

**Official Proceedings
Pontiac City Council
216th Session of the Tenth Council**

Call to order

A Study Session of the City Council of Pontiac, Michigan was called to order electronically, on Tuesday, February 23, 2021 at 6:00 p.m. by Council President Kermit Williams.

Roll Call

| Members Present | Attendance | Location |
|------------------------|-------------------|-----------------------------|
| Carter | Remotely | Lansing, Ingham County, MI |
| Miller | Remotely | Pontiac, Oakland County, MI |
| Pietila | Remotely | Pontiac, Oakland County, MI |
| Shramski | Remotely | Pontiac, Oakland County, MI |
| Taylor-Burks | Remotely | Pontiac, Oakland County, MI |
| Waterman | Remotely | Pontiac, Oakland County, MI |
| Williams | Remotely | Pontiac, Oakland County, MI |

Mayor Waterman was present.
Clerk announced a quorum.

Approval of the Agenda

21-47 **Motion to approve agenda.** Move by Councilperson Waterman and second by Councilperson Pietila.

Ayes: Miller, Pietila, Shramski, Taylor-Burks, Waterman, Williams and Carter
No: None
Motion Carried

Approval of Minutes

21-48 **Approve meeting minutes for February 16, 2021.** Moved by Councilperson Shramski and second by Councilperson Pietila.

Ayes: Pietila, Shramski, Taylor-Burks, Waterman, Williams, Carter and Miller
No: None
Motion Carried

Public Comment

Two (2) individuals submitted a public comment read by the City Clerk

Suspend the Rules

21-49 **Motion to suspend the rules to vote on item#2.** Moved by Councilperson Waterman and second by Councilperson Taylor-Burks.

Ayes: Shramski, Taylor-Burks, Waterman, Williams, Carter and Pietila
No: Miller
Motion Carried

Resolution

Economic Development

21-50 **Resolution to schedule a public hearing for Community Development Block Grant (CDBG) Program Year 2021 for March 9, 2021.** Moved by Councilperson Waterman and second by Councilperson Taylor-Burks.

Whereas, the City of Pontiac is submitting an application for the Community Development Block Grant; and

Whereas, the grant application will be submitted on March 10, 2021 to Oakland County for Program Year 2021 projects; and

Whereas, a Public Hearing is required with a 10 notice to the public; and

Whereas, we are requesting to hold the Public Hearing on March 9, 2021 at 6:00; and

Whereas, the following projects being considered:

1. Crime Awareness and Prevention - \$139,665: These funds are to promote awareness and prevention programs above and beyond normal staffing levels including installation of security cameras, monitoring, increased security staff.
2. Neighborhood Cleanup - \$100,000: Efforts to remove trash and debris from neighborhoods, neighborhood cleanup campaigns and graffiti removal. Also, enforce codes related to trash and debris.
3. Senior Center Facilities - \$175,000: Rehabilitation of the two senior centers; Robert Bowen and Ruth Peterson.
4. Sidewalks - \$384,218: Rehabilitation of the two senior centers; Robert Bowen and Ruth Peterson.

Now Therefore, Be It Resolved, that the Pontiac City Council schedule a public hearing on the Community Development Block Grant Application for Program Year 2021 on March 9, 2021 at 6:00 PM and instruct the Interim Clerk to have a public notice published in the newspaper 10 days on or before March 9, 2021.

Ayes: Taylor-Burks, Waterman, Williams, Carter, Miller, Pietila and Shramski

No: None

Resolution Passed

Suspend the Rules

21-51 **Motion to suspend the rules to vote on item #4.** Moved by Councilperson Pietila and second by Councilperson Taylor-Burks.

Ayes: Waterman, Williams, Pietila, Shramski and Taylor-Burks

No: Carter and Miller

Motion Carried

Resolution

Mayors' Office

21-52 **Resolution to authorize execution of a parking lease between the City of Pontiac and Phoenix Rising Pontiac, LLC.** Moved by Councilperson Pietila and second by Councilperson Taylor-Burks.

Ayes: Pietila, Shramski, Taylor-Burks and Waterman

No: Williams, Carter and Miller

Resolution Passed

****Lease Agreement attached as Exhibit A****

Communication from the Mayor

Council Chambers Redesign Plan/request for Invoices for HED Report and Chairs in Council Chambers

February 23, 2021 Approved Minutes

Adjournment

President Kermit Williams adjourned the meeting at 7:38 p.m.

GARLAND S DOYLE
INTERIM CITY CLERK

PARKING LEASE AGREEMENT

THIS PARKING LEASE AGREEMENT (this "Agreement") is made and entered into as of February 26, 2021 (the "Commencement Date") between the CITY OF PONTIAC, a Michigan municipal corporation (the "City"), and PhoenixrisingPontiac, LLC, a Michigan limited liability company (the "Lessee").

RECITALS

A. The City owns certain real property located at 10 W. Water Street, Pontiac, Michigan, as more particularly described in Schedule 1 attached hereto, together with a parking garage located thereon, commonly known as the "Phoenix Center Parking Garage," but excluding the Plaza and Amphitheater (collectively, the "Garage").

B. The City desires to lease to Lessee, and Lessee has agreed to lease from the City, the Garage, subject to the terms and conditions set forth herein.

NOW THEREFORE, for and in consideration of the premises, the mutual covenants, representations warranties and agreements contained herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties covenant and agree as follows:

ARTICLE I DEFINITIONS AND INTERPRETATION

Section 1.1 Definitions. Unless otherwise specified or the context otherwise requires, for the purposes of this Agreement the following terms have the following meanings:

"Additional Coverages" has the meaning ascribed thereto in Section 9.2(k).

"Affiliate" when used to indicate a relationship with a specified Person, means a Person that, directly or indirectly, through one or more intermediaries controls, is controlled by or is under common control with such specified Person; and a Person shall be deemed to be controlled by another Person, if controlled in any manner whatsoever that results in control in fact by that other Person (or that other Person and any Person or Persons with whom that other Person is acting jointly or in concert), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise (it being understood and agreed that for the purposes of this definition, a managed fund or trust shall be deemed to be an Affiliate of the Person managing such fund or trust).

"Agreement" has the meaning ascribed thereto in the preamble to this Agreement (including all Schedules referred to herein), as amended from time to time in accordance with the terms hereof.

"Approval" "Approved" "Approves" and similar expressions mean approved or consented to by the relevant Party in accordance with the provisions of Section 1.9.

"Authorization" means any approval, certificate of approval, authorization, consent, waiver, order, license, permit or other requirement issued by any Governmental Authority that is required in connection with Garage Operations.

"Business Day" means any day that is neither a Saturday, a Sunday nor a day observed as a holiday by the State of Michigan or the United States government.

"City" has the meaning ascribed thereto in the preamble to this Agreement.

"City Default" has the meaning ascribed thereto in Section 10.2(a).

"Claim" means any demand, action, cause of action, suit, proceeding, arbitration, claim or judgment.

"Closing" means February 26, 2021, the date that all the consideration is paid for purposes of conveying and recording of the deed conveying title to Ottawa Towers to Lessee hereunder.

"Commencement Date" means February 26, 2021, the date which Lessee acquires its leasehold interest to the Garage.

"Common Areas" means that portion of the Garage serving as areas of ingress and egress to the Plaza and Amphitheater (as defined below).

"Comparable Parking Facilities" means parking garages (whether publicly or privately owned) open to the general public located in Oakland County that are reasonably comparable to the Garage.

"Document" has the meaning ascribed thereto in Section 1.11(c).

"Encumbrance" means any mortgage, lien, judgment, execution, pledge, charge, security interest, restriction, easement, servitude, option, claim, or encumbrance of any nature whatsoever, whether arising by operation of Law, judicial process, contract, agreement or otherwise created, and recorded against the Garage.

"End Date" means the date on which this Agreement expires or is terminated.

"Environmental Laws" means any Laws or regulations governing the handling, storage, release, remediation or disposal of Hazardous Substances at the Garage, or a release or threat of release of Hazardous Substances.

"Force Majeure" means any event beyond the reasonable control of a Party that delays, interrupts or limits the performance of a Party's obligations hereunder, including an intervening act of God or public enemy, war, invasion, armed conflict, pandemic, governmental order, act of foreign enemy, blockade, revolution, act of terror, sabotage, civil commotions, interference by civil or military authorities, condemnation or confiscation of property or equipment by any Governmental Authority, nuclear or other explosion, radioactive or chemical contamination or ionizing radiation, fire, tornado, flooding, earthquake or other natural disaster, riot or other public disorder, epidemic, quarantine restriction, strike, labor dispute or other labor protest, governmental embargo or stop-work order or injunction issued by a Governmental Authority, or unavailability of materials.

"Garage" shall have the meaning ascribed to it in Recital A of this Agreement.

"Garage Operations" means (i) the operation, management, and maintenance of the Garage, and (ii) all other actions relating to the Garage.

"Governmental Authority" means any department, commission, board, bureau, agency or other regulatory, administrative, or governmental authority.

"Hazardous Substance" means flammables, explosives, radioactive materials, asbestos,

polychlorinated biphenyls (PCBs), chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances or related materials, petroleum and petroleum products, and substances declared to be hazardous or toxic under any Law now or hereafter enacted or promulgated by any Governmental Authority.

"Initial Term" has the meaning ascribed thereto in Section 2.2.

"Lender" means any holder of a leasehold mortgage on the Lessee Interest, as contemplated by Article 8 hereof, together with its successors and assigns.

"Lessee" has the meaning ascribed thereto in the preamble to this Agreement.

"Lessee Default" has the meaning ascribed thereto in Section 10.1(a).

"Lessee Interest" means the leasehold interest of the Lessee in the Garage created by this Agreement and the rights and obligations of the Lessee under this Agreement.

"Law" means any order, writ, injunction, decree, judgment, law, ordinance, resolution, decision, principle of common law, opinion, ruling, policy, statute, code, charter, constitution, rule or regulation of any Governmental Authority.

"Loss" or "Losses" means, with respect to any Person, any loss, Claim, liability, damage, penalty, charge or out-of-pocket and documented cost or expense (including reasonable attorney's fees and court costs) actually suffered or incurred by such Person.

"Mayor" means the Mayor of the City or another City official acting under the direction and pursuant to the authority of the Mayor.

"Maintenance Standards" means those standards, specifications and policies, procedures and processes that apply to the maintenance of the Garage as set forth in the attached Schedule 2A.

"Operating Agreement" means any material agreement, contract or commitment to which the Lessee is a party or otherwise relating to the Garage Operations as in force from time to time (including any warranties or guaranties), but excluding any documents governing the leasehold mortgage contemplated by Article 8 hereof.

"Operating Standards" means the standards, specifications, policies, procedures and processes that apply to the operation of the Garage as set forth on Schedule 2B.

"Operator" shall mean any third party management company engaged by Lessee to manage and operate the Garage.

"Ottawa Towers" means that certain real property and improvements located at 51111 Woodward Avenue, Pontiac, Michigan 48342, including the so-called "Grassy Lot", and 31 East Judson Street, Pontiac, Michigan 48342, comprising the following tax parcel identification numbers: 14-32-226-020; 14-32-226-021 and 14-32-227-002.

"Pads" means the two (2) building pads located on the roof of the Garage.

"Party" means a party to this Agreement and "Parties" means both of them.

"Permitted City Encumbrance" means, with respect to the Garage: (i) the Lessee Interest; (ii) any Encumbrance arising after the date hereof recorded without the consent of the City and that is being contested, or being caused to be contested, by the City in accordance with Section 3.3(b) (but only for so long as such contest effectively postpones enforcement of any such Encumbrance); (iii) zoning codes, building restrictions established under Law, and any environmental, health or safety Law relating to the development, use or operation of the Garage; and (iv) those Encumbrances set forth on Schedule 5 attached hereto.

"Permitted Lessee Encumbrance" means, with respect to, and limited to, the Lessee Interest: (i) any Encumbrance that is being contested in accordance with Section 3.3(a) (but only for so long as such-contest effectively postpones enforcement of any such Encumbrance); (ii) any lien or security interest for obligations not yet due and payable to a contractor or other Person, and any statutory lien, deposit or other non-service lien which are incurred in the ordinary course of business and not delinquent; (iii) any other Encumbrance permitted hereunder (including any documents governing a leasehold mortgage contemplated under Article 8 hereof); (iv) liens incurred in the ordinary course of business in connection with workers' compensation, unemployment insurance, social security and other governmental rules and that do not in the aggregate materially impair the use, value or operation of the Garage; (v) zoning codes, building restrictions established under Law, and any environmental, health or safety Law relating to the development, use or operation of the Garage.

"Person" means any individual (including, the heirs, beneficiaries, executors, legal representatives or administrators thereof), corporation, partnership, joint venture, trust, limited liability company, limited partnership, joint stock company, unincorporated association or other entity or a Governmental Authority, including the City.

"Plaza and Amphitheater" means that portion of the Garage roof depicted on Schedule 6 attached hereto, but specifically excluding the Pads.

"Plaza and Amphitheater Operations" means (i) the operation, management, and maintenance of the Plaza and Amphitheater, and (ii) all other actions relating to the Plaza and Amphitheater.

"Property Taxes" means (i) any ad valorem real, personal or leasehold property taxes on the Garage or any component thereof, or the Lessee Interest, including without limitation any tax imposed under MCLA 211.151 on account of this Agreement or otherwise; (ii) all assessments, general and special, assessed against the Garage or any portion thereof, and (iii) payments in lieu of any of the foregoing.

