agreement**”).

RECITALS

WHEREAS, the City and RG Land Partners, LLC, a Delaware limited liability company (“**RGLP**”), are parties (the “Parties”) to the Agreement to which this Consent Agreement is attached as Exhibit D.

WHEREAS, the Association was formed to manage, maintain, and administer certain property and related obligations described in the Declaration of Covenants, Conditions, Restrictions and Easements for GSQ Regional Center recorded in document 2024-0548135 (the “**GSQ CC&Rs**”).

WHEREAS, RGLP is the declarant under the GSQ CC&Rs.

WHEREAS, subject to the terms and conditions therein, the Agreement provides for the construction of a city-owned parking garage by RGLP that will, upon completion, be available for public parking for development within the property subject to the GSQ CC&Rs (the “**Private Parcels**”) and allows the Association to designate a certain number of parking spaces within the garage to be counted towards the minimum number of parking spaces required under applicable laws for certain types of development within the Private Parcels.

WHEREAS, because of the benefits provided to the Private Parcels under the Agreement described above, the Agreement requires the Association to share responsibility for the cost of maintaining and operating the parking garage.

WHEREAS, the Agreement also provides for the construction of privately owned but publicly accessible open space, including pedestrian walkways, plaza areas, landscaping, and related civic amenities (the “**Public Open Space Improvements**”), which are to be available to the public.

WHEREAS, because laws applicable to the development of the Private Parcels require that open space be provided, the Agreement requires the Association to maintain and operate the Public Open Space Improvements.

WHEREAS, to provide the required access to the Public Open Space Improvements and to ensure that the Association operates and maintains the Public Open Space Improvements, the Agreement requires RGLP to convey an easement to the City that provides for public access to the amenities and requires the Association to operate and

maintain the open space amenities, indemnify the City, and consent to the terms of the Easement.

WHEREAS, the City desires for the Association to assume certain rights, duties, and obligations under the Agreement related to the foregoing, and the Association is willing to assume such rights, duties, and obligations subject to the terms set forth herein;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties agree as follows:

CONSENT AGREEMENT

1. **Consent.** The City hereby consents to the Association assuming the responsibilities, duties, and obligations under the Agreement, to the extent specified herein.
2. **Assumption of Obligations.** The Association hereby accepts and assumes all responsibilities, duties, liabilities, and obligations and agrees to be bound by the terms set forth in the following sections of the Agreement to which this Consent is attached:
 - Section 3.3 including subsections 3.3(a) through (c) inclusive;
 - Section 9.5 including subsections 9.5 (a) through (f) inclusive; and
 - Section 8.2.

The foregoing sections of the Agreement survive the termination of the Agreement, and the Association shall be bound by the foregoing sections of the Agreement following the termination of the Agreement.

3. **Effective Date.** This Consent Agreement shall become effective on the date the Agreement to which it is attached becomes effective and shall remain in effect until it is terminated by the mutual written agreement of the Parties.
4. **Indemnification.** The Association agrees to indemnify, defend, and hold harmless the City and RGLP from and against any claims, damages, losses, or liabilities arising out of or related to the Association's performance or failure to perform its assumed obligations under the Agreement from and after the Effective Date.
5. **Modifications.** This Agreement may be amended only by a written instrument approved by the City and executed by the Parties. Any amendment to this Agreement shall be recorded in the Official Records of Maricopa County, Arizona.
6. **Governing Law; Venue.** This Consent Agreement shall be governed by and construed in accordance with the laws of the State of Arizona. Venue for any action arising out of this Agreement shall lie exclusively in the Superior Court of the State of Arizona in and for Maricopa County.
7. **Counterparts.** This Consent Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one

instrument. A manually signed copy of this Consent Agreement delivered by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Consent Agreement, provided however, Owner shall deliver an original executed copy of this Consent Agreement to the City for recordation in the Official Records of Maricopa County.

IN WITNESS WHEREOF, the parties have executed this Consent as of the date first written above.

GSQ Owners Association,
an Arizona non-profit corporation

By: _____
Scott Wagner
Its: President and Sole Director

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this _____ day of _____, 2026, by Scott Wagner, the President and Sole Director of GSQ Owners Association, an Arizona non—profit corporation on behalf of said entity.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

My Commission Expires:

Signatures and Acknowledgments Continued on Following Page

CITY
CITY OF GOODYEAR, ARIZONA,
an Arizona municipal corporation

By: _____
Kini Knudson
Its: Interim City Manager

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing Development Agreement, consisting of ____ pages, including this page and all exhibits was acknowledged before me this ____ day of _____, 2026 by Kini Knudson, the Interim City Manager 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

My Commission Expires:

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
City Attorney