

**CITY OF EL PASO, TEXAS  
AGENDA ITEM  
DEPARTMENT HEAD'S SUMMARY FORM**

**DEPARTMENT:** Department of Transportation

**AGENDA DATE:** Introduction: April 8, 2014  
Public Hearing: April 15, 2014

**CONTACT PERSON NAME AND PHONE NUMBER:** Ted. Marquez, P.E. (915) 621-6757  
marqueztx@elpasotexas.gov

**DISTRICT(S) AFFECTED:** 8

**SUBJECT:**

An ordinance amending Title 12 (Vehicles and Traffic), Chapter 12.44 (Stopping, Standing and Parking Generally), Section 12.44.180 (Regulations Pertaining To Certain Special Situations) of the El Paso City Code, to create and establish the regulations for a new parking zone in the vicinity of the El Paso Ballpark: the penalty being as provided in Chapter Section 12.84.010A (Violation-Penalty) of the El Paso City Code.

**BACKGROUND / DISCUSSION:**

Parking accommodations as per contract between the City of El Paso and Mountain Star Sports Group, LLC.

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

N/A

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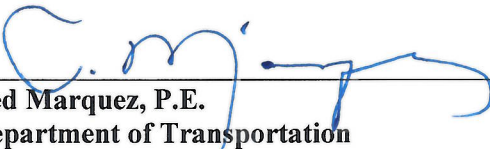
**BOARD / COMMISSION ACTION:**

N/A

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**

  
\_\_\_\_\_  
Ted Marquez, P.E.  
Department of Transportation

*Information copy to Jane Shang, Deputy City Manager*

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING TITLE 12 (VEHICLES AND TRAFFIC), CHAPTER 12.44 (STOPPING, STANDING AND PARKING GENERALLY), SECTION 12.44.180 (REGULATIONS PERTAINING TO CERTAIN SPECIAL SITUATIONS) OF THE EL PASO CITY CODE, TO CREATE AND ESTABLISH THE REGULATIONS FOR A NEW PARKING ZONE IN THE VICINITY OF THE EL PASO BALLPARK; THE PENALTY BEING AS PROVIDED IN CHAPTER SECTION 12.84.010A (VIOLATION – PENALTY) OF THE EL PASO CITY CODE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

**Section 1.** That Title 12 (Vehicles and Traffic), Chapter 12.44 (Stopping, Standing and Parking Generally), Section 12.44.180 (Regulations pertaining to certain special situations) of the El Paso City Code is hereby amended to add a new zone:

**12.44.180 – Regulations pertaining to certain special situations.**

**B. the regulations applicable to each such zone are as follows:**

3. Ballpark Zone: Upon approval by the City Manager, no more than fifty angled parking spaces on the south side of Franklin Avenue between Durango Street and Interstate 10 East exit ramp to the west, shall be set aside for use by Mountain Star Sports Group. When a sign is erected at such locations reading substantially, “No Parking or Standing Anytime, Reserved for Permit Holder”, no vehicle shall stand or park in these spaces except vehicles with a permit issued by Mountain Star Sports Group. The police department is directed to cause to be towed away any vehicle found parked or standing in violation of this subsection, and the owner of such vehicle shall be civilly liable to the person doing such towing for the reasonable cost thereof.

**Section 2.** Except as expressly herein amended, that Title 12 (Vehicles and Traffic) of the El Paso City Code shall remain in full force and effect.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

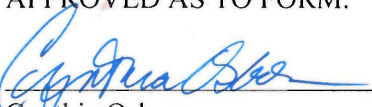
THE CITY OF EL PASO

ATTEST:


\_\_\_\_\_  
Oscar Leeser,  
Mayor

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Cynthia Osborn  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Ted Marquez, Director  
Department of Transportation

Approval shall not be unreasonably withheld so long as any such third party Operator is a Qualified Operator. Notwithstanding the foregoing, an Operator that is solely operating the Ballpark Surface Parking shall not be required to be a Qualified Operator. In all instances, each management agreement with a third party Operator shall (i) require the Operator to comply with the terms of this Agreement as to the use and operation of the Ballpark and the Ballpark Surface Parking, (ii) provide that City shall be a third party beneficiary and permitted assignee thereof and (iii) not be modified or amended in any material respect without the prior written Approval of City, which Approval shall not unreasonably be withheld. Each such management agreement with a third party Operator of the Ballpark and the Ballpark Surface Parking shall be referred to herein as a "Management Agreement." Each Management Agreement shall be subject to City Representative's prior Approval, such Approval not to be unreasonably withheld. If given, such Approval shall be provided no later than fifteen (15) days after such request is made by Tenant.

