Attachment B

DECLARATION

OF

PARKING OPERATIONS

FOR

DC USA OPERATING CO., LLC

Date: October 31, 2008

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DECLARATION OF PARKING OPERATIONS

THIS DECLARATION OF PARKING OPERATIONS (this "Declaration") is made and entered into as of the 31st day of October, 2008 (the "Execution Date") but made effective for all purposes as of March 26, 2008 (the "Effective Date") by **DC USA OPERATING CO., LLC**, a New York limited liability company, on behalf of itself and its successors, transferees and assigns (the "Declarant").

RECITALS

R-1. DC USA Condominium (the "Condominium") was created by the recording of that certain Declaration of DC USA Condominium (as amended, the "Condominium Declaration") and those certain Bylaws of DC USA Condominium (as amended, the "Condominium Bylaws") with the Office of the Recorder of Deeds of the District of Columbia on March 31, 2008, as Instrument No. 2008034084 and Instrument No. 2008034085 and by the filing of those certain Plats and Plans of Condominium Subdivision of DC USA Condominium (as amended, the "Condominium Plats and Plans") among the Condominium Records of the Office of the District of Columbia Surveyor in Condominium Book 67 at Page 17. The Condominium Declaration, the Condominium Bylaws, the Condominium Plats and Plans and the Condominium Rules and Regulations of the association of unit owners of the Condominium (the "Unit Owners Association") promulgated from time to time in accordance with the Condominium Declaration and the Condominium Bylaws are sometimes referred to herein collectively as the "Condominium Instruments."

R-2. The Condominium encumbers certain real property and the improvements thereon including a retail and commercial building with off-street, below grade parking (the "Building"), the real property, Building and other improvements being referred to collectively herein as the "Property."

R-3. The Condominium consists of three units as follows:

A. Unit No. 1 in the Condominium, which has been designated for commercial and/or retail uses, as more particularly set forth in the Condominium Instruments, and consists of above grade retail shopping, sports club, restaurant and similar commercial facilities ("Unit No. 1" or the "Retail Unit").

B. Unit No. 2 in the Condominium, which has been designated for commercial and/or retail uses, as more particularly set forth in the Condominium Instruments, and consists of above grade retail shopping facilities intended to be initially operated as a Target store ("Unit No. 2" or the "Target Unit").

C. Unit No. 3 in the Condominium, which has been designated for parking uses, as more particularly set forth in the Condominium Instruments, and consists of a two level below-grade, off-street parking facility providing no less than one thousand (1,000) legally striped, vehicular parking spaces with the ability to provide accommodations for attendant assisted parking for two hundred forty four (244) additional vehicles in order to comply with the provisions of the order of the District of Columbia Board of Zoning Adjustment in BZA Case No. 17232 (the "BZA Order"), in each case serving the Retail Unit and the Target Unit and open

to the public ("Unit No. 3" or the "Parking Unit", which with Unit No. 1 and Unit No. 2 shall be each a "Unit" and collectively the "Units").

R-4. As of the Execution Date of this Declaration, the Declarant owns each of the Units in the Condominium. Shortly after recordation hereof, Declarant intends to transfer Unit No. 2 to Target Corporation ("Target") pursuant to a certain purchase and sale agreement with Target, and to transfer Unit No. 3 to the District of Columbia as successor by law to the National Capital Revitalization Corporation pursuant to a purchase and sale agreement with District of Columbia. For the purposes of this Declaration, the owner of Unit No. 1 is hereinafter referred to as "Unit No. 1 Owner," the owner of Unit No. 2 is hereinafter referred to as "Unit No. 2 Owner," and the owner of Unit No. 3 is hereinafter referred to as "Unit No. 3 Owner," who with Unit No. 1 Owner and Unit No. 2 Owner are individually referred to as an "Owner" and collectively referred to as "Owners."

R-5. The Parking Unit is intended to be acquired, constructed and developed with the proceeds from the sale of certain tax-exempt Variable Rate Revenue Bonds, (DC-USA Parking Garage Project) Series 2006 (the "Bonds"), secured by (A) the pledge of a certain Tax Increment Financing Note (the "TIF Note"), approved by the Council of the District of Columbia in the "Tax Increment Revenue Bond DC-USA Project Emergency Approval Resolution of 2004" (R-15-653), (herein "TIF Note" with the Bonds being collectively sometime hereinafter referred to as the "Public Financing") and (B) net revenues from operation of the Parking Unit.