"Representative" means, with respect to any Person, any director, officer, employee, partner, member, manager, agent, lawyer, accountant, professional advisor, consultant, engineer, contractor, other Person for whom such Person is at Law responsible.

"Renewal Term" has the meaning ascribed thereto in Section 2.3.

"Term" means the Initial Term, together with any applicable Renewal Term.

"Transfer" means to sell, convey, assign, lease, sublease, mortgage, encumber, transfer or otherwise dispose of.

"Transferee" has the meaning ascribed thereto in Section 11.1(a).

"Users" means collectively Lessee and its Affiliates, tenants of Lessee and its Affiliates, and the Representatives, licensees and invitees of all of the foregoing, and members of the general public that Lessee permits to use the Garage, including, without limitation, tenants of Ottawa Towers, and their Representatives, licensees and invitees. Notwithstanding anything to the contrary contained herein, Lessee acknowledges and agrees that this Agreement neither confers nor grants any easement rights to the Users to the Garage for parking or any other purposes and that all parking rights conferred herein are contractual and enforceable and/or terminable in accordance with the terms and conditions set forth herein.

Section 1.2 Number and Gender. In this Agreement words in the singular include the plural and vice versa and words in one gender include all genders.

Section 1.3 Headings. The division of this Agreement into articles, sections and other subdivisions is for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The headings in this Agreement are not intended to be full or precise descriptions of the text to which they refer and shall not be considered part of this Agreement.

Section 1.4 References to this Agreement. The words "herein," "hereby," "hereof," "hereto" and "hereunder" and words of similar import refer to this Agreement as a whole and not to any particular portion of it. The words "Article," "Section," "paragraph," "sentence," "clause" and "Schedule" mean and refer to the specified article, section, paragraph, sentence, clause or schedule of or to this Agreement.

Section 1.5 References to Any Person. A reference in this Agreement to any Person at any time refers to such Person's permitted successors and assignees.

Section 1.6 Meaning of Including. In this Agreement, the words "include," "includes" or "including" mean "include without limitation," "includes without limitation" and "including without limitation," and the words following "include," "includes" or "including" shall not be considered to set forth an exhaustive list.

Section 1.7 Meaning of Discretion. In this Agreement, the word "discretion" with respect to any Person means the sole and absolute discretion of such Person, unless otherwise specified.

Section 1.8 Meaning of Notice. In this Agreement, the word "notice" means "written notice," unless specified otherwise.

Section 1.9 Consents and Approvals. Unless specified otherwise, wherever the provisions of this Agreement require or provide for or permit an approval or consent by either Party, such approval or consent must be in writing (unless waived in writing by the other Party).

Section 1.10 Laws. Unless specified otherwise, references to a Law are considered to be a reference to (i) such Law as it may be amended from time to time, (ii) all regulations and rules pertaining to or promulgated pursuant to such Law, (iii) the successor to the Law resulting from recodification or similar reorganizing of Laws and (iv) all future Laws pertaining to the same or similar subject matter.

Section 1.11 Approvals, Consents and Performance by the City.

(a) While this Agreement has been approved by the City Council of the City, the parties recognize that approvals under this Agreement must be available on an expedited basis as contemplated in this Section 1.11. Accordingly, wherever the provisions of this Agreement require or

provide for or permit an approval or consent by the City of or to any action, Person, Document, or other matter contemplated by this Agreement, the following provisions shall apply, subject to the provisions of Section 1.11(d): (i) such request for approval or consent must (1) contain or be accompanied by any documentation or information required for such approval or consent in reasonably sufficient detail, (2) clearly set forth the matter in respect of which such approval or consent is being sought, (3) form the sole subject matter of the correspondence containing such request for approval or consent, and (4) state clearly that such approval or consent is being sought; (ii) such approval or consent shall not be unreasonably or arbitrarily withheld, conditioned or delayed (unless such provision provides that such approval or consent may be unreasonably or arbitrarily withheld, conditioned or delayed or is subject to the discretion of the City); (iii) the City shall, within such time period set forth herein (or if no time period is provided, than thirty (30) days in all events) after the giving of a notice by the Lessee requesting an approval or consent, advise the Lessee by notice either that it consents or approves or that it withholds its consent or approval, in which latter case it shall (unless such provision provides that such approval or consent may be unreasonably or arbitrarily withheld, conditioned or delayed or is subject to the discretion of the City) set forth, in reasonable detail, its reasons for withholding its consent or approval, which reasons may include the insufficiency of the information or documentation provided and if the City fails to advise the Lessee by notice either that it consents or approves or that it withholds its consent or approval within the time period set forth herein (or if no time period is provided, not less than thirty (30) days in all events) then the City shall have deemed to have consented and approved Lessee's request; (iv) if the responding notice mentioned in clause (iii) of this Section 1.11(a) indicates that the City does not approve or consent, the Lessee may take whatever steps may be necessary to satisfy the objections of the City set out in the responding notice and, thereupon, may resubmit such request for approval or consent from time to time and the provisions of this Section 1.11 shall again apply until such time as the approval or consent of the City is finally obtained; (v) if the disapproval or withholding of consent mentioned in clause (iv) of this Section 1.11(a) is subsequently determined to have been improperly withheld or conditioned by the City, such approval or consent shall be deemed to have been given on the date of such final determination.

(b) Wherever this Agreement provides that an act is to be taken or performed or an approval or consent is to be given by the City, such act may be taken or performed or approval or consent may be given by the Mayor or any Person designated in writing by the Mayor to act in the name of the Mayor under this Agreement without further action by the City Council and the Lessee may rely thereon in all respects except as provided in Section 1.11(d).

(c) Subject to the other provisions hereof, wherever in this Agreement an approval or consent is required with respect to any document, proposal, certificate, plan, drawing, specification, contract, agreement, budget, schedule, report or other written instrument whatsoever (a "Document") following such Approval such Document shall not be amended, supplemented, replaced, revised, modified, altered or changed in any material manner whatsoever without obtaining a further Approval in accordance with the provisions of this Section 1.11.

(d) Notwithstanding the foregoing, if a specific Approval is of a nature that is required by applicable Laws to be approved by the City Council, and the City (through the Mayor or otherwise) notifies the Lessee of such fact in writing prior to the Approval being given (or deemed to have been given) pursuant to the foregoing procedures, then the Lessee shall not be entitled to the reliance described in Section 1.11(b) until such time as the Approval by City Council has been obtained, and the City shall submit such Approval to the City Council promptly (including at the next meeting of the City Council), and diligently pursue obtaining such Approval.

ARTICLE 2 LEASE; TERM; RENT

Section 2.1 Grant of Leasehold Interest. Upon the terms and conditions of this Agreement, the City hereby leases to the Lessee, on an exclusive basis (except as set forth in Article 6 hereof), the entire Garage, for the purposes of operating a parking business, and such other purposes as are incidental thereto, including, without limitation, improving, maintaining, repairing, replacing, renovating, managing, and financing the Garage, leasing parking spaces to Users, and charging and collecting rent and revenue in connection therewith. For purposes of this Agreement, the term "Garage" expressly excludes the Plaza and Amphitheater, which shall be the sole responsibility of the City pursuant to the terms of Article 6 hereof.

Section 2.2 Initial Term. The term of this Agreement shall commence on the Commencement Date and expire twelve (12) months thereafter; provided, however, that upon the Closing, the term of this Agreement shall automatically be extended to expire twenty (20) years from the date of the Closing (collectively, the "Initial Term").

Section 2.3 Renewal Term(s). Lessee shall have eight (8) options to renew (each, an "Option to Renew") the term of this Agreement for successive terms of ten (10) years each (each, a "Renewal Term"), upon the same terms and conditions contained in this Agreement. If Tenant desires to exercise any Option to Renew, the Lessee shall provide written notice (a "Renewal Notice") to the City of its exercise of such Option to Renew not less than one hundred eighty (180) days prior to expiration of the Initial Term or immediately preceding Renewal Term, as applicable. If Lessee fails to provide such Renewal Notice within such time period, then the City shall notify the Lessee of same; if Lessee fails to exercise the Option to Renew within thirty (30) days following receipt of such notice, Lessee shall waive its right to exercise any future Option to Renew and this Agreement shall terminate as of the expiration of the Initial Term or then-current Renewal Term, as applicable. Unless and until the City shall have provided such notice, this Agreement shall not terminate, and the Tenant shall be deemed to continue to have the Option to Renew as provided herein.

Section 2.4 Rental Fee.

(a) In consideration for the Leasehold Interest granted to the Lessee by the City pursuant to the terms hereof, the Lessee shall pay to the City a one-time rental fee of Ten Dollars (\$10.00), the receipt of which is hereby acknowledged and confirmed by the City.

(b) In the event the Lessee exercises any Option to Renew, then upon the commencement of any Renewal Term, the Lessee shall pay to the City a one-time rental fee of Ten Dollars (\$10.00), which shall be deemed to be received by the City upon commencement of any such Renewal Term.

Section 2.5 Transition.

(a) The City represents and warrants to the Lessee that as of Closing there are no parking leases or other agreements pertaining to parking rights at the Garage in existence as of the Commencement Date, if any (the "Existing Leases") other than those rights conferred to tenants of the Ottawa Towers which rights are being assigned of even date herewith to Lessee in its capacity as fee simple owner and purchaser of the Ottawa Towers from the City. As of the Commencement Date, the City shall be deemed to have assigned to the Lessee, and the Lessee shall be deemed to have assumed, all right, title and interest in and to the Existing Leases, provided that in no event shall the Lessee have any liability under the Existing Leases for Losses first arising or related to periods prior to the Commencement Date.

(b) The Parties acknowledge that the City has not collected any rentals or revenues arising from or related to the Garage ("Garage Revenues") that have been prepaid for a periods that extend past the Commencement Date. Conversely, if and to the extent that the Lessee receives after the Commencement Date Garage Revenues that pertain to the period prior to the Commencement Date, the Lessee shall promptly remit the same to the City; provided, in no event shall the Lessee have any obligation to apply a payment to a period prior to the Commencement Date while a current invoice, account or billing is unpaid.

Section 2.6 Memorandum of Lease. At the Commencement Date, the Parties shall execute and deliver a Memorandum of Lease Agreement in the form attached hereto as Schedule 3, which shall be recorded against the Garage with the Oakland County Register of Deeds.

ARTICLE 3 TERMS OF THE LEASEHOLD

Section 3.1 Quiet Enjoyment; Present Condition.

(a) The City agrees that, subject to the City's remedies upon a Lessee Default, the Lessee shall, at all times during the Term, be entitled to and shall have the quiet possession and enjoyment of the Garage and the rights and privileges granted to the Lessee hereunder, subject to the provisions contained in this Agreement. The City shall, at all times during the Term, defend its fee title to the Garage, and the rights granted to the Lessee hereunder, or any portion thereof, against any Person claiming any interest in the Garage, or any portion thereof, except where such interest arises as a result of the act, omission, negligence, misconduct or violation of applicable Law of the Lessee or its Representatives.

(b) Except as specifically set forth herein, including without limitation in Section 7.1 below, the Lessee understands, agrees and acknowledges that the Lessee (I) BY THE EXECUTION OF THIS AGREEMENT, AGREES TO ACCEPT THE GARAGE "AS IS" AS OF THE COMMENCEMENT DATE, AND (II) HAS INSPECTED THE GARAGE AND IS AWARE OF ITS CONDITION AND ACKNOWLEDGES THAT THE CITY NEITHER HAS MADE NOR IS MAKING ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, REGARDING THE CONDITION OF THE GARAGE (OR ANY PART THEREOF) OR ITS SUITABILITY FOR THE LESSEE'S PROPOSED USE, EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT.

Section 3.2 Authorizations. The Lessee shall obtain, comply with, renew and maintain in good standing all Authorizations; provided, however, that if the Lessee is, at any time during the Term, required to obtain any Authorization that the City was not required to obtain in connection with its operation of the Garage prior to the Commencement Date, then the City shall use its best efforts to assist the Lessee in obtaining such Authorization. Nothing in this Agreement shall be deemed to waive or modify any Authorization required to be obtained by the Lessee or any other Person in connection with the Garage or any activities conducted thereon. The City represents and warrants that as of the Commencement Date, all Authorizations required to use and operate the Garage have been obtained by the City and are set forth on Schedule 4 attached hereto.

Section 3.3 No Encumbrances.

(a) The Lessee shall not do any act or thing that will create any Encumbrance (other than a Permitted Lessee Encumbrance) against the Garage and shall promptly remove any Encumbrance (other than a Permitted Lessee Encumbrance) against the Garage, other than any Encumbrance that came into existence as a result of an act of or omission by the City or its Representatives or a Person claiming

through them. The Lessee shall not be deemed to be in default hereunder if the Lessee diligently and in good faith contests any such Encumbrance created by or through Lessee or its Representatives, or the validity thereof (or causes such contest), by appropriate legal proceedings that shall operate to prevent the foreclosure of any such Encumbrance, provided that the Lessee has given advance notification to the City that it is the intent of the Lessee to contest the validity or collection thereof or cause such contest. For avoidance of doubt, leases or other agreements entered into by Lessee in the ordinary course of Garage Operations, including with any User, shall not be deemed to be an Encumbrance.