## ARTICLE V PARKING

5.1 Generally. The Parties acknowledge and agree that parking for the Ballpark is critical to the long term operating and financial viability of the Team and the Ballpark. Periodically, as determined by the Representatives, the Representatives shall meet in good faith to develop and implement a strategic plan to address parking for the Ballpark. It is the intent of the Parties that the strategic plan will include a plan to maximize the number of parking spaces within the area located one-half (1/2) mile from the outside perimeter of the Ballpark (in every direction), including existing and new surface parking spaces, and on-street metered parking spaces; provided however, City is under no obligation to construct any additional parking other than the Ballpark Surface Parking. The strategic plan shall also include ingress and egress plans, parking access to Ballpark patrons, and shall include measures to maximize parking revenues to be retained by City and Tenant.

5.2 Parking Spaces. Beginning on the Commencement Date, City shall make available a minimum of Five Hundred (500) parking spaces, which shall be allocated as follows:

(a) Two Hundred (200) paved parking spaces at (i) City-owned parking lot commonly referred to as the "City Hall Visitor Lot" and (ii) the nearby City-owned parking lot to the West along West Franklin Avenue, collectively for the use by Tenant (and, including without limitation, Tenant's guests, employees, patrons, concessionaires, merchandisers, vendors and staff, and members of the Team) at any time on a year round basis, (collectively, the "Ballpark Surface Parking"); and

(b) based on the number of spaces requested by Tenant pursuant to Section 5.5 hereof, up to Three Hundred (300) parking spaces in the aggregate from a combination of the Civic Center Garage (at which City shall provide a minimum of Two Hundred (200) parking spaces) and the UPPT Garage for the use by Tenant and patrons of the Ballpark during Ballpark Parking Hours (collectively, the "Offsite Garage Parking").

Each parking area is depicted on Exhibit B attached hereto and incorporated herein. Without limiting the foregoing, a minimum of Four Hundred (400) of such parking spaces shall be from a combination of the Ballpark Surface Parking and the Civic Center Garage.

5.3 Offsite Garage Parking Operations and Security. Without limiting the Parties' obligations for operations and maintenance set forth in Section 6 of this Agreement, City at its sole cost and expense shall (a) cause the minimum number of parking spaces described herein for the Offsite Garage Parking to be cleared and made available to Tenant and the Ballpark patrons no later than the commencement of the Ballpark Parking Hours on every day that there is an Event, (b) staff (with City's employees, agents and contractors) the Offsite Garage Parking and collect parking revenues earned during Ballpark Parking Hours and (c) maintain the Offsite Garage Parking and the pedestrian routes between the same and the Ballpark in a clean, well-lit and attractive manner and patrol by police or other security personnel in sufficient numbers in accordance with the Ballpark Standard, as determined by City, to establish public confidence in the convenience of the parking and the personal safety of the users of such parking areas and routes. City and Tenant agree to develop training policies and guidelines for parking staff at the Offsite Garage Parking (including guidelines for the staff positions, training for parking operations and guidelines for staff appearance, including uniforms), which City shall use to train its parking staff; provided that any such policies and guidelines shall not be inconsistent with any Applicable Laws or City contractual commitments that may apply to City in connection therewith).