R-6. The Declarant desires to impose this Declaration in order to ensure that (A) the Retail Unit, the Target Unit and the Parking Unit will be operated seamlessly as an integrated, self contained, high quality retail and commercial center, (B) parking accommodations will continue to have (1) at least 1,000 legal striped spaces in accordance with the Zoning Regulations of the District of Columbia (the "Zoning Regulations"), the same to be maintained and continuously available, as well as (2) the ability to accommodate attendant assisted parking for two hundred forty four (244) additional vehicles in compliance with the provisions of the BZA Order, except in either case in the event of an emergency or undertaking intermittent repair and replacement activities, (C) the Parking Unit is operated primarily as a "self park" operation for patrons, with ability to have available attendant assisted parking to the extent required by the BZA Order, (D) the rate of vehicular traffic flow into and out of the Parking Unit will be coordinated in order to maximize retail sales in the Retail Unit and the Target Unit, and thus the sales tax revenue generated therefrom that is used to repay the Public Financing, (E) the Parking Unit will be operated in a manner that is at least equivalent to the manner of operation of an enclosed, off street, privately owned parking facility serving high quality retail complexes located in the Washington, D.C. metropolitan area of similar size, physical arrangement and tenancy of Building ("Comparable Parking Facilities"), taking into account the added requirements of the Property's location in an urban neighborhood in Washington, D.C., (F) parking rates in the Parking Unit will be structured to encourage the primary use thereof by hourly parkers shopping at Unit No. 1 and Unit No. 2 and only non-hourly parkers to the extent there is sufficient excess capacity in the garage after the retail parking needs of Unit No. 1 and Unit No. 2 have been met, and (G) the Parking Unit will generate sufficient net revenue from its parking operations to be Financially Self-Sustaining (as defined below) and pay the debt service under the Public Financing (not satisfied by revenues generated by and through the TIF Note) without exceeding rates charged at Comparable Parking Facilities (the foregoing items (A) through (G) being collectively referred to herein as the

"Parking Objectives"). For the purposes of this Declaration, "Financially Self-Sustaining" shall mean the ability of the Parking Unit to pay all costs of operations, to maintain adequate reserves found for the operation of Comparable Parking Facilities, and to pay the debt service under the Bond Documents.

NOW, THEREFORE, in consideration of the mutual covenants and payments hereinafter set forth, the Declarant states as follows:

1. Incorporation of Recitals/Defined Terms.

(A) The Recitals hereinabove set forth are incorporated by reference into the body of this Agreement as if fully set forth herein.

(B) Any capitalized terms used in this Declaration not defined herein shall have the meaning ascribed to such terms in the Condominium Declaration.

2. Running With the Land.

(A) The covenants, conditions, restrictions and agreements contained herein shall, as to each Owner, its heirs, successors and assigns, including without limitation any association of unit owners of the Condominium created with respect to such Owner's Unit and its undivided interests in the Condominium, operate as covenants running with the land, for the benefit of the other Owners.

(B) Notwithstanding the provisions of Section 2. (A), this Declaration may also be terminated at any time by the unanimous agreement of all of the Owners, subject to the prior approval of any mortgagee or bondholder having a lien on legal title to any of Unit No. 1, Unit No. 2 and Unit No. 3.

(C) In the event the regime of the Condominium is terminated or dissolved for any reason, this Declaration shall continue as a covenant running against the interests of each party holding a legal title interest in the Property thereafter, unless and until terminated by such parties.

3. Parking Unit Layout and Operations.

(A) *Parking Layout Plan.* Attached hereto as Exhibit A is the initial parking layout plans for the Parking Unit (the "Parking Layout Plan") indicating among other things (1) the layout, number and location within the Parking Unit of exit and entry points, pedestrian walkway areas, and parking ramps, (2) the location of drive aisles and the orientation and numbering of all full size, compact and handicapped parking spaces within the Parking Unit, (3) the directional flow of traffic within the Parking Unit, (4) the location and description of all parking access controls and equipment ("Parking Control Equipment"), (5) the location, orientation and number of Shopping Cart Corral Easement Areas (as hereinafter defined), (6) the location, orientation and number of Elevator Easement Areas (as hereinafter defined), and (7) the location of portions of the Retail Unit, the Target Unit and Common Elements of the Condominium located on Parking Levels 1 and 2 of the Building. The Parking Layout Plan also shows the locations of portions of Unit No. 1 and Unit No. 2 on parking level 1 and 2 of the

Building that are not part of the Parking Unit, such as customer parcel pick-up and drop-off areas of Unit No. 1 and Unit No. 2, as applicable, (individually a "Package Pick-up Area" and collectively "Package Pick-up Areas") and the area for car-audio installation that is part of Unit No. 1 ("Retail Area").