(b) The City shall not do any act or thing that will create any Encumbrance (other than a Permitted City Encumbrance) against the Garage and shall promptly remove any Encumbrance (other than a Permitted City Encumbrance) against the Garage that came into existence as a result of an act of or omission by the City, its Representatives or a Person claiming through them. The City shall not be deemed to be in default hereunder if the City diligently and in good faith contests any such Encumbrance that came into existence as a result of an act of or omission by the City, its Representatives or a Person claiming through them, or the validity thereof (or causes such contest), by appropriate legal proceedings that shall operate to prevent the foreclosure of any such Encumbrance, provided that the City has given advance notification to the Lessee that it is the intent of the City to contest the validity or collection thereof or cause such contest.

(c) Each Party, if requested by the other Party and at the requesting Party's cost and expense, shall use its reasonable efforts to assist the requesting Party in attempting to remove any Encumbrance that has come into existence as a result of an act of or omission by the requesting Party.

Section 3.4 Rights of Access.

(a) The City reserves the right to enter the Garage at all reasonable times and upon reasonable prior notice (but not less than two (2) Business Days' notice, except in the event arising under clauses (1) or (2) hereof) to the Lessee to perform each of the following at the City's own cost and expense (other than if pursuant to clause (1) or (2)):

(1) if a Lessee Default then exists, to make any necessary repairs to the Garage and perform any work therein to the extent the City is entitled to do so pursuant to Section 10.3;

(2) in the event of an emergency or danger that threatens to cause injury to individuals (or damage to any property, including but not limited to the Garage), if the Lessee has been notified thereof is not then taking all necessary steps to rectify or deal with said emergency or danger, to take actions as may be reasonably necessary to rectify such emergency or danger;

(3) to (i) manage, maintain, repair and rehabilitate any existing utilities or similar services (whether provided by the City or third parties at the City's instruction) in, on, under, across, over or through the Garage (including water and sewer lines, power transmission lines, fiber optic cable, other communications and other equipment), and (ii) allow third parties with existing easement rights that constitute a Permitted City Encumbrance on, over, under or within the Garage to use the Garage in connection therewith

(4) as contemplated pursuant to Article 6 hereof;

(5) as contemplated pursuant to Section 3.9; and

(6) at its own cost and expense (except as otherwise expressly provided in this Agreement) and solely in accordance with the terms hereof, to take any action that the City may be

obligated to take or has an explicit right to take under this Agreement;

(b) Except as contemplated under subsections (1), (2), and (3) of this Section 3.4, in the event that the City's activities result in a loss of the use of more than five percent (5%) of the available parking spaces in the Garage, the City shall be obligated to make payments to the Lessee for such access permitted under this Section 3.4 to the extent its activities within the Garage interfere with Lessee's ability to utilize otherwise available parking spaces, in which case the City shall compensate Lessee for the use of such spaces at an amount equal to the average daily transient rate charged for such spaces for the duration of the interference ("Concession Compensation"). The City (and any third party authorized by the City as aforesaid to enter the Garage) shall use all commercially reasonable efforts to minimize interference with the Garage Operations in connection with any entry on the Garage pursuant to this Section 3.4. Such efforts shall include, without limitation, providing reasonable advance notice to the Lessee of proposed activities, performance of such work at non-peak parking hours, and providing the Lessee with reasonable assurances that the work will be performed in a safe, workmanlike and lien-free manner. In connection with any such entry or action pursuant to clauses (4) and (5) the City (or by any third party authorized by the City as aforesaid) shall: (i) provide liability insurance in an amount reasonably acceptable to the Lessee that names the Lessee and the Operator as additional insureds, (ii) restore and repair any damage to the Garage. Notwithstanding anything to the contrary contained herein, Lessee acknowledges that members of the general public utilizing the Garage for the purposes set forth in Article 6 hereof, shall be responsible for payment of an applicable parking fee to Lessee and that the City shall have no obligation to pay Lessee for such parking charges, unless the City advises the members of the general public that it will be responsible for parking or otherwise commits to said responsibility.

(c) The City and any of its Representatives during the performance of any work referred to in clauses (1) through (3) of Section 3.4(a) hereof may temporarily keep and store at the Garage all necessary materials, tools, supplies, equipment and vehicles, in a reasonably neat and orderly fashion in compliance with all Laws, for so long as is reasonably required in performance of any such work, provided that Lessee shall have no liability with respect to any such materials, tools, supplies, equipment or vehicles.

Section 3.5 Coordination

(a) The Lessee shall be responsible for coordinating or ensuring the coordination of all Garage Operations with utilities and Persons having service lines, pipelines, transmission lines and other equipment, cables, systems and other apparatus in, on, under, over or adjacent to the Garage. The Lessee shall cause provision to be made for the removal or temporary or permanent relocation and restoration of utilities and other services and any lines, equipment, cables, systems and other apparatus that intersect, interfere with, interface with or otherwise affect the Garage Operations and shall arrange for temporary rights of entry and access to utilities and other services to be made available that are necessary in connection with the Garage Operations or as may exist under this Agreement or applicable Law; provided that the City shall cooperate with the Lessee with respect to its obligations under this Section 3.5. Regarding the utilities servicing the Plaza and Amphitheater, the City may, at its sole cost and expense, cause the utilities to be metered or sub-metered with the cost of such utilities paid for by the City. The City and Lessee shall, to the extent possible, and in good faith separate all utility expenses so that utilities can be invoiced only to the party utilizing them, and if not possible expenses shall be allocated in a fair and equitable manner, except for the freight elevator which shall be the sole expense of the City.

(b) The Parties understand and agree that nothing in the foregoing Subsection (a) is in any way intended to interfere with the operations of the Garage by the Lessee, and the City shall reasonably cooperate with the Lessee in minimizing any effect that the obligations of the Lessee under Subsection (a) may have on the Garage Operations.

Section 3.6 Property Taxes and Utilities.

(a) The Parties acknowledge and agree that the Garage is, and the Parties intend that the Garage and Lessee Interest will remain, during the Term, exempt from Property Taxes pursuant to the provisions of MCLA 211.151. If and to the extent that Property Taxes become payable during the Term, the City shall pay when due all Property Taxes payable during the Term. In addition, notwithstanding any term to the contrary hereof, in no event shall the Lessee be responsible for any Property Taxes pertaining to personal property of (or used by) the City, or for any Property Taxes attributable to the Plaza and Amphitheater.

(b) The Lessee shall pay when due all charges and fees for gas, electricity, light, heat, power, telephone, water and other utilities and services used in the Garage Operations or supplied to the Garage during the Term. The City shall offer to furnish to the Lessee for purposes of the Garage Operations any utilities that the City is voluntarily and directly furnishing to other commercial users in the immediate vicinity of the Garage at such time, on rates and other terms as are applicable to other similarly situated commercial users of such utilities, as may be amended from time to time.

Section 3.7 Notices of Defaults and Claims.

(a) The Lessee shall promptly give notice to the City (i) if the Lessee becomes aware that a Lessee Default has occurred under this Agreement (provided, however, that the failure to give such notice shall not constitute an independent Lessee Default) and (ii) of all material claims, proceedings, disputes (including labor disputes) or litigation in respect of the Lessee pertaining to the Garage, the Garage Operations or the City in connection with the Garage (whether or not such claim, proceeding or litigation is covered by insurance) of which the Lessee is aware (other than as a result of a notice to the Lessee from the City). The Lessee shall provide the City with all reasonable information requested by it from time to time concerning the status of such claims, proceedings or litigation.

(b) The City shall promptly give notice to the Lessee (i) if the City becomes aware that a City Default has occurred under this Agreement (provided, however, that the failure to give such notice shall not constitute an independent City Default) and (ii) of all material claims, proceedings, disputes (including labor disputes) or litigation in respect of the City pertaining to the Garage, the Garage Operations or the Lessee in connection with the Garage (whether or not such claim proceeding or litigation is covered by insurance) of which the City is aware (other than as a result of a notice to the City from the Lessee). The City shall provide the Lessee with all reasonable information requested by it from time to time concerning the status of such claims, proceedings or litigation.

Section 3.8 Naming Rights. The Parties acknowledge that the City has retained the right to offer and provide naming rights to the Plaza and Amphitheater to support the City's use and improvements as set forth in Article 6. Provided that the request by Lessee in its proposal to change the name of the garage is not in conflict, or competitive interference, with the naming rights granted for the Plaza and Amphitheater by the City, Lessee may exercise the naming rights in this Section 3.8;

(a) The Lessee may change the name of the Garage without the prior Approval of the City, provided, however, Lessee shall provide the City with prior written notice of such name change and that the name of the Garage shall not be effective for a period of thirty (30) days after the City receives notice of such name change. If, during this time, the City determines the name change is in conflict with the naming of the Plaza and Amphitheater, it will provide notice to Lessee, and the parties shall promptly meet to resolve the purported conflict such that each party may benefit from the marketability of these rights.

(b) Subject to the notice provisions provided in subparagraph (a) above, the Lessee shall have the right to sell or lease any naming rights for the Garage, or any portion of the Garage to any third party; provided, such naming rights shall not extend beyond the Term.

(c) The City grants to the Lessee a non-exclusive, non-transferable, royalty-free license during the Term to use the name of the Garage together with all existing and future developed logos and marks used in connection with the Garage Operations (excluding the City seal), solely in connection with Garage and the Lessee's rights and obligations under this Agreement. The Lessee may sub-grant the same right to the Operator and vendors with operations within the Garage. Nothing in this section shall be interpreted to use any trademarks or intellectual property of the City other than what is expressly authorized hereunder.

(d) In no event shall the City change the name of the Garage without the prior written consent of the Lessee, which such consent may be withheld in the Lessee's sole discretion.

Section 3.9 Police, Fire, Emergency and Emergency Services. Notwithstanding any other provision of this Agreement, at all times during the Term and without notice or compensation to the Lessee, any police, fire and emergency services and any other security or emergency personnel retained by or on behalf of the City shall have access, as reasonably required by such services or personnel, to the Garage.

Section 3.10 Signage. Notwithstanding any provision in this Agreement to the contrary: (i) the Lessee shall have the right, but not the obligation, at its own cost and expense, to redesign, install, manage, maintain, repair and rehabilitate existing or future signage relating to the Garage (including any future construction on the Pads), including signs advertising the products or services of third parties, [provided that no such signage shall be located on the level of the Garage containing the Plaza or Amphitheater (except for existing signs, which may be redesigned, repaired, rehabilitated or replaced subject to this Section 3.10)]. The installation of all such signage shall be in compliance with applicable Law and subject to all generally applicable Authorizations with respect each particular type of signage installed. The City shall reasonably cooperate with the Lessee, including with respect to the issuance of such Authorizations or other consents and approvals reasonably requested by the Lessee, in order to give effect to this Section 3.10.

Section 3.11 Special Events Traffic Management. The City shall use all reasonable efforts to maintain the standards and procedures for event traffic that existed or practiced at the time of closing this Agreement with respect to traffic management related to the Garage for special events occurring within the vicinity of the Garage. As the City advances its congestion management programs and policies (whether in connection with the deployment of advanced signing technologies or otherwise), the City shall use reasonable and good faith efforts to afford the Lessee the opportunity to be a party in the planning of such programs and policies so that the programs and policies for parking management and congestion management will be coordinated.

Section 3.12 Violations. Commencing on the Commencement Date and expiring on the date that is two (2) years thereafter, the City shall not issue code violations with respect to the condition of the Garage or require Lessee to undertake any maintenance or repair of the Garage other than that which may be described in Schedule 2A. Provided, in the event any known code violation presents a express and immediate risk to the health or safety of the public, the parties shall cooperate to determine the extent of the health and safety risk, and shall mutually consent to the itemization and schedule of repairs necessary to resolve the public hazard, such consent not to be unreasonably withheld by either party.

ARTICLE 4 OPERATIONS; ALTERATIONS

Section 4.1 Operations. Except as otherwise specifically provided herein, including, without limitation the terms of Article 6 hereof, and subject to the terms of Section 3.11 hereof, the Lessee shall, at its sole cost and expense, at all times during the Term, be responsible for all aspects of the Garage Operations. The Lessee shall keep and maintain the Garage (excluding the Plaza and Amphitheatre and portions of the Garage providing access to or servicing the same) in a manner consistent with Comparable Parking Facilities, the provisions of this Agreement and applicable Law (provided, however, that the Lessee may contest the application of any applicable Law by appropriate proceedings). The Lessee shall, at all times during the Term, except as otherwise provided herein, cause the Garage to be continuously open and operational for use by Users, beginning with the date of completion of all work contemplated by this Agreement in accordance with Schedule 2A, and except that the Lessee may close the Garage or a portion or portions thereof (A) with respect to underutilized portions of the Garage during periods of such underutilization, as determined by the Lessee, (B) as specifically permitted or contemplated under this Agreement, (C) as required by applicable Law, (D) in connection with the performance of any construction, improvement, renovation, maintenance, repair or replacement activities, (E) to address actual or potential environmental conditions in the Garage, (F) to address emergencies or public safety, or for security measures, (G) in connection with any casualty at the Garage, or (H) in the event of any Force Majeure. Notwithstanding any term to the contrary set forth in this Agreement, the City shall be responsible for any Losses arising from the willful misconduct of the City or its Representatives, or their failure to reasonably cooperate with Lessee in the repair, maintenance or operation of the Garage.

Section 4.2 Alterations.