5.4 Parking Rates. Tenant, in its sole discretion, shall have the right to set the parking rates for the Ballpark Surface Parking. Tenant shall provide its rate (or rates, as applicable) to City from time to time, and City shall post such rates at the corresponding parking areas upon the earlier to occur of (a) the date of the first Event immediately following five (5) Business Days after City receives such rate information or (b) thirty (30) days after the date City receives such rate information. The Representatives shall meet and use reasonable efforts to agree on the parking rate (or rates, as applicable) for the Offsite Garage Parking during Ballpark Parking Hours, and City shall post such rates at the corresponding parking areas upon the earlier to occur of (x) the date of the first Event immediately following five (5) Business Days after the date the Parties agree on such rate information or (y) thirty (30) days after the date City and Tenant agree on such rate information. If the Representatives are unable to agree on any parking rates for the Offsite Garage Parking, and any such dispute remains unresolved for fifteen (15) Business Days after notice of such dispute has been provided by one Party to the other Parties, the rates shall be established for the Offsite Garage Parking during Ballpark Parking Hours by City at a rate equal to the average rate then in effect for comparable private parking within the area located one-quarter (1/4) mile from the outside perimeter of the Ballpark (in every direction). If parking revenues are subject to a City sales tax, City's posting of the rate shall include the rate of the sales tax and the amount of the sales tax included in the posted rate. For example, if the rate for a parking space is Five Dollars (\$5.00), and the amount of the sales tax equals eight and one quarter percent (8.25%), City's posting of the rate shall identify the sales tax rate (8.25%) and indicate that the parking fee includes a sales tax of Thirty-Eight Cents (\$0.38).

5.5 Season Parking. At least ten (10) Business Days prior to the beginning of each Baseball Season, Tenant shall provide City with written notice of the number of parking spaces needed by Tenant for the ensuing twelve month period, in the Offsite Garage Parking, for all Ballpark Events known at the time of such notice and for up to five additional Ballpark Events which do not have to be specifically designated at the time of such notice (collectively, the "Season Parking Events"). As so specifically requested by Tenant in such notice, City shall provide Tenant with up to three hundred (300) parking spaces in the Offsite Garage Parking for each Season Parking Event during such twelve month period. Tenant shall pay to City the

Parking Fee for each parking space requested by Tenant in the Offsite Garage Parking for such twelve month period, subject to the limitations contained in Section 3.8. No other parking fees will be charged by City for the use of such parking spaces during any Season Parking Event during the applicable twelve month period. If Tenant does not timely specify the number of spaces needed for Season Parking Events for any twelve month period, the Parking Fee for such season shall be calculated, and the Tenant shall pay such fee, on the basis 300 spaces times 77 Season Parking Events, subject to the limitations contained in Section 3.8.

#### 5.6 Parking Revenues.

(a) Tenant shall be responsible for collecting and accounting for, and shall be entitled to receive and retain, all parking revenues from the Ballpark Surface Parking at any time.

(b) Except as set forth in Section 5.5 hereof, City shall be responsible for collecting and accounting for, and shall be entitled to receive and retain, all parking revenues from the Offsite Garage Parking at all times; provided however, Tenant and City shall divide all net revenues from the Offsite Garage Parking that are collected during the Offsite Garage Parking Revenue Hours for any Ballpark Event, held during the Term, fifty percent (50%) to City and fifty percent (50%) to Tenant (the "Split Revenues"), with the City receiving an amount no greater than the Overall Additional Revenue Cap from the aggregate of the Ticket Fees, the Parking Fees and the Split Revenues in any calendar year.

(c) City shall furnish Tenant with a monthly accounting statement identifying for the previous month: (i) the gross and net parking revenues collected during the Offsite Garage Parking Revenue Hours for any Event at the Offsite Garage Parking and (ii) the amount of the net parking revenues payable to Tenant.