(B) *Changes to Parking Layout Plan.*

(1) *Changes by Unit No. 3 Owner.* Unit No. 3 Owner may make changes or modifications to the various aspects of the Parking Unit identified in Sections 3(A)(2) through (A)(4) above, if it believes in its reasonable discretion that such changes (a) are in the best interests of the Parking Unit, and (b) are consistent with the Parking Objectives. Notwithstanding the foregoing, Unit No. 3 Owner may not make any of the following changes to the Parking Layout Plan without the unanimous approval of the Parking Operations Committee (as defined and identified in Section 13 below):

(a) Reduce (i) the number of legal parking spaces available to the public below 1,000 spaces, (ii) the number of attendant assisted parking accommodations available to the public below accommodations for 244 vehicles, or (iii) both (except for temporary and intermittent reduction due to an Emergency Situation (defined in Section 13(H), repairs, replacements or maintenance pursuant to this Declaration);

(b) Change the layout, number and location within the Parking Unit of exit and entry points, elevated pedestrian walkways and parking ramps (provided that with regard to pedestrian walkways indicated by painted striping or banding, Unit No. 3 Owner may relocate such pedestrian walkways so long as equivalent walkway demarcations are provided).

(c) Changes which adversely impact the visibility of (i) the elevator lobbies, (ii) any directional signage within the Parking Unit and (iii) signage of tenants and occupants of Unit No. 1 and Unit No. 2 located within the Parking Unit; and,

(d) Change the location, orientation or number of Shopping Cart Corral Easement Areas and the Elevator Easement Areas.

(2) *Changes Required by Law or the Condominium Instruments.* Should Unit No. 3 Owner received written notice from any governmental authority or from the Unit Owners Association that Unit No. 3 is not in compliance with the requirements of the Zoning Regulations, any other applicable public laws, ordinances or regulations or the Condominium Instruments, then, subject to the provisions of this Section 3(B), Unit No. 3 Owner shall have the right to make any and all alterations or modifications to the Parking Layout Plan required to cause the Parking Unit to become in compliance with those requirements, whether or not such alterations or modifications would otherwise require the unanimous approval of the Parking Operations Committee pursuant to Section 3(B)(1) above, provided that prior to initiating such alterations or modifications notice in writing is given to the Parking Operations Committee advising of the notice of non-compliance received by Unit No. 3, and advising of the proposed alterations or modifications. The proposed alterations or modifications shall be the minimum required to create legal compliance with such applicable requirements. After giving

the aforementioned notice but before Unit No. 3 Owner may undertake any such alterations or modifications, Unit No. 3 Owner shall explore with the Parking Operations Committee alternative solutions to the proposed changes to the Parking Layout Plan required by any law, ordinance or regulation or the Condominium Instruments so as not to result in (a) a material, adverse impact on or necessitating changes in the Parking Layout Plan and the general operations of Unit No. 3, including but not limited to any of the items identified in Section 3(B)(1)(a)-(d) above, or (b) the creation of an inconsistency with the Parking Objectives, in conjunction with the implementation of the alterations or modifications.

(C) *Alterations to the Parking Unit.* All alterations or other physical improvements to the Parking Unit that do not change the Parking Layout Plan, or violate any provisions of the Condominium Instruments, and are consistent with the Parking Objectives, may be performed at the reasonable discretion of Unit No. 3 Owner, subject to the provisions of this Declaration with regard to when such alterations or other physical improvements to the Parking Unit may be undertaken. Routine maintenance and repair of existing equipment and fixtures and replacement of existing equipment and fixtures with similar equipment or fixtures are not deemed "alterations" for the purpose of this Section 3(C), but shall be subject to the provisions of Section 8 of this Declaration as provided therein. However any alterations or other physical improvements, including replacements of existing equipment and fixtures with non-similar equipment or fixtures, that could be expected to affect the aesthetic appearance of the Parking Unit in a material manner, including but not limited to light fixtures, lighting levels, color schemes, materials and finishes, graphics and signage shall require that Unit No. 3 Owner obtain the prior unanimous approval of the Parking Operations Committee, which approval may not be unreasonably withheld, conditioned or delayed, provided that if the Parking Operations Committee believes the proposed changes would (1) be inconsistent in a material manner with the aesthetic appearance of the Parking Unit or the upkeep and condition of the same found at Comparable Parking Facilities, or (2) violate documented standards of Unit No. 2 Owner, or (3) violate provisions of any lease by and between Unit No. 1 Owner and a tenant for space in Unit No. 1 in place upon the Effective Date, then the Parking Operations Committee may reasonably withhold its consent.

(D) *Payment System for Parking Unit.* Unit No. 3 Owner shall establish and put into place, at its sole cost and expense, Parking Control Equipment and payment systems that enable Unit No. 3 Owner to fulfill the Parking Objectives. Unit No. 3 Owner intends that the initial payment system for the Parking Unit will include the following features: (1) so-called "Pay On Foot" machines located in the Parking Unit, and, if applicable, also within Unit No. 1 and Unit No. 2, or elsewhere within the Condominium (subject to the requirements of the Condominium Instruments), which will permit users of the Parking Unit to self-pay for parking prior to exiting the Parking Unit; (2) a credit card payment kiosk at Parking Unit egress points; and (3) such other features as may be desirable to Unit No. 3 Owner.

(E) *Staffing of Parking Unit.* Unit No. 3 Owner shall cause the Parking Operator (as defined herein) to staff the Parking Unit at levels pursuant to the Parking Guidelines set forth on Exhibit B to this Declaration and as necessary to fulfill the Parking Objectives.