(a) Subject to the terms of this Section 4.2, the Lessee shall be permitted to make alterations to, and improve, renovate and/or remove the Garage and/or any portion thereof, including, without limitation, making capital improvements thereto and reconstructing or renovating any common areas of the Garage, and any construction upon the Pads (collectively, "Alterations"), and shall be permitted to temporarily close any portion of the Garage in connection therewith. Alterations shall be performed in a good and workmanlike manner, and in compliance with applicable Laws. The Lessee's right to perform Alterations shall be subject to the issuance by the City of any and all Authorizations required under applicable Law, and the City agrees not to unreasonably withhold, condition or delay the issuance of any such Authorizations, and to use its reasonable efforts to assist the Lessee in obtaining such Authorizations. Without limiting the generality of the foregoing, the City agrees that it will reasonably assist and cooperate with the Lessee in obtaining any and all Authorizations (including any required rights of access over the property that is owned or controlled by the City but that does not comprise part of the Garage in order for the Lessee to perform Alterations).

(b) If the Lessee wishes at any time during the Term to make a material, structural Alteration to the Garage, then the Lessee shall submit to the City, for Approval, a request to perform such material, structural Alterations and shall submit to the City for its Approval specific plans with respect to such material, structural Alterations, which such Approval by the City shall not be unreasonably conditioned, withheld or delayed. For avoidance of doubt, no Approval shall be required in order to install gates, bollards, other equipment or facilities or related trade fixtures on the Garage in connection with ensuring the Garage is a closed-access, secure facility. In addition, the City hereby approves those Alterations set forth on Schedule 5 attached hereto, subject to the issuance by the City of any and all Authorizations required under applicable Law, and the City agrees not to unreasonably withhold, condition or delay the issuance of any such Authorizations, and to use its reasonable efforts to assist the Lessee in obtaining such Authorizations.

Section 4.3 City Responsibility. The City, at its own cost and expense, shall maintain, repair and rehabilitate any existing or future roads or streets under the jurisdiction of the City that provide direct access to or from the Garage in such a manner as to maintain access to and from the Garage reasonably comparable to that in existence as of the date of this Agreement and in any event to a standard not less than that observed by the City with respect to other public roads. Without limiting the City's obligations, prior to undertaking any construction or other activities (other than in the event of an emergency) that would materially reduce or impede access to the Garage or could otherwise reasonably be expected to have a material adverse effect on the operations or revenue of the Garage, the City shall provide the Lessee with not less than three (3) months' prior notice of such activities and jointly with the Lessee shall develop a plan to mitigate the effects of such construction activities affecting the Garage Operations. To the extent such construction or other activities interferes with the Lessee's ability to operate the Garage in compliance with the terms hereof, the City shall reasonably cooperate in taking such actions (which may include the granting of access rights in favor of the Lessee) as are appropriate to minimize any adverse effect on Garage Operations and to enable the Lessee to comply with its obligations under this Agreement.

Section 4.4 Compliance with Laws. Subject to the terms of Section 3.11, the Lessee must at all times at its own cost and expense observe and comply, in all material respects, and cause the Garage Operations to observe and comply, in all material respects, with all applicable Laws now existing or later in effect that are applicable to it or such Garage Operations.

ARTICLE 5 PARKING FEES; REVENUES; PERMITS

Section 5.1 Revenues. The Lessee shall, during the Term, have the right to set parking fees applicable to the Garage, and collect and enforce payment of fees and charges, at rates determined by the Lessee, with respect to the parking of any vehicle in the Garage. In addition, the Lessee shall, during the Term, have the right to collect and enforce payment of all other rent, revenues and collections generated with respect to the Garage, including, without limitation, from parking fees, convenience food vendors, small convenience kiosks or newsstands, hand car wash facilities for customers of the Garage, car rental facilities, walk-up automatic teller machines, vending machines, and long-term automobile storage, and the sale of goods or services. The Lessee waives any right or claim to any revenues or proceeds arising out of the City's use of the Plaza and Amphitheater, except as may be owing by separate contract or derived from the parking fees for the public use of the Garage generated as a result of the use.

Section 5.2 Permits. The Lessee shall have the right to provide parking permits to Users on such terms and conditions as determined by the Lessee in its sole discretion.

ARTICLE 6 CITY'S USE OF PLAZA AND AMPHITHEATER

Section 6.1 Plaza and Amphitheater. Provided that the City is not in default of this Agreement beyond applicable notice and cure periods, and subject to the terms of this Agreement, including, without limitation, the terms of Section 6.3 hereof, the City and its Representatives, licensees and invitees shall have the right to use the Garage to access the Plaza and Amphitheater. Notwithstanding any term to the contrary set forth in this Agreement, the City shall, at its sole cost and expense, at all times during the Term, be responsible for all aspects of the Plaza and Amphitheater Operations, including, without limitation, the appurtenant equipment and infrastructure required for use of and access to the Plaza and Amphitheater (wherever located), and shall keep and maintain the Plaza and Amphitheater in good condition and repair, and in a manner consistent with the provisions of this Agreement and applicable Law (provided, however,

that the City may contest the application of any applicable Law by appropriate proceedings). The City shall pay all real estate taxes and assessments applicable to the Plaza and Amphitheater, if any. The City shall pay its proportionate share of the cost to maintain, repair or replace the Common Areas of the Garage utilized in connection with the Plaza and Amphitheater, including, without limitation means of access thereto (e.g., elevators), based on the Parties mutual and reasonable determination of the proportionate use thereof. The City shall, at its sole cost, provide adequate security for the Plaza and Amphitheater, and shall comply with the reasonable rules and regulations established by Lessee with respect to the use and operation of the Garage in connection with access to the Plaza and Amphitheater and the events located thereon. In no event shall the Plaza and Amphitheater Operations adversely interfere with Garage Operations. The City shall be responsible for all Losses relating to the use of the Plaza and Amphitheater by all Persons, and for the breach of the City's obligations under this Article 6.

The City may, at its sole cost and expenses, place signage upon or within the Garage, or its surrounding property, to provide direction, access, safety, or other notice related to its use of the Plaza and Amphitheater, provided that such signage does not interfere with the operations of the Garage or otherwise create an additional hazard.

Section 6.2 Insurance.

(a) The City shall, at its sole cost and expense, maintain on the Plaza and Amphitheater commercial general liability insurance or equivalent with limits of not less than Five Million and 00/100 Dollars (\$5,000,000.00) per occurrence for bodily injury, personal injury and property damage liability. Coverage shall include the following: all premises and operations, products/completed operations, explosion, collapse, underground, separation of insureds, defense, terrorism (to the extent commercially available) and contractual liability (with no limitation endorsement). The Lessee and its property manager shall be named as an additional insured on a primary, non-contributory basis for any liability arising under or in connection with such insurance policy.

(b) The City shall, at its sole cost and expense, maintain casualty insurance on the Plaza and Amphitheater in amounts necessary to repair, rebuild or restore any damage to the improvements, systems, furniture, fixtures and equipment located at or comprising or servicing the Plaza and Amphitheater. In the event of any casualty that damages any portion of the Plaza and Amphitheater, then (i) the City shall repair, rebuild or restore any damage thereto to the condition existing prior to such casualty, and (ii) the Lessee's sole responsibility with respect to the Plaza and Amphitheater shall be to proceed to repair, restore or rebuild the foundation and structural components of the floor of the of the Plaza and Amphitheater to the condition existing prior to the happening of such fire or other casualty, but only to the extent of available insurance proceeds, if any. In addition, the Lessee may utilize the insurance proceeds of the City to undertake such repairs, rebuild or restoration in fulfillment of its obligations herein. Except as otherwise expressly set forth in this Section 6.3, the Lessee shall have no responsibility to repair, restore or rebuild any portion of the Plaza and Amphitheater. In no event shall the City be entitled to any insurance proceeds received by Lessee resulting from any casualty to the Garage.

Section 6.3 Plaza Improvements. The City shall undertake and exercise good faith efforts to secure funding to perform such work and make such improvements to the Plaza and Amphitheater to cause all aspects thereof to be in good working order and condition, and in compliance with applicable Law, and at least in a condition reasonably comparable to similar open air event and public gathering spaces open to the general public located in Oakland County (collectively, the "Plaza Improvements").

Section 6.4 Development of Pads. The Lessee and its Representatives, and its tenants and their Representatives, and their licensees and invitees, shall have the right to access and traverse the Plaza and

Amphitheater in connection with Garage Operations, including, without limitation, to access the Pads and undertake construction activities with respect thereto. The City shall cooperate with the Lessee in connection with the construction of improvements on the Pads.

ARTICLE 7 REPRESENTATIONS AND WARRANTIES

Section 7.1 Representations and Warranties of the City. The City makes the following representations and warranties to the Lessee and acknowledges that the Lessee is relying upon such representations and warranties in entering into this Agreement:

(a) The City is a municipal corporation and home rule city of the State of Michigan duly organized and existing under the laws of the State of Michigan.

(b) The City has (1) duly authorized and approved the execution and delivery of this Agreement, and (2) duly authorized and approved the performance by the City of its obligations contained in this Agreement. The City has the power and authority to enter into this Agreement and to do all acts and things and execute and deliver all other documents as are required hereunder to be done, observed or performed by it in accordance with the terms hereof.

(c) This Agreement has been duly authorized, executed and delivered by the City and constitutes a valid and legally binding obligation of the City, enforceable against the City in accordance with the terms hereof, subject only to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity.

(d) As of the Commencement Date, the City holds marketable fee simple title to the Garage, subject only to those Encumbrance set forth on Schedule 5 attached hereto. There is no recorded or unrecorded agreement, contract, option, commitment, right, privilege or other right of another binding upon, or which at any time in the future may become binding upon, the City to sell, transfer, convey, subject to lien, charge, grant a security interest in, or in any other way dispose of or materially encumber the Garage. No indebtedness for borrowed money of the City will be secured by any interest in the Garage and no Person will have any claim or right to, or interest in, any income, profits, rents, or revenue derived from or generated with respect to the Garage (other than the Lessee under this Agreement and any claims, rights or interests granted by or otherwise relating to the Lessee).

(e) The execution and delivery of this Agreement by the City, and the performance by the City of the terms, conditions and provisions hereof has not and will not contravene or violate or result in a breach of (with or without the giving of notice or lapse of time, or both) or acceleration of any material obligations of the City under (i) any applicable Law or (ii) any agreement, instrument or document to which the City is a party or by which it is bound.

(f) No consent is required to be obtained by the City from, and no notice or filing is required to be given by the City to or made by the City with, any Person (including any Governmental Authority) in connection with the execution, delivery and performance by the City of this Agreement or the consummation of the transactions contemplated hereby.

(g) There are no known Authorizations from any Governmental Authority necessary for the operation of the Garage as currently being operated, except as set forth on Schedule 4 hereof.

(h) There is no action, suit or proceeding, at law or in equity, or before or by any Governmental Authority, pending nor, to the best of the City's knowledge, threatened against the City prior to or as of the Commencement Date. As of the date of this Agreement, there is no action, suit or proceeding, at Law or in equity, or before or by any Governmental Authority, pending nor, to the best of the City's knowledge, threatened against the City which could affect the validity or enforceability of this Agreement.

(i) As of the Commencement Date, the City will have terminated all contracts and agreements pertaining to the Garage, except as set forth on the Rent Roll or those Encumbrances set forth on Schedule 5 attached hereto.

(j) To the knowledge of the City, the financial and other information regarding the Garage that the City provided to the Lessee prior to the Commencement Date is true and accurate in all material respects.

(k) To the actual knowledge of the City, there are no Hazardous Substances present at the Garage in violation of any Environmental Laws. The City, to the extent permitted by applicable law, shall be responsible for any Losses suffered by the Lessee in connection with or arising from the presence of any Hazardous Substances in, at or under the Garage as of the Commencement Date, the failure of the Garage to comply with any Environmental Laws as of the Commencement Date, and for any Hazardous Substances introduced at the Garage by the City or its Representatives, and the City shall be responsible for any remediation, removal and disposal of Hazardous Substances that is required by Environmental Laws in the event of a breach of this Section 7.1(k).

(l) There is no broker, finder or other intermediary which has been retained by or is authorized to act on behalf of the City or any of its Affiliates who is entitled to any fee or commission in connection with the transactions contemplated by this Agreement.

Section 7.2 Representations and Warranties of the Lessee. The Lessee makes the following representations and warranties to the City and acknowledges that the City is relying upon such representations and warranties in entering into this Agreement:

(a) The Lessee is duly organized, validly existing and in good standing under the laws of the state of its organization.

(b) The Lessee has the power and authority, to enter into this Agreement and to do all acts and things and execute and deliver all other documents as are required hereunder to be done, observed or performed by it in accordance with the terms hereof.

(c) This Agreement has been duly authorized, executed and delivered by the Lessee and constitutes a valid and legally binding obligation of the Lessee, enforceable against it in accordance with the terms hereof, subject only to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity.

(d) The execution and delivery of this Agreement by the Lessee, the consummation of the transactions contemplated hereby and the performance by the Lessee of the terms, conditions and provisions hereof has not and will not contravene or violate or result in a material breach of (with or without the giving of notice or lapse of time, or both) or acceleration of any material obligations of the Lessee under (i) any applicable Law, (ii) any material

agreement, instrument or document to which the Lessee is a party or by which it is bound or (iii) the articles, bylaws or governing documents of the Lessee.