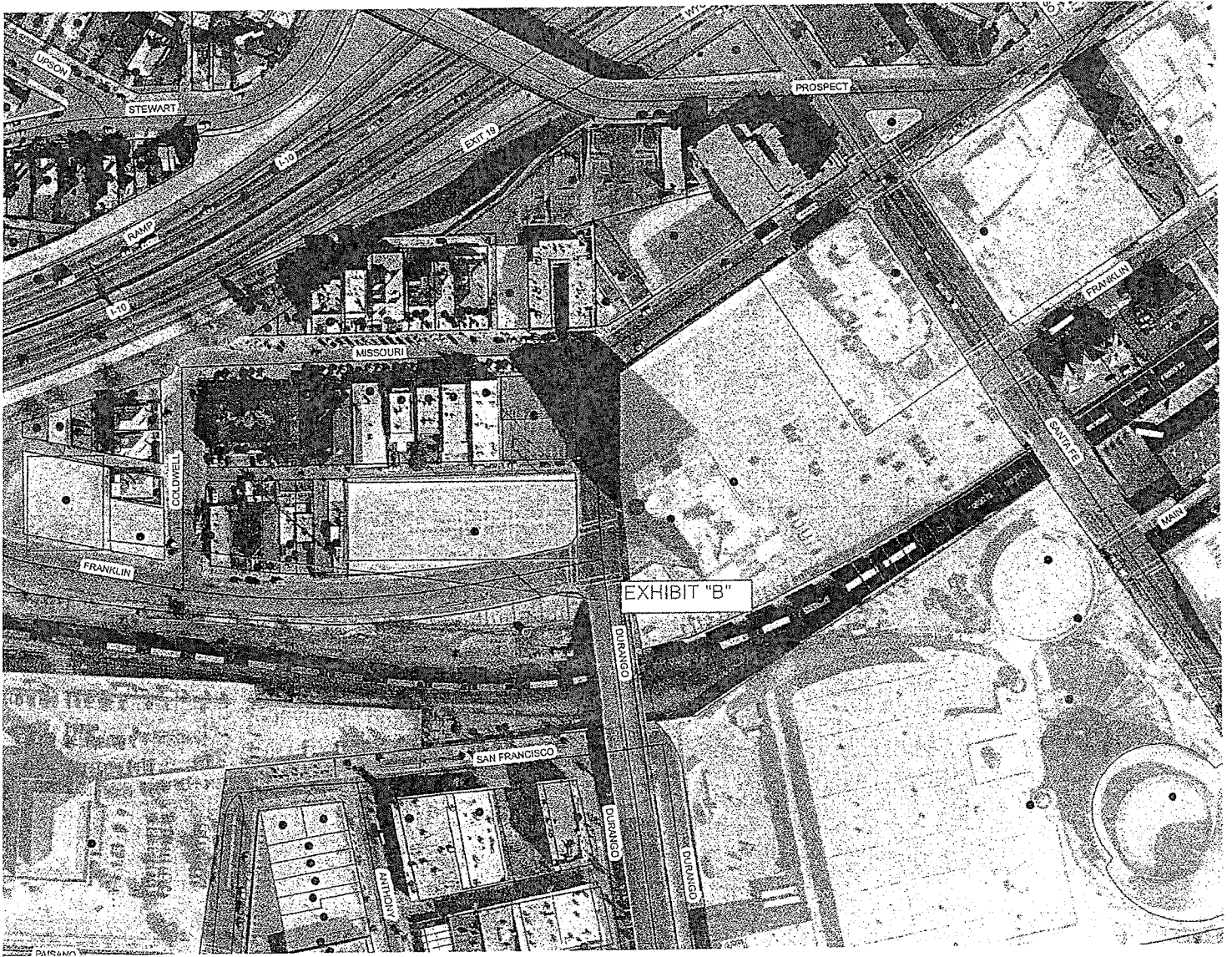
5.7 Event Staff Parking. To the extent City has City downtown parking lots or garages available, other than the Offsite Garage Parking, that are not in the immediate vicinity of the Ballpark and which are not otherwise used during Ballpark Parking Hours, the City shall use commercially reasonable efforts to make such parking lots or garages available to Tenant for use by its full and part-time employees, concessionaires, merchandisers, vendors and staff, at no cost to Tenant or any such employees, concessionaires, merchandisers, vendors or staff; provided that there is no cost incurred by City in connection with such parking access and that City is under no obligation to provide staffing in connection with such Tenant employee parking.