(F) *Parking Spaces to Remain Unreserved.* During the term of the Public Financing and for so long as either Citicorp USA, Inc. or Citicorp North America, Inc. is a lienholder on legal title to any Unit in the Condominium, all parking spaces in the Parking Unit

shall be available to users of the Parking Unit on a non-exclusive, unreserved, first come – first served basis. After term of the Public Financing, provided the unanimous approval of the Parking Operations Committee is first obtained, Unit No. 3 Owner may enter into any license agreements, lease agreements, or other contractual arrangements (for a daily, weekly, monthly or other term) for designated and reserved parking spaces within the Parking Unit with any Owner, tenant, licensee, patron or occupant of Unit No. 1 or Unit No. 2, or any other user of the Parking Unit (including members of the general public). Any member of the Parking Operations Committee may withhold his or her consent at such member's sole discretion if the member believes that the entering into such arrangements could have the effect of materially and substantively violating the Parking Objectives in one or more instances, of benefiting one tenant, occupant or Owner to the detriment of any other tenant, occupant or Owner, or would violate the term of any then existing tenant lease.

(G) *No Smoking Facility.* The Parking Unit shall be operated at all times as a no-smoking facility and appropriate "No Smoking" signage will be placed in conspicuous areas throughout the Parking Unit.

(H) *Dispute Resolution.* If either Unit No. 3 Owner or a majority of the Parking Operations Committee believes that an action is being taken by a party with regard to a matter arising under this Section 3 that is either (1) unreasonable, or (2) believed by a party to be materially inconsistent with the Parking Objectives, then that party may invoke the provisions of Section 13(H) of this Declaration to have a determination made with regard to the matter at hand.

4. Parking Operator.

(A) *Designation and Qualifications.* Unit No. 3 Owner shall select from time to time, and shall employ a duly licensed, professional operator, qualified to transact business in the District of Columbia to operate and manage the Parking Unit (the "Parking Operator"). The Parking Operator designated from time to time by Unit No. 3 Owner shall (1) have a minimum of five (5) years prior experience of managing Comparable Parking Facilities, (2) currently manage at least five (5) Comparable Parking Facilities, and (3) have strong financial credentials and qualifications (as determined by Unit No. 3 Owner in its reasonable discretion). Unit No. 3 Owner shall provide prior notice to the Parking Operations Committee of any termination of any party that is the existing Parking Operator and of the hiring of any party as a successor to the then existing Parking Operator. The parties intend that District of Columbia Parking Associates, an affiliate of Central Parking Corporation, a Parking Operator that fulfills the qualifications contained herein, and a District of Columbia recognized local, small, disadvantaged business enterprise, shall be the initial Parking Operator.

(B) *Parking Management Agreement.* The Parking Operator shall be employed pursuant to a parking management agreement ("Parking Management Agreement") upon terms acceptable to Unit No. 3 Owner in its reasonable discretion, subject to the requirements contained herein. Prior to the contracting with a party to be the Parking Operator, Unit No. 3 Owner shall furnish a copy of the Parking Management Agreement to the Parking Operations Committee, together with a summary of the qualifications and credentials of the party proposed to be selected as the Parking Operator, responding to criteria set forth in Section 4(A) above, but solely for informational purposes. So long as the Bonds are outstanding and not retired, the Parking Management Agreement must be in a form and in substance necessary to

qualify as a qualified management contract under applicable law so as not to impair the tax exempt status of the Bonds. The Parking Operator may only be engaged under such form of qualified management contract until the Bonds are retired. The Parking Management Agreement, at a minimum, shall specify and/or otherwise address in associated documents the following information, which shall comply with the Parking Guidelines set forth at Exhibit B to this Declaration:

(1) Acknowledgement and acceptance by the Parking Operator of the Parking Objectives;

(2) Acknowledgement and recognition by the Parking Operator of the Condominium Instruments;

(3) Acknowledgement and recognition that the Parking Unit is intended to be operated primarily as a self park operation for patrons with the ability to accommodate attendant assisted parking for two hundred forty four (244) additional vehicles in compliance with the provisions of the BZA Order subject to procedures adopted by the Parking Operations Committee from time to time in accordance with this Declaration;

(4) The rates to be charged within the Parking Unit;

(5) Procedures relating to the collection and the accounting of revenues;

(6) Emergency procedures and policies to be followed upon the occurrence of any of the following within the Parking Unit: (a) vehicular damage, (b) bomb threats, (c) spilling of automotive fuel and other hazardous materials, (d) carbon monoxide build-up, (e) injury to persons or property, (f) fire, (g) theft, robbery or other criminal acts, (h) acts of terrorism, and (i) weather emergencies, including without limitation procedures and policies addressing a process and manner of notification of and coordination with Unit Owners and the managing agent of the Unit Owners Association of any of these occurrences, a process and manner of the closing of all or a portion of the Parking Unit as a result of any such occurrences, and a process whereby Unit No. 1 Owner, Unit No. 2 Owner or the managing agent of the Unit Owners Association would be able to request the Parking Operations Committee to consider and modify a determination by the Parking Operator or Unit No. 3 Owner to close all or a portion of the Parking Unit where a proposed closure would exceed twelve (12) hours);