(e) No consent is required to be obtained by the Lessee from, and no notice or filing is required to be given by the Lessee to or made by the Lessee with, any Person (including any Governmental Authority) in connection with the execution and delivery by the Lessee of this Agreement or the consummation of the transactions contemplated hereby, except for such consents which have been obtained and notices which have been given as of the date hereof.

(f) The Lessee shall be responsible for any Losses suffered by the City in connection with or arising from the presence of any Hazardous Substances in, at or under the Garage caused by Lessee or its Representatives on or after the Commencement Date, and for any Hazardous Substances introduced at the Garage by the Lessee or its Representatives, and the Lessee shall be responsible for any remediation, removal and disposal of Hazardous Substances that is required by Environmental Laws in the event of a breach of this Section 7.2(e).

(g) There is no broker, finder or other intermediary which has been retained by or is authorized to act on behalf of the Lessee or any of its Affiliates who is entitled to any fee or commission in connection with the transactions contemplated by this Agreement.

Section 7.3 Non-Waiver. No investigations made by or on behalf of any Party at any time shall have the effect of waiving, diminishing the scope of or otherwise affecting any representation or warranty made by the other Party in this Agreement or pursuant to this Agreement. No waiver by a Party of any condition, in whole or in part, shall operate as a waiver of any other condition.

Section 7.4 Survival. To the extent permitted by applicable law, each Party shall be responsible for any Loss suffered by the other Party arising from a breach by a representation or warranty of such Party. The representations and warranties of the Parties shall survive and continue in full force and effect without time limit.

ARTICLE 8 LEASEHOLD MORTGAGES

Section 8.1. Leasehold Mortgage. Notwithstanding anything contained in this Agreement to the contrary, Lessee is hereby given the right, without City's prior consent, to mortgage its interest in this Agreement, Lessee's interest in the Garage or any part thereof or property therein, and any sublease, under one or more leasehold mortgage(s) and to assign this Agreement and any sublease as collateral security for such mortgages, upon the condition that all rights acquired under such mortgages shall be subject to each and all of the covenants, conditions and restrictions set forth in this Agreement, and to all rights and interests of City herein, none of which covenants, conditions or restrictions is or shall be waived by City by reason of the right given to so mortgage such interest in this Agreement, except as may be expressly provided in this Article 8.

Section 8.2. Application. If Lessee shall mortgage this leasehold pursuant to the provisions hereof, and if the holder(s) of any such mortgage(s) shall send to the City a true copy thereof, together with written notice specifying the name and address of the mortgagee(s) and the pertinent recording data with respect to such mortgage(s), the City agrees that so long as any such leasehold mortgage(s) shall remain unsatisfied, the following provisions shall apply:

(a) There shall be no cancellation, surrender or modification of this Agreement by joint action of City and Lessee without the prior consent in writing of the leasehold mortgagee(s).

(b) The City shall, upon serving Lessee with any notice of default, simultaneously serve a copy of such notice upon the leasehold mortgagee(s). The leasehold mortgagee(s) shall thereupon have the same period, after service of such notice upon it, as is allowed to Lessee, to remedy or cause to be remedied the defaults complained of, and City shall accept such performance by or at the instigation of the leasehold mortgagee(s) in response to any such notice of default as if the same had been performed by Lessee.

(c) Anything herein contained notwithstanding, while such leasehold mortgage(s) remains unsatisfied, or until written notice of satisfaction is given by the holder(s) thereof to City, if any Lessee Default shall occur, which, pursuant to any provision of this Agreement, entitles City to terminate this Agreement, and if before the expiration of fifteen (15) days from the date of service of notice of termination upon such leasehold mortgagee(s), such leasehold mortgagee(s) shall have notified City of its desire to nullify such notice and shall have paid to City all rent and other payments herein provided for and then in default, and shall have complied or commenced the work of complying with all of the other requirements of this Agreement, if any are then in default, and shall prosecute the same to completion with reasonable diligence, then in such event City shall not be entitled to terminate this Agreement and any notice of termination theretofore given shall be void and of no effect.

(d) If the City shall elect to terminate this Agreement by reason of a Lessee Default, the leasehold mortgagee(s) shall not only have the right to nullify any notice of termination by curing such Lessee Default as aforesaid, but shall also have the right to postpone and extend the date for the termination of this Agreement as specified by City in its notice of termination for a period of not more than six (6) months, provided that such leasehold mortgagee(s) shall cure or cause to be cured any then-existing monetary defaults and meanwhile pay the rent and all other charges and comply with and perform all of the other terms, conditions and provisions of this Agreement on Lessee's part to be complied with and performed, and provided further that the leasehold mortgagee(s) shall forthwith take steps to acquire or sell Lessee's interest in this Agreement by foreclosure of the leasehold mortgage(s) or otherwise and shall prosecute the same to completion with due diligence. If at the end of said six (6) month period the leasehold mortgagee(s) shall be actively engaged in steps to acquire or sell Lessee's interest herein, the time for such mortgagee(s) to comply with the provisions of this Section 8.2 shall be extended for such period as shall be reasonably necessary to complete such steps with reasonable diligence and continuity; provided that during such period the leasehold mortgagee(s) shall continue to pay the rent and other charges and perform all other terms, conditions and provisions of this Agreement on Lessee's part to be complied with and performed.

(e) The City agrees that the name of the leasehold mortgagee(s) may be added to the "Loss Payable Endorsement" of any and all insurance policies required to be carried by Lessee hereunder on condition that the insurance proceeds are to be applied in the manner specified in this Agreement and that the leasehold mortgage(s) or collateral documents shall so provide.

(f) The City agrees that in the event of termination of this Agreement by reason of any default by Lessee, the City shall enter into a new lease of the Garage with the leasehold mortgagee(s) or its nominee(s) or assignee(s) for the remainder of the term of this Agreement effective as of the date of such termination, at the rent and upon the terms, provisions, covenants and agreements as contained herein and subject only to the same conditions of title as this Agreement is subject to on

the date of execution hereof together with any exceptions to title created by or at the behest of Lessee, and to the rights, if any, of the parties then in possession of any part of the Garage, provided:

(1) said leasehold mortgagee(s) or its nominee(s) or assignee(s) shall make written request upon City for such new lease within thirty (30) days after the date of such termination and such written request shall be accompanied by payment to City of all sums due to City under this Agreement;

(2) said leasehold mortgagee(s) or its nominee(s) or assignee(s) shall pay to City at the time of the execution and delivery of such new lease, any and all sums which would at the time of the execution and delivery thereof be due pursuant to this Agreement but for such termination, and in addition thereto, any expenses, including reasonable attorney's fees, which City shall have incurred by reason of such default;

(3) said mortgagee(s) or its nominee(s) or assignee(s) shall perform and observe all covenants herein contained on Lessee's part to be performed and shall further remedy any other condition which Lessee under the terminated Lease was obligated to perform under the terms of this Agreement; and upon execution and delivery of such new lease and any subleases which may have theretofore been assigned and transferred by Lessee to the City, as security under this Agreement, shall thereupon be deemed to be held by the City as security for the performance of all of the obligations of the tenant under the new lease;

(4) the City shall not warrant possession of the Garage to the tenant under the new lease;

(5) such new lease shall be expressly made subject to the rights, if any, of Lessee under the terminated lease;

(6) the tenant under such new lease shall have the right, title and interest in and to the buildings and improvements comprising the Garage as Lessee had under the terminated lease; and

(7) said leasehold mortgagee(s) or its nominee(s) or assignee(s) shall bear the cost of recording such new lease or short form thereof if it or the City desires recordation thereof.

(g) Nothing herein contained shall require the leasehold mortgagee(s) or its nominee(s) or assignee(s) to cure any default of Lessee under this Agreement unless such leasehold mortgagee shall choose to do so under Section 8.2(b) above or shall choose to nullify any notice of termination from City pursuant to Sections 8.2(c) or (d) above, or if such leasehold mortgagee(s) elects that City enter into a new lease for the Garage pursuant to the provisions of Section 8.2(f) above.

(h) The proceeds from any insurance policies relating to the Garage or arising from a condemnation of the Garage are to be held by any leasehold mortgagee(s) and distributed pursuant to the provisions of this Agreement.

(i) The City shall, upon request, execute, acknowledge and deliver to each leasehold mortgagee, an agreement prepared at the sole cost and expense of Lessee, in form satisfactory to such leasehold mortgagee(s), between City, Lessee and leasehold mortgagee(s), agreeing to all of the provisions

of this Article 8. The term "mortgage," whenever used in this Section 8.2, shall include whatever security instruments are used in the locale of the Garage, such as, without limitation, mortgages, deeds of trust, security deeds and conditional deeds, as well as financing statements, security agreements and other documentation required pursuant to the Uniform Commercial Code.

ARTICLE 9 INSURANCE

Section 9.1 Insurance Coverage Required. The Lessee shall provide and maintain at the Lessee's own expense, or cause to be maintained, during the Term, the insurance coverages and requirements specified below, insuring the Garage and all Garage Operations (the "Required Coverages").

(a) The Lessee shall provide or caused to be provided workers' compensation insurance, as prescribed by applicable Law, covering all employees who agree to provide a service under this Agreement.

(b) The Lessee shall provide or cause to be provided commercial general liability insurance or equivalent with limits of not less than Five Million and 00/100 Dollars (\$5,000,000.00) per occurrence for bodily injury, personal injury and property damage liability. Coverage shall include the following: all premises and operations, products/completed operations, explosion, collapse, underground, separation of insureds, defense, terrorism (to the extent commercially available) and contractual liability (with no limitation endorsement). The City is to be named as an additional insured on a primary, non-contributory basis for any liability arising under or in connection with this Agreement.

(c) When any motor vehicles (owned, non-owned or hired) are used in connection with work to be performed, the Lessee shall provide or cause to be provided automobile liability insurance with limits of not less than Two Million and 00/100 Dollars (\$2,000,000.00) per occurrence for bodily injury and property damage. The City is to be named as an additional insured on a primary, non-contributory basis.

(d) The Lessee shall provide or cause to be provided garage keeper's legal liability insurance with limits of not less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence and Three Million and 00/100 Dollars (\$3,000,000.00) in the aggregate, which limits may be met through a combination of primary and excess or umbrella policies, combined single limit, for bodily injury and property damage. The City shall be named as an additional insured on a primary, non-contributory basis for any liability arising under or in connection with this Agreement.

(e) When the Lessee undertakes any construction, maintenance or repairs to the Garage, including improvements and betterments pursuant to this Agreement, the Lessee shall provide or cause to be provided, all risk builder's risk Insurance at replacement cost for materials, supplies, equipment, machinery and fixtures that are or will be part of the Garage. Coverage shall include, but not be limited to, the following: right to partial occupancy, boiler and machinery, business income, valuable papers and other consequential loss, when applicable, with aggregate sub-limits for catastrophic perils of earthquake, flood and named wind which are the best available on commercially reasonable terms. The City shall be named as an additional insured and, subject to the terms of Article 8 hereof, as loss payee.

(f) When any architects, engineers, construction managers or any other professional consultants perform work in connection with this Agreement, the Lessee will require such architects, engineers, construction managers or other professional consultants to maintain professional liability insurance covering their respective negligent acts, errors or omissions with limits of not less than Two Million and 00/100 Dollars (\$2,000,000.00). When policies are renewed or replaced, the policy retroactive

date shall coincide with, or precede, start of work in connection with this Agreement. A claims-made policy which is not renewed or replaced shall have an extended reporting period of two (2) years.

(g) The Lessee shall obtain all risk property insurance at full replacement cost, covering all loss, damage or destruction to the Garage, including improvements and betterments, which insurance may be provided on a blanket basis with reported building values, which shall include the value of the coverage for the Garage required hereunder; provided, however, that the limits of such coverage may be based on any replacement cost value agreed by the City and the Lessee acting reasonably or on a probable maximum loss analysis, subject to the City's approval of such probable maximum loss analysis by an independent third party that is reasonably acceptable to the City. Coverage shall include the following: collapse, water including overflow, leakage, sewer backup or seepage, utility interruption, debris removal, business ordinance or Law for increased cost of construction, extra expense, boiler and machinery, and valuable papers. Coverage shall include flood insurance with a sublimit of not less than Five Million and 00/100 Dollars (\$5,000,000.00) in the aggregate. The City is to be named as an additional insured, subject to the claims of any leasehold mortgagee as contemplated by Article 8 hereof. The Lessee shall be responsible for any loss or damage to City property at full replacement cost. The Lessee shall be responsible for all loss or damage to personal property (including materials, fixtures/contents, equipment, tools and supplies) of the Lessee unless caused by the City or its Representatives.

Section 9.2 Additional Requirements.

(a) The Lessee shall deliver or cause to be delivered to the City, and any other such City department designated in writing by the City, certificates of insurance or equivalent documentation acceptable to the City, evidencing the Required Coverages on or before the Commencement Date, and shall provide or cause to be provided, promptly upon request, renewal certificates of insurance, or such similar evidence, if such coverages have an expiration or renewal date occurring during the Term. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in this Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all requirements of this Agreement. The failure of the City to obtain certificates or other insurance evidence from the Lessee shall not be deemed to be a waiver by the City. Non-conforming insurance shall not relieve the Lessee of the obligation to provide insurance as specified herein. Except as otherwise expressly set forth herein, each Required Coverage may be reviewed by the City for compliance with the terms of this Agreement. All Required Coverages shall be placed with insurers licensed to do business in the State of Michigan.