### ARTICLE VI OPERATION; MAINTENANCE; UTILITIES

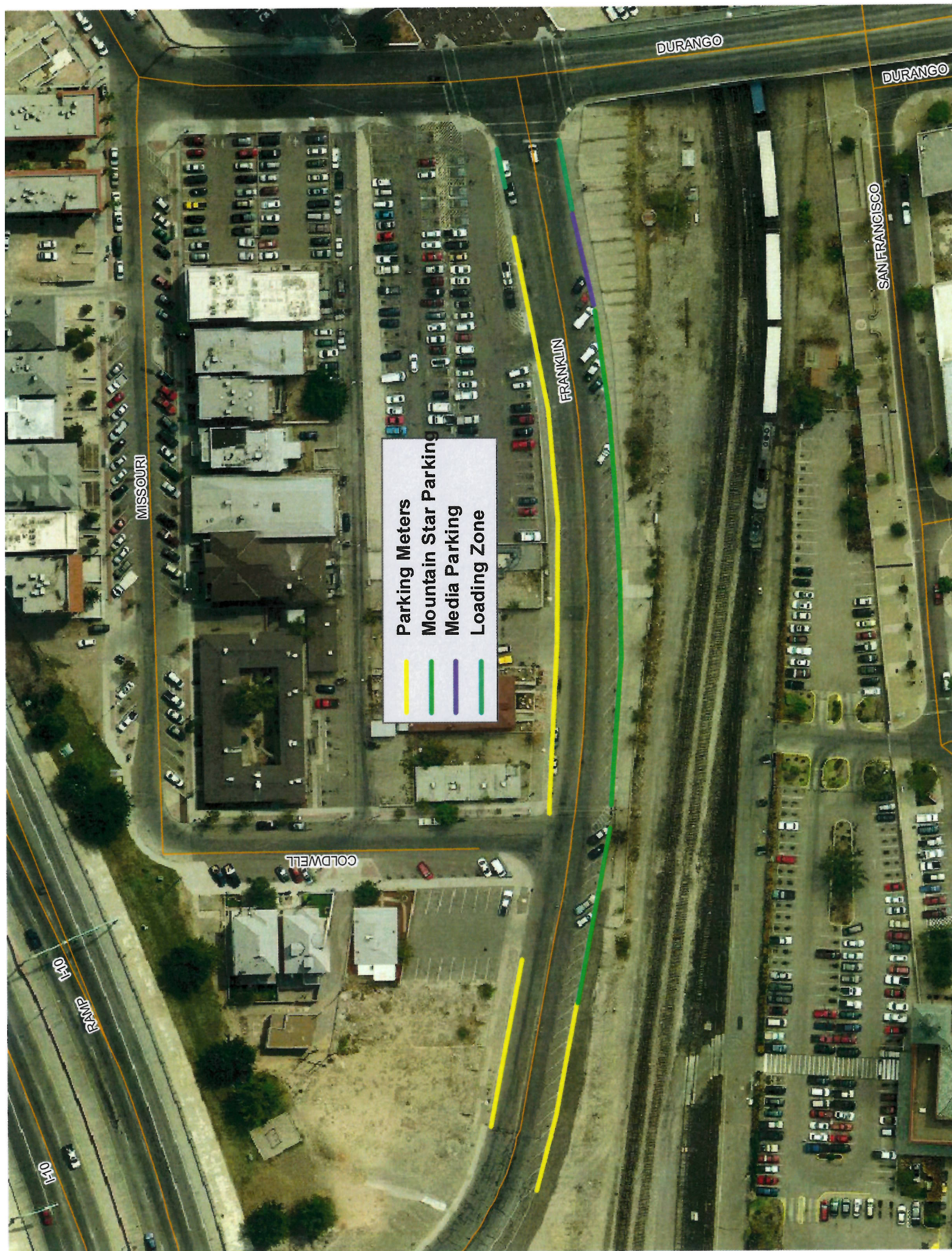
#### 6.1 Tenant's Operation and Routine Maintenance of the Ballpark; Utilities.

(a) Except as otherwise provided in this Agreement, Tenant shall be responsible for all aspects of operating the Ballpark and the Routine Maintenance of the Ballpark and shall be responsible for all operating expenses and costs for the Ballpark, including all direct or indirect expenses associated with the Team or Ballpark Events. Without limiting the generality of the preceding sentence, Tenant shall, throughout the Term, at its own expense and at no cost or expense to City, and in compliance with Applicable Laws, do the following Routine Maintenance:









DURANGO

DURANGO

SAN FRANCISCO

FRANKLIN

MISSOURI

COLDWELL

I-405  
RAMP

I-405

Parking Meters  
Mountain Star Parking  
Media Parking  
Loading Zone