(7) Staffing levels and standards for selection of personnel to staff the Parking Unit;

(8) Standards for the selection of managers and supervisory personnel to staff the Parking Unit, and the standards for management supervision;

(9) Procedures and policies requiring periodic and random drug testing of personnel;

(10) Procedures and policies regarding the termination of discourteous or otherwise unprofessional personnel;

(11) Uniforms to be worn by parking attendants and any other personnel of Parking Operator working in the Parking Unit;

(12) Operational procedures regarding the parking valet system within the Parking Unit, adopted by the Parking Operations Committee from time to time in accordance with this Declaration;

(13) Requirements that the Parking Operator deliver evidence of commercial general liability insurance, umbrella coverage, worker's compensation insurance, garage keeper's legal liability coverage, and crime coverage in commercially reasonable amounts, but in any case not less than that specified by the Condominium Instruments;

(14) Requirements that preventive maintenance agreements be maintained on all applicable equipment and systems in the Parking Unit (e.g., exhaust and mechanical systems, overhead doors, revenue control equipment, fire alarms, and sump pumps);

(15) Procedures for conducting monthly risk-assessment inspections of the Parking Unit to determine the need for any repairs or maintenance of the Parking Unit;

(16) Procedures for conducting regular repair and maintenance of equipment and systems within the Parking Unit and standards for the performance of capital repairs to the Parking Unit;

(17) Customer and public relations procedures to address complaints by users of the Parking Unit (including, but not limited to, a requirement for an annual independent patron survey and a requirement that a informative report of complaints received shall be provided to the Parking Operations Committee no less than monthly);

(18) Towing procedures;

(19) Schedules and procedures for the cleaning and janitorial maintenance of the Parking Unit;

(20) Accounting and records retention policies;

(21) Agreement by the Parking Operator to cooperate in the transition to a new party identified as the Parking Operator at the expiration or earlier termination of the Parking Management Agreement;

(22) Recognition of the right and the entitlement of the Parking Operations Committee and each of Unit No. 1 Owner and Unit No. 2 Owner to step in to cure certain defaults of Unit No. 3 Owner under the Parking Management Agreement pursuant to Section 13(I)(2) of this Declaration (and the entitlement of the Parking Operations Committee, each of Unit No. 1 Owner and Unit No. Owner, and each mortgagee and bondholder having a lien on legal title to any of Unit No. 1, Unit No. 2 and Unit No. 3 to receive a copy of any notice of default issued by the Parking Operator to Unit No. 3 Owner under and pursuant to the Parking Management Agreement contemporaneously with the delivery of the same to Unit No. 3 Owner);

(23) Agreement by the Parking Operator to cooperate with Unit Owners Association and other Unit Owners regarding the implementation and operation of security program and protocols for Unit No. 3 by the Unit Owners Association;

(24) Agreement by the Parking Operator to cooperate with any asset manager employed by Unit No. 3 Owner to manage Unit No. 3 and the affairs of the Unit No. 3 Owner; and,

(25) Other operational procedures and parameters for the Parking Unit as specified from time to time by Unit No. 3 Owner that are consistent with the Parking Objectives.

(C) *Change of Parking Operator.* In the event that (1) Unit No. 3 Owner determines that the Parking Operator has failed to perform its duties under the Parking Management Agreement in a satisfactory manner, (2) the Parking Operator shall have defaulted under the Parking Management Agreement, or (3) the Parking Management Agreement shall have terminated or expired pursuant to its terms without renewal, then as promptly as possible, Unit No. 3 Owner shall designate a successor Parking Operator that satisfies the minimum qualifications for parking operators set forth in Section 4(A) above, and is prepared to enter into a Parking Management Agreement that incorporates the various matters set forth in Section 4(B) above. Unit No. 3 Owner shall notify the Parking Operations Committee of a proposed change in the Person designated as Parking Operator at such time as a change it to occur, and shall provide the Parking Operations Committee with such information as would have to have been provided to the Parking Operations Committee under Section 4(A) above. Unit No. 3 Owner shall designate a successor Parking Operator prior to the termination or expiration of the Parking Management Agreement with the then-current Parking Operator, which party, if duly qualified as a Parking Operator, may be a temporary Parking Operator while Unit No. 3 Owner conducts a selection of a party as a permanent Parking Operator.

(D) *Permits and Approvals.* Unit No. 3 Owner and/or the Parking Operator, as applicable, shall obtain any and all permits, licenses, certificates of occupancy, and approvals from applicable governmental authorities required for the opening and operation of the Parking Unit, and shall thereafter maintain such permits and approvals in full force and effect.