(b) The Lessee shall use commercially reasonable efforts to procure Required Coverages that provide for thirty (30) days (or in the case of cancellation for non-payment of premiums, ten (10) days) prior written notice to be given to the City by the insurer in the event coverage is canceled or non-renewed. The City shall be permitted (but not obligated) to pay any delinquent premiums before the cancellation date specified by the insurer in any notice of cancellation for non-payment of premium in order to maintain such coverage in full force and effect and the Lessee shall reimburse the City for any delinquent premiums paid by the City on demand without any days of grace and without prejudice to any other rights and remedies of the City hereunder.

(c) All Required Coverages may contain deductibles or self-insured retentions not to exceed amounts reasonably acceptable to the City taking into account the deductibles or self-insured retentions for the required insurance coverages for Comparable Parking Facilities. Any and all deductibles or self-insured retentions on Required Coverages shall be borne by the Lessee or its contractors shall be responsible for its own deductibles and/or self-insured retentions.

(d) The amounts of coverage required by Section 9.1 shall be reasonably adjusted

based on limits maintained by Comparable Parking Facilities and otherwise prudent and consistent with industry practices, each succeeding fifth (5th) anniversary of the Commencement Date, but in no event shall the amounts of coverage be less than specified in Section 9.1; provided, in no event shall the City be entitled to impose any increase that would result in excessive costs or otherwise are commercially unreasonable.

(e) Each of the Required Coverages provided by the Lessee shall, where legally or customarily permitted, include a waiver by the insurer of its rights of subrogation against the City, its employees, elected officials, agents or Representatives.

(f) If the Lessee fails to obtain and maintain or cause to be obtained and maintained the insurance required by this Article 9 the City shall have the right (without any obligation to do so), upon two (2) Business Days' notice to the Lessee in a non-emergency situation or forthwith in an emergency situation and without assuming any obligation in connection therewith, to effect such insurance and all costs and expenses of the City in connection therewith shall be payable by the Lessee to the City on demand without any days of grace and without prejudice to any other rights and remedies of the City hereunder. Such insurance taken out by the City shall not relieve the Lessee of its obligations to insure hereunder and the City shall not be liable for any loss or damage suffered by the Lessee in connection therewith.

(g) The Lessee expressly understands and agrees that any coverages and limits furnished by the Lessee shall in no way limit the Lessee's liabilities and responsibilities specified within this Agreement or by Law.

(h) The Lessee expressly understands and agrees that any insurance or self-insurance programs maintained by the City shall not contribute to any insurance provided by the Lessee under this Agreement.

(i) If the Lessee or any contractor required to obtain an insurance policy hereunder is a joint venture or limited liability company, all insurance policies required to be obtained by the Lessee or such contractor shall specifically name the joint venture or limited liability company as a named insured. If the Lessee contracts operations to a third party, the Lessee will be an additional named insured on any liability policy.

(j) The City and the Lessee shall do all acts, matters and things as may be reasonably necessary or required to expedite the adjustment of any loss or damage covered by insurance hereunder so as to expedite the release and dedication of proceeds of such insurance in the manner and for the purposes herein contemplated.

(k) If the Lessee or its contractors desire coverages in addition to the Required Coverages, the Lessee and each contractor shall be responsible for the acquisition and cost of such additional coverages. If the Lessee or its contractors obtain any property, liability or other insurance coverages in addition to the Required Coverages ("Additional Coverages"), then the Lessee or its contractors shall (i) notify the City as to such Additional Coverages, (ii) provide the City with any documentation relating to the Additional Coverages, including Certificates of Insurance, that the City reasonably requests, and (iii) at the City's election, cause the City to be named as an additional insured under such Additional Coverages, if that is normally allowed in accordance with good industry practice and the City reimburses the Lessee for any additional expense incurred as a result of naming the City as an additional insured thereunder.

(l) Notwithstanding anything to the contrary herein, if any insurance (including the limits or deductibles thereof) required to be maintained under this Agreement shall not be available at commercially reasonable rates, the Lessee shall have the right to request that the City consent to waive such requirement and the City shall not unreasonably withhold, condition or delay such consent. Any such waiver

shall be effective only so long as such insurance shall not be available at commercially reasonable rates, provided that during the period of such waiver, the Lessee maintains the maximum amount of such insurance otherwise available at commercially reasonable rates.

Section 9.3 Damage and Destruction. If all or any part of any of the Garage shall be destroyed or damaged during the Term in whole or in part by fire or other casualty of any kind or nature (including any casualty for which insurance was not obtained or obtainable), ordinary or extraordinary, foreseen or unforeseen, the Lessee shall: (i) give the City notice thereof promptly after the Lessee receives actual notice of such casualty; and (ii) subject to the terms of Section 6.3 hereof, at its sole cost and expense, but only to the extent of available insurance proceeds, if any, proceed diligently to repair, restore or rebuild the Garage to the condition existing prior to the happening of such fire or other casualty.

Section 9.4 Eminent Domain. If the Garage or any portion thereof shall be taken or condemned for public use, this Agreement shall terminate with respect to the portion of the Garage so taken as of the date the condemnor acquires possession, with this Agreement continuing in full force and effect with respect to the remaining portion of the Garage. All awards in respect of such condemnation shall be paid to and retained by Lessee.

ARTICLE 10 DEFAULTS

Section 10.1 Default by the Lessee.

(a) The occurrence of any one or more of the following events during the Term shall constitute a "Lessee Default" under this Agreement:

(1) if the Lessee fails to comply with, perform or observe any material obligation, covenant, agreement, term or condition in this Agreement, and such failure continues unremedied for a period of ninety (90) days following written notice thereof (provided such notice gives the particulars of the failure in reasonable detail) from the City to the Lessee or for such longer period as may be reasonably necessary to cure such failure, provided, in the latter case, that the Lessee is proceeding, and will proceed, with reasonable diligence to cure or cause to be cured such failure;

(2) if this Agreement or all or any portion of the Lessee Interest is Transferred in contravention of Article 1.1 and such Transfer or action continues unremedied for a period of thirty (30) days following notice thereof from the City to the Lessee;

(3) if the Lessee (i) admits, in writing, that it is unable to pay its debts as such become due, (ii) makes an assignment for the benefit of creditors, (iii) files a voluntary petition under Title 11 of the United States Code, or if the Lessee files any petition or answer seeking, consenting to or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future United States Bankruptcy Code or any other present or future applicable Law, or shall seek or consent to or acquiesce in or suffer the appointment of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of the Lessee or of all or any substantial part of its properties or of the Garage or any interest therein;

(4) if within ninety (90) days after the commencement of any proceeding against the Lessee seeking any reorganization, arrangement, composition, readjustment,

liquidation, dissolution or similar relief under the present or any future United States Bankruptcy Code or any other present or future applicable Law, such proceeding has not been dismissed, or if within ninety (90) days after the appointment, without the consent or acquiescence of the Lessee, of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of the Lessee or of all or any substantial part of its properties or of the Garage or any interest therein, such appointment has not been vacated or stayed on appeal or otherwise, or if, within ninety (90) days after the expiration of any such stay, such appointment has not been vacated;

(5) if a levy under execution or attachment has been made against all or any part of the Garage or any interest therein as a result of any Encumbrance (other than a Permitted Lessee Encumbrance) created, incurred, assumed or suffered to exist by the Lessee or its Representatives or any Person claiming through it, and such execution or attachment has not been vacated, removed or stayed by court order, bonding or otherwise within sixty (60) days after the Lessee becomes aware of such levy, unless such levy resulted from actions or omissions of the City or its Representatives or any Person claiming through them; and

(6) the failure to maintain the insurance required pursuant to this Agreement, for a period of ten (10) Business Days after written notice specifying such failure and requesting that it be remedied is given to Lessee by the City.

Notwithstanding the foregoing, a Lessee Default shall not include any failure to perform its obligations under this Agreement to the extent such failure is the result of Force Majeure, or is in any manner caused by the actions of the City.

(b) Upon the occurrence and continuance of a Lessee Default, the City may, by notice to Lessee, declare the Lessee to be in default and may, subject to the provisions of Article 8, do any or all of the following as the City, in its discretion, shall determine, provided that Lessee shall have commercially reasonable notice and opportunity to cure:

(1) the City may terminate this Agreement by giving ninety (90) days' prior notice to the Lessee;

(2) the City may seek specific performance, injunction or other equitable remedies, it being acknowledged that damages are an inadequate remedy for a Lessee Default;

(3) the City may seek to recover its Losses arising from such Lessee Default and any amounts due and payable under this Agreement;

(4) the City may terminate the Lessee's right to use, operate, maintain, and rehabilitate the Garage and the Lessee's right to collect and retain revenue from the Garage, and in such event, the City or the City's agents and servants may immediately or at any time thereafter take possession and control of the Garage and remove all Persons and all or any property therefrom, by any available action under Law or proceeding at law or in equity, and with or without terminating this Agreement, and undertake any and all of the Garage; provided, however, that no such action by the City shall be construed as an election on its part to terminate this Agreement unless a notice of such intention is given to the Lessee; and

(5) the City may exercise any of its other rights and remedies provided for hereunder or at law or equity.

Notwithstanding any term of this Agreement to the contrary, in the event the City elects to terminate this Agreement upon a Lessee Default, then the City shall lease to the Tenant a number of parking spaces in the Garage to provide sufficient parking to the Lessee and its Affiliates, tenants of Lessee and its Affiliates, and the Representatives, licensees and invitees of all of the foregoing, and members of the general public that desire to access Ottawa Towers, at reasonable fair market rates, and in no event more than those rates charged to members of the public for monthly parking at the Garage, and the parties shall enter into an agreement pertaining to the leasing of such spaces, on terms reasonable acceptable to the parties.

Section 10.2 Default by the City.

(a) The occurrence of any one or more of the following events during the Term shall constitute a "City Default" under this Agreement:

(1) if the City fails to comply with or observe any material obligation, covenant, agreement, term or condition in this Agreement and such failure continues unremedied for a period of thirty (30) days following notice thereof (provided such notice gives the particulars of the failure in reasonable detail) from the Lessee to the City or for such longer period as may be reasonably necessary to cure such failure, provided, in the latter case, that the City is proceeding with reasonable diligence to cure or cause to be cured such failure;

(2) if a levy under execution or attachment has been made against all or any part of the Garage or the Lessee Interest as a result of any Encumbrance (other than a Permitted City Encumbrance) created, incurred, assumed or suffered to exist by the City, its Representatives or any Person claiming through it, and such execution or attachment has not been vacated, removed or stayed by court order, bonding or otherwise within a period of sixty (60) days, unless such levy resulted from actions or omissions of the Lessee, its Representatives, or any Person claiming through them, or if all or a material part of the Garage shall be subject to a condemnation or similar taking by the City or any agency thereof; or

(3) if the City (i) admits, in writing, that it is unable to pay its debts as such become due, (ii) makes an assignment for the benefit of creditors, (iii) files a voluntary petition under Title 9 of the United States Code, or if such petition is filed against it and an order for relief is entered, or if the City files any petition or answer seeking, consenting to or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future United States Bankruptcy Code or any other present or future applicable Law, or shall seek or consent to or acquiesce in or suffer the appointment of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of the City, or of all or any substantial part of its properties (in each case, to the extent applicable to a municipality), or (iv) takes any action in furtherance of any action described in this Section 10.2(a)(3) other than with respect to the Bankruptcy Case;

(4) a Transfer of the fee interest in the Garage by the City in violation of Article 13 of this Agreement;

(5) if within ninety (90) days after the commencement of any proceeding against the City seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future United States Bankruptcy Code or any other present or future applicable Law, such proceeding has not been dismissed, or if, within ninety (90) days after the appointment, without the consent or acquiescence of the City, of any trustee,

receiver custodian, assignee, sequestrator, liquidator or other similar official of the City or of all or any substantial part of its properties (in each case, to the extent applicable to a municipality), such appointment has not been vacated or stayed on appeal or otherwise, or if, within ninety (90) days after the expiration of any such stay, such appointment has not been vacated.

Notwithstanding the foregoing, a City Default shall not include any failure to perform its obligations under this Agreement to the extent such failure is the result of Force Majeure.

(b) Upon the occurrence and during the continuance of a City Default, the Lessee may, by notice to the City, declare the City to be in default and may do any or all of the following as the Lessee, in its discretion, shall determine:

(1) The Lessee may terminate this Agreement by giving ninety (90) days' prior notice to the City;

(2) the Lessee may seek specific performance, injunction or other equitable remedies, it being acknowledged that damages are an inadequate remedy for a City Default;

(3) the Lessee may seek to recover its Losses and any amounts due and payable under this Agreement;

(4) the Lessee may exercise any other rights and remedies provided for hereunder or available at law or equity.

Section 10.3 Self-Help.

(a) Notwithstanding any term to the contrary set forth in this Agreement, in the event of a City Default or in the event of any default by the City under this Lease that adversely effects Garage Operations or creates an emergency or danger that threatens to cause injury to individuals (or damage to any property, including but not limited to the Garage), the Lessee may undertake a cure of the City default (but this shall not obligate the Lessee to cure or attempt to cure a City default or, after having commenced to cure or attempted to cure a City default, to continue to do so), and all costs and expenses reasonably incurred by the Lessee in curing or attempting to cure the City default shall be payable by the City to the Lessee within ten (10) days after written demand therefor; provided, however, that (A) the Lessee shall not incur any liability to the City for any act or omission of the Lessee or any other Person in the course of remedying or attempting to remedy any City Default, except to the extent of the Lessee or its Representatives' negligence or willful misconduct, and (B) the Lessee's cure of any City Default shall not affect the Lessee's rights against the City by reason of the City default.

