

PARKING AGREEMENT

This Parking Agreement (the "Agreement") is made as of this ____ day of _____, 2021 (the "Date of Execution"), by and between the City of Santa Rosa, a California municipal corporation (the "City") and Airport Business Center, a California limited partnership and Blue Fox Partners, a California General Partnership (collectively, "ABC") with reference to the following facts:

A. The City owns and operates a parking garage located at 625 Third Street, Santa Rosa, California ("Garage 5"). As of the Date of Execution, Garage 5 contains 195 parking spaces, and 35 of those 195 spaces are reserved for permit holders. ABC holds two of the 35 reserved permits, and tenants of ABC's commercial building located at 50 Old Courthouse Square, Santa Rosa, California ("50 Old Courthouse Square"), hold 23 of the 35 reserved permits.

B. The City also owns and operates a parking garage located at 97 D Street, Santa Rosa, California ("Garage 9"). Garage 9 contains 448 parking spaces.

C. The City and ABC are party to that certain lawsuit (the "Lawsuit") entitled *Airport Business Center and Blue Fox Partners v. City of Santa Rosa*, Sonoma County Civil No. SCV-267372, pursuant to which, among other things, ABC has challenged the City's adoption of its Downtown Station Area Specific Plan.

D. In exchange for this Agreement whereby the City grants ABC certain parking permits in Garage 5 and Garage 9 as set forth herein, ABC agrees to dismiss the Lawsuit with prejudice and waives all claims for costs including attorney's fees.

ACCORDINGLY, in exchange for ABC's dismissal of the Lawsuit, and the other considerations, the sufficiency of which is hereby acknowledged, the City and ABC agree as follows:

1. Term. This Agreement shall be for a term of thirty (30) years commencing on the Date of Execution and expiring without notice on the thirtieth (30th) anniversary of the Date of Execution; provided, however that either party may terminate this Agreement without cause effective on either the tenth (10th) anniversary of the Date of Execution or the twentieth (20th) anniversary of the Date of Execution upon delivery of at least one (1) year advance written notice of termination. Any written notice of termination sent after the ninth (9th) anniversary of the Date of Execution shall be ineffective to terminate the Agreement on the tenth (10th) anniversary of the Date of Execution and any written notice of termination sent after the nineteenth (19th) anniversary of the Date of Execution shall be ineffective to terminate this Agreement on the twentieth (20th) anniversary of the Date of Execution.

2. Reserved Permits. ABC shall retain its two (2) reserved permits in Garage 5. If and when tenants or subtenants of 50 Courthouse Square surrender their reserved permits to the City, the City shall offer said permits to ABC for purchase. The City shall implement internal procedures as needed to ensure that such reserved permits are offered to ABC upon surrender by the tenants and subtenants of 50 Old Courthouse Square to the City. If ABC does not accept the City's offer to purchase such permits within thirty (30) days of that offer, the City may offer the permits to other parties.

3. Non Reserved Permits. The City agrees to issue forty (40) new non-reserved permits in Garage 5 and twenty-five (25) new non-reserved permits in Garage 9 (the "New City Permits"). The New City Permits shall be valid only in the specific garage for which the permits are issued (i.e., permits issued for Garage 5 shall be valid only in Garage 5 and permits issued for Garage 9

shall be valid only in Garage 9). Upon written request made by ABC at any time prior to the first (1st) anniversary of the Date of Execution, the City shall assign the New City Permits to ABC and ABC shall retain all such New City Permits throughout the term of this Agreement unless and until surrendered by ABC to the City in writing. After the first (1st) anniversary of the Date of Execution, the City shall not be obligated to issue any New City Permits to ABC and the City may, in its sole discretion: reduce or increase the number of New City Permits offered to the public, offer New City Permits to persons on the waiting list for Garage 5 and/or Garage 9 or, if no waiting list exists, offer the New City Permits to the public on a first come, first served basis.

4. Transfers by ABC. ABC shall be allowed to assign or sublet any of its parking permits issued under this Agreement to any tenants or subtenants of 50 Old Courthouse Square, at the then-current rate for reserved or non-reserved permits, as approved by the Santa Rosa City Council and identified in the City of Santa Rosa Schedule of Parking User Fees.

5. Monthly Payments. For all permits issued to ABC under this Agreement, ABC shall pay the then-current reserved or non-reserved permit price as approved by the Santa Rosa City Council and identified in the City of Santa Rosa Schedule of Parking User Fees. Monthly payments are due in advance on or before the twenty-third (23rd) day of each month for the following month. In the event ABC fails to timely pay for one or more of its permits, City may consider such permits to have been surrendered by ABC and the permits shall revert to the Parking District.

6. Parking Validation. The City shall provide parking validation programs for Garage 5 and for Garage 9.

7. Disruption for Construction, Maintenance or Repair. The City shall maintain Garage 5 and Garage 9 in good condition at its cost. If, at any time during the term of this Agreement, construction, maintenance or repair in Garage 5 prevents ABC from using its reserved or non-reserved permits in Garage 5 issued pursuant to this Agreement, the City shall provide ABC with spaces in Garage 9 for the duration of the disruption, at the then-market rate for reserved and non-reserved permits. If there is not sufficient space in Garage 9 to accommodate all of ABC's Garage 5 permits, the City shall use its best good faith efforts to provide comparable parking spaces at the nearest available City parking facility during the period of disruption, at the then-market rate for reserved and non-reserved permits. In the event the City is unable to make alternative parking available, the monthly rate charged to ABC shall be equitably abated and prorated during the time of disruption.

8. Redevelopment of Garage 5. In connection with any future redevelopment proposal involving Garage 5, the City agrees to pursue replacement public parking spaces in the immediate vicinity of Garage 5 to provide ABC with parking reasonably comparable to that granted to ABC pursuant to this Agreement, as feasible. The City agrees to provide ABC with notice of any proposed redevelopment of Garage 5 pursuant to the City's public notice processes for surplus lands or requests for development proposals.

9. Dismissal of Lawsuit. Upon full execution and delivery of this Agreement, ABC shall dismiss the Lawsuit with prejudice. City and ABC agree to pay their own costs associated with the Lawsuit, including attorney fees.

10. Notices. Notices to the parties shall be sent by certified or registered letter or by respected commercial carrier to the parties at the following addresses.

City: City of Santa Rosa
Finance Department
90 Santa Rosa Avenue
Santa Rosa, CA 95404
Attn: Parking Manager

With copy to:

City of Santa Rosa
Office of the City Attorney
100 Santa Rosa Avenue, Room 8
Santa Rosa, CA 95404

ABC: Airport Business Center
414 Aviation Blvd.
Santa Rosa, CA 95403-1069
Attn: Larry L. Wasem
Attn: Richard A. Coombs

11. Attorney's Fees and Costs. In the event either party brings an action to enforce or interpret the terms of this Agreement the prevailing party shall be entitled to recover its reasonable attorney's fees and costs from the other party.

12. Counterparts. This Agreement may be executed in identical counterparts.

In witness whereof, the parties have set their hand on the Date of Execution.

City: THE CITY OF SANTA ROSA
a California municipal corporation

By: _____

Title: _____

Approved as to form:

By: _____

Title: _____

ABC: AIRPORT BUSINESS CENTER
a California limited partnership

By: _____

Larry L. Wasem,
Its Managing General Partner

BLUE FOX PARTNERS: BLUE FOX INVESTORS
a California Limited Partnership

By: _____
Larry L. Wasem,
Its General Partner

NORTHERN LIGHTS LIMITED, LLC,
A California Limited Liability Corporation

By: _____
Daniel F. Tocchini

Its: _____