(E) *Parking Operations Committee Recommendations.* The Parking Operations Committee shall have the right to review the Parking Operator and Parking Management Agreement and to make recommendations to Unit No. 3 Owner with regard to modifications to such agreement and the manner of operation of the Parking Unit thereunder. Unit No. 3 Owner shall take such recommendations under due consideration, but shall have no obligation to make such modifications, except as may be required pursuant to Section 13(H) below, as and when applicable.

(F) *Action by Parking Operations Committee.*

(1) If at any time the Parking Operations Committee determines that the Parking Operator is not performing its obligations or complying with any of the conditions or requirements, in either case as required to be specified in the Parking Management Agreement, or that Unit No. 3 Owner is not causing the Parking Operator to operate the Parking Unit in

accordance with the one or more of the Parking Objectives or the provisions of this Declaration, the Parking Operations Committee shall have the right (a) to deliver written notice to Unit No. 3 Owner of such non-performance ("Non-Performance Notice"), and (b) to require that Unit No. 3 Owner cure such non-performance within twenty-one (21) days of receipt of such notice or such longer period of time period specified in the Non-Performance Notice (or in the case of an Emergency Situation), such shorter period of time specified in the Non-Performance Notice). The Parking Operations Committee shall contemporaneously provide a copy of the Non-Performance Notice to the any mortgagee or bondholder having a lien on legal title to Unit No. 3. If, prior to the time that Declarant first conveys legal title to the Parking Unit to a party unaffiliated with Declarant, the Parking Operations Committee cannot reach agreement as to whether a Non-Performance Notice should be issued based on the criteria set forth in the first sentence of this Section 4(F)(1), then any member of the Parking Operations Committee may invoke the provisions of Section 13 (H) seeking a determination by the arbiter (provided for by those provisions) as to whether the issuance of the Non-Performance Notice is appropriate based on the criteria set forth in the first sentence of this Section 4(F)(1).

(2) If Unit No. 3 Owner fails to timely cure, or have cured, the non-performance as identified in the Non-Performance Notice, then (i) the Parking Operations Committee may invoke the provisions of Section 13(H) of this Declaration to have a determination or decision made with regard to the matter at hand and thereafter the implementation or enforcement of the same as applicable, and (ii) in the case of an Emergency Situation, the Parking Operations Committee may cure the non-performance as identified in the Non-Performance Notice. With respect to costs and expenses that the Parking Operations Committee incurs in curing the non-performance as identified in the Non-Performance Notice, (i) if the determination or decision made pursuant to the provisions of Section 13(H) is that Unit No. 3 Owner was not obligated to cure the non-performance as identified in the Non-Performance Notice, then the Parking Operations Committee shall not be entitled to any reimbursement of such costs and expenses; and (ii) if either (a) the determination or decision made pursuant to the provisions of Section 13(H) is that Unit No. 3 Owner was obligated to cure the non-performance as identified in the Non-Performance Notice, or (b) Unit No. 3 Owner and the Parking Operations Committee agree that Unit No. 3 Owner was obligated to cure the non-performance as identified in the Non-Performance Notice, then the Parking Operations Committee shall be entitled to the full reimbursement of such costs and expenses within thirty (30) days after such costs and expenses were incurred, subject however to the provisions of Section 16(A)(2) as to limitations on the liability of Unit No. 3 Owner for any costs and expenses therefore so long as the District is Unit No. 3 Owner. Any determination or decision made pursuant to the provisions of Section 13(H) shall be deemed final as and when made. Notwithstanding the foregoing, if prior to the time that Declarant first conveys to the District of Columbia or an affiliated governmental entity (either or collectively, the "District") legal title to the Parking Unit, then, in the case of an Emergency Situation, if the Parking Operations Committee cannot reach agreement as to whether to cure the non-performance as identified in the Non-Performance Notice, then Unit No. 2 Owner may itself elect to cure such non-performance. If Unit No. 2 elects to cure and incurs costs and expenses related thereto, then Unit No. 1 Owner shall be responsible for fifty percent of any costs incurred by Unit No. 2 Owner in curing such non-performance, and Unit No. 1 Owner shall reimburse Unit No. 2 Owner for such fifty percent of costs within fifteen (15) business days after receiving a written demand therefor from Unit No. 2 Owner. Where Unit No. 2 Owner incurs such costs and expenses, Unit No. 2 Owner shall give written notice of the same to Unit No. 1 Owner and the District. At the time

Unit No. 1 Owner initiates the conveyance of legal title to Unit No. 3 to the District, Unit No. 1 Owner and Unit No. 2 Owner may seek to obtain from the District repayment of costs and expenses incurred in curing such non-performance, and subject to the provisions of Section 16(A)(3) hereof, the District shall reimburse Unit No. 2 Owner and Unit No. 1 Owner for such costs and expenses as if the same were a reimbursement of the Parking Operations Committee as otherwise provided for above. Each of Unit No. 2 Owner and Unit No. 1 Owner agree to provide if requested an estoppel certificate to the District at the time it is asked to acquire legal title to Unit No. 3, which certificate shall advise the District as to whether there is any liability under these provisions as a result of actions taken by Unit No. 2 Owner to cure a non-performance condition.