(b) Notwithstanding any term to the contrary set forth in this Agreement, in the event of a Lessee Default, the City may undertake a cure of the Lessee Default (but this shall not obligate the City to cure or attempt to cure a Lessee Default or, after having commenced to cure or attempted to cure a Lessee Default, to continue to do so), and all costs and expenses reasonably incurred by the City in curing or attempting to cure the Lessee Default shall be payable by the Lessee to the City within ten (10) days after written demand therefor; provided, however, that (A) the City shall not incur any liability to the Lessee for any act or omission of the City or any other Person in the course of remedying or attempting to remedy any Lessee Default, except to the extent of the City or its Representatives negligence or willful misconduct, and (B) the City's cure of any Lessee Default shall not affect the City's rights against the Lessee by reason of the Lessee Default.

Section 10.4 Consequences of Termination or Expiration. Upon the termination or expiration of this Agreement, notwithstanding any claims the Parties may have against each other, the following provisions shall apply:

(a) The Lessee shall, without action whatsoever being necessary on the part of the City, as of the End Date, surrender, transfer and deliver to the City all of its rights, title and interest in the Garage (including all improvements thereto and all fixtures), in good order, condition and repair (reasonable wear and tear and casualty damage excepted), free and clear of all Encumbrances other than (i) Permitted Lessee Encumbrances, (ii) Permitted City Encumbrances, and (iii) those created by or suffered to exist or consented to by the City, its Representatives or any Person claiming through them; subject, however, to the right of the Lessee to remove: (1) the parking access remote control systems ("PARCS") or related equipment or other trade fixtures that the Lessee installs in the Garage, (2) any signage or materials that include the name or logo of the Lessee or its Representatives, and (3) any other intellectual property (or equipment in which intellectual property is embedded) included in or part the Garage (such as software relative to the PARCS) all of its rights, title and interest in the Garage (including all improvements thereto and all fixtures);

(b) The City shall, as of the End Date, assume full responsibility for the Garage Operations, and as of such date, the Lessee shall have no liability or responsibility for Garage Operations occurring after such date;

(c) The Lessee shall be liable for all costs, expenses and other amounts for which it is liable or responsible hereunder incurred up to but not including the End Date; and the City shall be liable for all costs, expenses and amounts incurred in connection with the Garage Operations on and after the End Date;

(d) The City shall assume, without warranty by or recourse to the Lessee, to the fullest extent permitted by Authorizations and applicable Law, all of Lessee's right, title and interest in, to and under (in each of the following cases, to the extent assignable) all or any of the Operating Agreements then in effect (but only to the extent permitted under the terms of such Operating Agreement) and all Authorizations to the City or its nominee for the remainder of their respective terms, pursuant to an assignment and assumption agreement, with the City being responsible for all obligations arising under such Operating Agreements as of the End Date;

(e) The Lessee, at its sole cost and expense, shall promptly deliver to the City copies of all records and other documents relating to the rent and revenues of the Garage that are in the possession of the Lessee or its Representatives and all other then-existing records and information relating to the Garage as the City, acting reasonably, may request; provided, however, in no event shall the Lessee be obligated to turn over any tax returns, bank statements, or internal reports or documents, or any information subject to any confidentiality agreement;

(f) The Lessee shall execute and deliver to the City documents and other instruments reasonably necessary to evidence such expiration or termination, without any representation or warranty of Lessee;

(g) For a period of thirty (30) days, the Lessee shall assist the City in such manner as the City may require to ensure the orderly transition of control, operation, management, maintenance and rehabilitation of the Garage, and shall, if appropriate and if requested by the City, take all steps as may be necessary to enforce the provisions of the Operating Agreements pertaining to the surrender of the Garage;

(h) The City and the Lessee shall make appropriate adjustments, including adjustments relating to any Operating Agreements assigned to the City, fees and other similar charges collected on and after the End Date that are incurred prior to the End Date, and utilities, and any adjustments and payment therefor shall be made by the appropriate Party on the End Date, but shall be subject to readjustment if necessary because of error in matters such as information, calculation, payments and omissions that are identified within the period of one hundred eighty (180) days following the End Date; provided, however, that the City and the Lessee acknowledge that certain adjustments or readjustments may have to be made when a third party provides to the City or the Lessee a final adjustment amount in respect of a matter, and for such matters the adjustment and readjustment date shall each be correspondingly extended.

This Section 10.4 shall survive the expiration or any earlier termination of this Agreement.

ARTICLE 11 RESTRICTIONS ON TRANSFERS

Section 11.1 Transfers by the Lessee. The Lessee may, for the period beginning on the Commencement Date and ending on the fifth (5th) anniversary date of the Commencement Date, Transfer any or all of the Lessee Interest in the Garage to a person or entity with cumulative net worth and liquidity equal to or greater than the principals of Lessee, as determined by Lessee in its sole discretion, without obtaining the City's prior written consent. To affect such transfer, Lessee shall provide City not less than 60 days prior written notice, including in such notice a copy of all documents used, or intended, by Lessee to complete the transfer, and a financial statement of the transferee verifying the above stated precondition. Thereafter, the Lessee may Transfer any or all of the Lessee Interest in the Garage and this Agreement without the City's consent to any Person, and in such event the Lessee shall promptly notify the City of such Transfer.

Section 11.2 Assignment by the City. Subject to the terms of Article 12, the City shall have the right to Transfer any or all of the City's interest in the Garage and this Agreement, provided that it shall be jointly and severally liable with the Transferee for the performance and observance of the obligations and covenants of the City under this Agreement and any agreement entered into by the City under this Agreement (including agreeing directly with any Lender to be bound by the agreement entered into in accordance with Article 8) and any such Transfer by the City shall not materially limit or reduce any of the Lessee's other rights, benefits, remedies or privileges under this Agreement nor shall it materially impair the City's ability to meet its obligations under this Agreement and, provided further, any such Transfer shall be subject to the rights and Encumbrances of the Lessee.

ARTICLE 12 ROFR; OPTION TO PURCHASE; TERMINATION

Section 12.1 ROFR. Subject to the terms and conditions set forth in this Article 12, during the Term, Lessee shall have a right of first refusal to purchase the entire Garage (the "ROFR").

(a) In the event the City receives a bona fide third party offer for the Garage which the City intends to accept ("Third Party Offer"), the City shall notify the Lessee in writing of its intention to accept such Third Party Offer ("City's ROFR Notice"), and shall furnish to the Lessee all of the terms and conditions of such Third Party Offer.

(b) The Lessee's ROFR shall be exercisable by written notice (the "ROFR Exercise Notice") from Lessee to the City of Lessee's election to exercise the ROFR given not later than ten (10)

business days after Lessee receives the City's ROFR Notice, time being of the essence. If the Lessee fails to deliver the ROFR Exercise Notice within such ten (10) business day period or declines to exercise the ROFR, then the City may sell the Garage to the party identified in the City's ROFR Notice on the same terms and conditions as contained in the Third Party Offer; provided, however, the purchaser under the Third Party Offer shall acquire the Garage subject to the terms of this Agreement.

(c) If the Lessee exercises the ROFR, the City and the Lessee shall enter into a written agreement for the purchase and sale of the Garage on the same terms and conditions contained in the Third Party Offer. Unless otherwise set forth in the Third Party Offer, or unless otherwise agreed by City and Lessee, the written agreement for the purchase and sale of the Garage shall provide for the following:

(i) An escrow closing at the office of the title insurance company issuing the title insurance policy specified below on a date no later than sixty (60) days after the effective date of the ROFR Exercise Notice;

(ii) The delivery by the Lessee to the City of the purchase price by wire transfer of immediately available funds in accordance with the escrow instructions customarily used by the title insurance company issuing the title insurance policy specified below;

(iii) The delivery by the City to the Lessee of title to the Garage by a warranty deed, subject only to the Permitted City Encumbrance, real estate taxes and assessments not yet due or payable, matters that would be set forth on an accurate survey of the Garage, and this Agreement;

(iv) The delivery by the appropriate party of all documentation necessary or customarily provided to complete the sale, including, without limitation, the assignment and assumption of all leases affecting the Garage; and

(v) The payment of all prorations, transfer taxes, title insurance charges, escrow fees, recording fees and other expenses, fees and charges by the party from whom such payment is due in accordance with statutory requirements or in accordance with the custom in Michigan at the time of the closing for sales of properties similar to the Garage.

(d) In the event that City is seeking to sell the Garage together with any other real property, City shall be required to designate a purchase price for the Garage and to offer Lessee the right to purchase the Garage free and clear of such other real property and otherwise in accordance with this Article 12.

ARTICLE 13 MISCELLANEOUS

Section 13.1 Estoppel Certificates. From time to time, within fifteen (15) days after receipt of either Party's written notice, the other party shall furnish to such requesting Party a certificate signed by the other party confirming and containing such factual certifications and representations as to this Lease as such requesting Party may reasonably request, including the following facts (to the extent then-accurate): (a) this Lease is in full force and effect, (b) the terms and provisions of this Lease have not been amended or modified, (c) there are no claims against the other Party, nor any defenses or rights of offset against collection of charges under this Lease, (d) such requesting Party is, to the other Party's knowledge, not in default under this Lease, and (e) any additional information as may be reasonably requested by such requesting Party.

Section 13.2 Notice. All notices and other communications required or permitted pursuant to this Lease shall be in writing and shall be sent, postage or shipping charges prepaid, to the address of the intended recipient (as specified below) via either certified U.S. Mail, return receipt requested, or a national overnight courier service. Any notice or other communication sent in this manner shall be deemed to have been delivered, if sent by U.S. Mail, on the third (3rd) business day, or, if sent via overnight courier, on the first (1st) business day, after it was placed in a regularly maintained receptacle for the deposit of U.S. Mail or overnight deliveries, as the case may be. Any party may change its address for the purposes of this Lease by so notifying the other party in the manner set forth in this Section.

To the City:
City of Pontiac
47450 Woodward Avenue
Pontiac, MI 48342
Attn: Hon. Dierdre Waterman
Phone: 248-758-3000

Copy to:
John C. Clark, Esq.
Giarmarco, Mullins & Horton, P.C.
101 W. Big Beaver Road, Suite 1000
Troy, MI 48084
248-457-7000
Email: jclark@gmhlaw.com

To the Lessee:
PhoenixrisingPontiac LLC
c/o Dearborn Capital Partners, LLC
980 N Michigan Ave Suite 1617
Chicago, IL 60611
Phone: 312.882.4300
Email: brien.wloch@dearcapcre.com
Attn: Brien Wloch

Copy To:
William Freeman
33 Bloomfield Hills Pkwy, Ste 100
Bloomfield Hills, MI 48304
Phone: 248-724-3706
Email: wfreeman@lfglawfirm.com

Section 13.3 Entire Agreement. This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior agreements, negotiations, discussions and understandings, written or oral, between the Parties. There are no representations, warranties, conditions or other agreements, whether direct or collateral, or express or implied, that form part of or affect this Agreement, or that induced any Party to enter into this Agreement or on which reliance is placed by any Party, except as specifically set forth in this Agreement. The Parties acknowledge and agree that (i) each has substantial business experience and is fully acquainted with the provisions of this Agreement, (ii) the provisions and language of this Agreement have been fully negotiated and (iii) no provision of this Agreement shall be construed in favor of any Party or against any Party by reason of such provision of this Agreement having been drafted on behalf of one Party rather than the other.

Section 13.4 Amendment. This Agreement may be amended, changed or supplemented only by a written agreement signed by the Parties.

Section 13.5 Waiver of Rights. Any waiver of, or consent to depart from, the requirements of any provision of this Agreement shall be effective only if it is in writing and signed by the Party giving it, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of any Party to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver of such right.

Section 13.6 Severability. Each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by applicable Law. If any clause or provision of this Parking Lease is illegal, invalid, or unenforceable under present or future laws, then the remainder of this Parking Lease shall not be affected thereby and in lieu of such clause or provision, there shall be added as a part of this Parking Lease a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and enforceable.

Section 13.7 Governing Law. This Agreement shall be governed by, and interpreted and enforced in accordance with, the laws in force in the State of Michigan (excluding any conflict of laws rule or principle which might refer such interpretation to the laws of another jurisdiction).

Section 13.8 Attorney's Fees. If either Party institutes a suit against the other for violation of or to enforce any term, covenant or condition of this Lease, or if either Party intervenes in any suit in which the other is a party to enforce its rights or interest, the prevailing Party shall be entitled to all of its costs and expenses arising in connection therewith, including, without limitation, reasonable attorneys' fees and disbursements.

Section 13.9 Costs. Except as otherwise provided in this Agreement, each Party shall be responsible for its own costs and expenses incurred in connection with performing and observing its obligations and covenants under this Agreement.

Section 13.10 Inurement and Binding Effect. This Agreement shall inure to the benefit of the Parties and their respective permitted successors and assigns and is binding upon the Parties and their respective permitted successors and assigns.

Section 13.11 Exculpation. The Lessee's members, managers, officers, directors, partners or shareholders, as the case may be, shall have absolutely no personal liability with respect to any provision of this Agreement, or any obligation or liability arising under this Agreement in connection herewith.

Section 13.12 No Partnership or Third Party Beneficiaries. Except as expressly provided herein to the contrary (including with respect to such rights as are expressly granted to any Lender pursuant to this Agreement), nothing contained in this Agreement shall constitute or be deemed to create a partnership, joint venture or principal and agent relationship between the City and the Lessee, nor shall any term or provision hereof be construed in any way to grant, convey or create any rights or interests to any Person not a party to this Agreement.

Section 13.13 Cumulative Remedies. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by Law.

Section 13.14 Counterparts; Facsimile Execution. This Agreement may be executed in any number of counterparts which, taken together, shall constitute one and the same agreement. This Agreement shall be effective when it has been executed by each Party and delivered to both Parties. To evidence the

fact that it has executed this Agreement, a Party may send a copy of its executed counterpart to the other Party by facsimile transmission. Such Party shall be deemed to have executed and delivered this Agreement on the date it sent such facsimile transmission. In such event, such Party shall forthwith deliver to the other Party an original counterpart of this Agreement executed by such Party.

[Remainder of page intentionally left blank; Signatures follow]

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IN WITNESS WHEREOF, the City and the Lessee have executed this Agreement as of the Commencement Date.

CITY:

LESSEE:

CITY OF PONTIAC, a Michigan municipal corporation

PhoenixrisingPontiac, LLC a Michigan limited liability company

By: _____

Deirdre Waterman

Its: Mayor

Dated: _____, 2021

By: _____

Brien Wloch

Its: Manager

Dated: _____, 2021

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SCHEDULE 1

DESCRIPTION OF GARAGE

A parking structure occupying space under and on the following described parcel of land, and being more particularly described as follows;

(TO BE PROVIDED)

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SCHEDULE 2A

MAINTENANCE STANDARDS

Lessee, at its expense, shall take good care of the Premises and make necessary repairs thereto, interior and exterior, structural and nonstructural, ordinary and extraordinary, foreseen and unforeseen, and shall maintain and keep the Premises in good repair and condition in accord with Lessee's use, any prior use, the elements, or the age of the Premises, subject to ordinary wear and tear; in material compliance with all Applicable Laws, understanding that the Premises is currently in extreme disrepair and any maintenance and/or repair will need to be completed in a time and manner which will be cost effective and commercially reasonable, the timing and manner of which will be in Lessee's sole discretion.

(a) It is understood that the Premises include, without limitation, the exterior walls around the garage and located on the Land and all components of the garage, and without limit all architectural, structural, mechanical, electrical, and plumbing systems. Lessee shall not charge City for the maintenance, repair, and operation of the Premises described herein.

(b) Except as expressly set forth in this Lease, City shall have no obligation to maintain or repair the Premises or the Equipment in any way, and City shall not under any circumstances be required to build or rebuild any improvement on the Premises, or to make any repairs, replacements, alterations, restorations, or renewals of any nature or description to the Premises, whether ordinary or extraordinary, structural or non-structural, foreseen or unforeseen, or to make any expenditure whatsoever with respect thereto in connection with this Lease.

(c) Despite the foregoing subparagraph (b), if City in the exercise of any rights provided in Article 6, the City make material alterations to the Plaza and Amphitheater, then the City shall have the obligation to make necessary structural and non-structural alterations and improvements to those portions of the garage which are affected by the City's exercise and shall maintain in full force and effect any and all licenses, permits and other authorizations required by any Governmental Authority with respect to City's operation of that portion of the garage, plaza and amphitheater.

(d) Lessee shall complete the following initial capital repairs to the garage within six (6) months of Commencement Date of the lease; (1) Lessee shall cause the lighting under the Garage that is appurtenant to and offering illumination to Orchard Lake Rd, to be improved in accord with the reasonable guidance of the City and the Michigan Department of Transportation; (2) temporary or partial electrical repairs and/or temporary power to permit service for safety lighting and temporary activities, until a complete plan for the electrical system is completed. All other initial capital repairs shall not be required for a period of two (2) years from the Commencement Date.

(e) The Parties acknowledge that certain components and elements of the garage provide access and service to both the parking operations and the use of the plaza and amphitheater, e.g. the Elevators. Lessee and City agree that the maintenance and repair of commonly shared components shall be allocated between the parties in proportion to the use of such components. In the event the Parties cannot agree on a percentage allocation of proportional cost the proposal for repair shall be submitted to a neutral engineer and planning consultant for recommendation. Until such time as these repairs are completed and access to the Plaza and Amphitheater are facilitated through the Garage, the Lessee, in its capacity as owner of the Ottawa Towers, shall grant reasonable ingress and egress through the Ottawa Towers to the City and its invitees for scheduled events with the prior consent of Lessee, which shall not be unreasonably withheld, provided that the City shall provide commercially adequate insurance and security for said activities.

(f) Lessee shall maintain in full force and effect any and all licenses, permits, and other authorizations required by any Governmental Authority with respect to Lessee's operation of the Premises and the Equipment.

(g) The Garage, and the Equipment used in connection with the operation of the Garage, shall, at all times during the Term, be under the direction and supervision of an active operator, who may be Lessee or a Parking Manager, with the expertise, qualifications, experience, competence, and skills to manage, operate, and maintain the Garage and the Equipment used in connection with the operation of the Garage in accordance with the terms of this Lease. At Lessee's election and expense, Lessee may engage a Parking Manager to manage the Premises on Lessee's behalf pursuant to a Parking Management Agreement; provided, however, the Parking Manager shall at all times be subject to the direction, supervision, and control of Lessee, and any delegation to the Parking Manager shall not relieve Lessee of any obligations, duties, or liability hereunder. Any Parking Management Agreement between Lessee and Parking Manager will be subject and subordinate to this Lease and shall by its terms terminate without penalty at the election of City or the Parking Manager upon fifteen (15) Business Days' notice to such Parking Manager or City, as applicable, upon the termination of this Lease.

(h) Nothing contained in this Lease and no action or inaction by City shall be construed as (i) constituting the consent or request of City, expressed or implied, to any contractor, subcontractor, laborer, materialman, or vendor to or for the performance of any labor or services or the furnishing of any materials or other property for the construction, alteration, addition, repair, or demolition of or to the Premises or any part thereof; or (ii) giving Lessee any right, power, or permission to contract for or permit the performance of any labor or services or the furnishing of any materials or other property in such fashion as would permit the making of any claim against City in respect thereof or to make any agreement that may create, or in any way be the basis for, any right, title, interest, or lien upon the estate of City in the Premises, or any portion thereof; provided, however, that the foregoing shall not be construed to prevent mechanic's or materialman's liens that arise by operation of law on property of Lessee, if the obligation secured by such laws is paid on or before the date when payment is due.

SCHEDULE 2B

OPERATING STANDARDS

General. The scope of services to be performed by the Lessee (either directly or through the Operator) under this Agreement includes all services necessary for the management and operation of those portions of the Garage that are, at any time, actively open to the public, including but not limited to operation of cashier booths if any, staffing, training, providing customer service, performing revenue control, providing all necessary equipment, maintaining equipment and performing all other activities normally associated with the management, operation and maintenance of paid parking facilities. These standards shall become effective with respect to those areas of the garage that become active as a result of future improvements or alterations and shall be reasonably applied and scaled to the scope and active use of the open areas in the garage.

Operations Plan: The Lessee shall provide an annual plan with respect to the operations and maintenance of the Garage (the "Operations Plan") and shall submit such Operations Plan to the City for its approval in accord with Section 1.11 of the Lease. All elements of the Garage must have an appropriate maintenance and repair program/plan to provide a safe and satisfactory level of service and maximize their service life in accordance with these Operating Standards, and there must be a plan developed to provide high-quality customer service for all users comparative to other parking facilities of similar age and condition in the Southeast Michigan market. All necessary operations and maintenance activities shall be carried out in a good and workmanlike manner with an aim at continuous safety for users of the Garage and sustain and increase the value of the Garage as an asset. Lessee must furnish sufficient qualified and trained employees to satisfactorily perform the Parking Garage Services required. The Lessee must provide continuous supervision of all staff, with staffing levels maintained in the annual plan approved by the City. All staff must be courteous and competent when interacting with the public and employees and must present a clean, neat, orderly and professional appearance at all times. The Lessee shall employ qualified and trained personnel to assure high quality standards of service to the public, including employing sufficient staff to limit queuing at all entries and exits to levels.

Uniforms/Badges. The Lessee must provide for its staff name identification badges, and uniforms with woven identification insignia. The Lessee's employees must wear these uniforms and identification badges at all times while performing services that require interfacing with the public in the Garage.

Reporting Accidents or Thefts. The Lessee must report to the City in writing and within 24 hours of its notification, all accidents or thefts that occur in, on or at the Phoenix Center Garage. Such reports shall set forth all details of the accident or theft, including, but not limited to, vehicles involved, date, time, the injury or damage, (if any) and description of items stolen. In addition, if death or serious injury or damage is caused, the accident must be immediately reported by telephone to the City. In the event any claim is made by persons against the Lessee arising out of any accident or injury in, on or at the Phoenix Center Garage, the Lessee shall promptly report such claim in writing to City. In addition, the Lessee shall promptly furnish the City with copies of all accident reports given to the Lessee's insurance carriers.

Questions/Complaints. The Lessee must promptly notify the City of any written complaints received by the Lessee regarding the Lessee's performance of its responsibilities and its provision of services under this Agreement. In response to any such complaints, the City may require the Lessee to take such reasonable action as the City deems appropriate in the particular circumstance. The Lessee must thereafter take the necessary steps to comply with directives that are valid and reasonable.

Hiring and Staffing Standards.

1. Hiring Standards - The Lessee shall not hire or retain employment from any person who does

not possess a valid drivers' license or who has been convicted of a theft-related felony or who tests positive for any illegal drug or alcohol abuse.

2. Personnel Records - The Lessee shall maintain accurate and detailed records of personnel and staffing. These records shall include benefits paid, training received, disciplinary actions and performance reviews.
3. Training - Lessee will provide basic training and customer services classes to all the Lessee's employees working at the Phoenix Center Garage. Training and customer services classes are an Operating Expense.
4. Annual Substance Abuse Testing and Motor Vehicle Report. Prior to hiring and on an annual basis thereafter, all of the Lessee's employees must be tested for drugs and alcohol. These tests shall be random. The Lessee must verify prior to the hiring and at least once during each calendar year thereafter that the employees of the Lessee designated to operate motor vehicles while at work each have a valid drivers' license and have not received multiple moving violations within the past year. Annual Substance Abuse Testing and Motor Vehicle Reports are Operating Expenses.
5. Use of Pontiac Jobs Pipeline. Lessee shall use the Pontiac Jobs Pipeline as a source of recruiting employees for general positions and use all best effort to retain residents of Pontiac where credentials are equal to or greater than other applicants.

Maintenance. The Lessee shall, in good and workmanlike manner and unless otherwise requested by the City, provide the following, the costs for which shall be incurred as an Operating Expense in accordance with the applicable approved annual plan: (i) all housekeeping for the Property, (ii) snow and ice removal for the Property and appurtenances (including driveways) as necessary, (iii) replacement of light bulbs and ballasts, (iv) periodic drain rodding, (v) periodic pressure washing of the garage interior, (vi) routine maintenance of the fire control system and extinguishers, and (vii) all routine repair and maintenance as reasonably required of any of the following, if used in connection with and located in the Property: (x) power sweeper, power scrubber and utility golf cart and/or tractor (collectively, the "Garage Vehicles"), (y) overhead garage doors, and (z) parking and revenue control equipment. Lessee shall keep the Phoenix Center Garage and appurtenances, including driveways, in a clean condition and in compliance with the local ordinances.

Signage Requirements: The Lessee shall install and maintain, in compliance with applicable Law, informational and directional signage at the Garage to, at a minimum, assist customers in locating, to the extent not objectively obvious, payment equipment, points of entry and exit within the Garage, the exit from the Garage where the location of any of these is not clearly visible from all areas of the Garage, and rate and payment instructions. All signage plans must be approved by the City in advance (such approval not to be unreasonably withheld or delayed) and within 30 days of submission by Lessee of such plans or otherwise such plans shall be deemed approved by the City.

Customer Relations: The Lessee shall at a minimum accept customer complaints via telephone, mail, e-mail and in person to staff at the Garage where and when present. Safety, security or accident-related complaints shall be recorded as they are received, with the Lessee maintaining a database of customer complaints.

Security and Communications: The Lessee shall promptly notify law enforcement in the event of an incident of criminal activity at the Garage. The Lessee shall develop and document policies and procedures to with a goal of ensuring the security and safety of the public utilizing the Garage. The Lessee must comply and

cooperate with all police investigations, including those that may involve City and/or the Lessee's employees. Temporary access to the Garage must be provided free of charge to all police cruisers, fire equipment and unmarked police cars while conducting official business. The Lessee is expected to cooperate with any ongoing investigations. All surveillance video, swipe card information, or other relevant information will be able to be viewed, queried, and recorded by the Police so as to aid in criminal investigations and for the general public safety. This information should be available immediately for routine patrol and upon request for criminal investigations. The Lessee shall be responsible for maintaining a means to communicate with its employees in the field.

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SCHEDULE 3

MEMORANDUM OF LEASE

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SCHEDULE 4
AUTHORIZATIONS

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SCHEDULE 5

EXISTING PERMITTED CITY ENCUMBRANCES

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SCHEDULE 6

DEPICTION OF PLAZA AND AMPHITHEATER

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