5. Asset Management Personnel; Parking Unit Asset Management Plan.

(A) *Designation and Qualifications of Asset Manager/Role of Asset Manager.*

(1) So long as Unit No. 3 Owner is the District, Unit No. 3 Owner shall employ a professional asset management company, qualified to transact business in the District of Columbia, to oversee and manage the operations of the Parking Unit on behalf of Unit No. 3 Owner in order that the Unit No. 3 Owner might achieve and implement the Parking Objectives and thus the intended benefits thereof for the patrons of the Parking Unit (the "Asset Manager"). The Asset Manager's responsibilities shall include, but are not limited to providing oversight and direction of the Parking Operator, undertaking maintenance and repair of the Parking Unit and managing the budgeting and fiscal affairs of the District, but solely in its role as the Unit No. 3 Owner. As and to the extent that the delivery of the services to be provided by the Asset Manager requires the procurement of one or more licenses from the District of Columbia in order to provide such services, the party selected to be Asset Manager shall hold or be capable of obtaining such license(s). The Asset Manager designated from time to time by Unit No. 3 Owner shall (a) have a minimum of five (5) years prior experience of providing asset management services for a Comparable Parking Facility, (b) currently be providing asset management services at no less than five (5) facilities qualifying as a Comparable Parking Facility, and (c) have strong financial credentials and qualifications (as determined by Unit No. 3 Owner in its reasonable discretion). The managing agent of the Unit Owners Association, Unit No. 1 Owner, and the managing agent of Unit No. 1 shall each be deemed qualified as party that may be selected by Unit No. 3 Owner as the Asset Manager. Unit No. 3 Owner shall provide no less than thirty (30) days' prior notice to the Parking Operations Committee and to the Unit Owners Association of the proposed selection of any party as the Asset Manager and any intent to terminate any party that is then the existing Asset Manager. Unit No. 3 Owner shall give due consideration to the credentials and qualifications of any party recommended by each of Unit No. 1 Owner and Unit No. 2 Owner, along with others parties that may be seeking designation as the Asset Manager. Notwithstanding the foregoing, so long as the District is the Unit No. 3 Owner, District may give preference in its choice of Asset Manager to any qualified District of Columbia recognized local, small, disadvantaged business enterprise having the credentials of an Asset Manager set forth above.

(2) The Asset Manager shall provide to and for Unit No. 3 Owner with regard to Unit No. 3 at least the services specified in Exhibit C, attached to this Declaration.

(B) *Asset Manager Agreement.* The Asset Manager shall be employed pursuant to an asset management agreement ("Asset Manager Agreement") upon terms acceptable to Unit No. 3 Owner in its reasonable discretion, subject to the requirements contained herein. Unit No. 3 Owner shall furnish a copy of the Asset Manager Agreement to the Parking Operations Committee, together with a summary of the credentials of any proposed Asset Manager, responding to criteria set forth in Section 5(A) above, solely for informational purposes. So long as the Bonds are outstanding and not retired, the Asset Management Agreement must be in a form and in substance necessary to qualify as a qualified management contract under applicable law so as not to impair the tax exempt status of the Bonds. The Asset Manager may only be engaged under such form of qualified management contract until the Bonds are retired. The Asset Manager Agreement shall provide, at a minimum, for the following:

(1) Acknowledgement and acceptance by the Asset Manager of the Parking Objectives;

(2) Acknowledgement and recognition by the Asset Manager of the Condominium Instruments;

(3) Acknowledgement that any asset management plan and set of procedures established for the Parking Unit may be amended during the term of the Asset Management Agreement that are consistent with the Parking Objectives and the Condominium Instruments and any pertinent Rules and Regulations;

(4) The Asset Manager's responsibility for providing those services set forth in Exhibit C to this Declaration as the same may be amended from time to time.

(5) Procedures for conducting monthly asset management assessments of the Parking Unit, and quarterly meetings with Parking Operations Committee and the Unit Owners Association;

(6) Customer and public relations procedures to address complaints by users of the Parking Unit (including a requirement that a informative report of complaints received shall be provided to the Parking Operations Committee no less than monthly);

(7) Agreement by the Asset Manager to cooperate in the transition to a new party identified as the Asset Manager at the expiration or earlier termination of the Asset Manager Agreement;

(8) Recognition of the right and the entitlement of the Parking Operations Committee and each of Unit No. 1 Owner and Unit No. 2 Owner to step in to cure certain defaults of Unit No. 3 Owner under the Asset Manager Agreement pursuant to Section 13(I)(2) of this Declaration (and the entitlement of the Parking Operations Committee, each of Unit No. 1 Owner and Unit No. 2 Owner, and each mortgagee and bondholder having a lien on legal title to any of Unit No. 1, Unit No. 2 and Unit No. 3 to receive a copy of any notice of default issued by the Asset Manager to Unit No. 3 Owner under and pursuant to the Asset Manager Agreement contemporaneously with the delivery of the same to Unit No. 3 Owner); and

(9) Other operational procedures and parameters for the Parking Unit as specified from time to time by Unit No. 3 Owner that are consistent with the Parking Objectives.

(C) *Change of Asset Manager.* In the event that (1) Unit No. 3 Owner determines that the Asset Manager has failed to perform its duties under the Asset Manager Agreement in a satisfactory manner, (2) the Asset Manager shall have defaulted under the Asset Manager Agreement, or (3) the Asset Manager Agreement shall have been terminated or expired pursuant to its terms without renewal, then as promptly as possible, Unit No. 3 Owner shall designate a successor Asset Manager which satisfies the minimum qualifications for asset management companies set forth in Section 5(A) above. Subject to review with the Parking Operations Committee as provided below in Section 5(D), Unit No. 3 Owner shall designate a successor Asset Manager prior to the termination or expiration of the Asset Manager Agreement with the then-current Asset Manager.

(D) *The District as Asset Manager.* After the expiration of the second (2^{nd}) full calendar year after the Execution Date, Unit No. 3 Owner, if at that time the District, may request that it be approved by the Parking Operations Committee to self-manage Unit No. 3, and the on-going parking operations therein, in lieu of the hiring of a professional company as an Asset Manager. If the Parking Operations Committee receives such a request from the District, the Parking Operations Committee shall give due and reasoned consideration to the District's request to self-manage Unit No. 3 and the parking operations thereof, and in consideration of the District's request shall evaluate the ability of the District, as Unit No. 3 Owner, to meet and materially satisfy the qualifications of a party that can be selected as the Asset Manger, as set forth in Section 5(A) above, and to be able to satisfy and fulfill the Parking Objectives. The Parking Operations Committee may withhold by majority vote its approval of the District's request if a majority of its members reasonably determine that any or all of the Parking Objectives could not reasonably be expected to be achieved or satisfied if the District were to self-manage Unit No. 3, or that District cannot and does not satisfy or fulfill, substantively and materially, the aforementioned qualifications for selection of a person to be as the Asset Manager. Each member of the Parking Operations Committee shall use commercially reasonable standards in making its evaluation of the District's request, and shall provide to the District sufficient rationale in reasonable detail to support the decision of the Parking Operations Committee. Where a request for permission to self-manage Unit No. 3 is denied by the Parking Operations Committee, Unit No. 3 Owner may renew that request annually thereafter following the each succeeding anniversary of the Execution Date. Should the District's request not be approved then the District may invoke to the provisions of Section 13(H) of this Declaration and have a determination or decision made by the party designated pursuant to the provisions of that Section, which determination or decision shall be deemed final for the next succeeding calendar year. Notwithstanding any approval that would permit the District to self-manage Unit No. 3 and its parking operations, so long as the Bonds are outstanding and not retired, the District may not assume the role as Asset Manager of Unit No. 3 without obtaining the consent and approval of the holder of the Bonds.

(E) *Parking Operations Committee Recommendations.* The Parking Operations Committee shall have at least thirty (30) days after receipt of notice from Unit No. 3 Owner to review the party proposed by Unit No. 3 Owner to be selected as the Asset Manager and to review the Asset Manager Agreement under which the party is to be hired, and then to

make recommendations to Unit No. 3 Owner with regard to the selection of an Asset Manager and any proposed modifications to such agreement. Unit No. 3 Owner shall take such recommendations under due consideration, but shall have no obligation (1) to designate any party recommended by the Parking Operations Committee as the Asset Manager, or (2) to make suggested modifications to the Asset Manager Agreement as recommended by the Parking Operations Committee.

(F) *Parking Operations Committee Actions.*

(1) If at any time the Parking Operations Committee determines that the Asset Manager is not performing its obligations as specified in the Asset Manager Agreement or that Unit No. 3 Owner is not causing the Asset Manager to provide the services contracted for in the Asset Manager Agreement with regard to Unit No. 3 as contemplated by and in accordance with the provisions of this Section 5, then the Parking Operations Committee shall have the right (a) to deliver a Non-Performance Notice to Unit No. 3 Owner, and (b) to require that Unit No. 3 Owner cure such non-performance within twenty-one (21) days of receipt of such notice or such longer period of time specified in the Non-Performance Notice (or in the case of an Emergency Situation, such shorter period of time specified in the Non-Performance Notice). The Parking Operations Committee shall contemporaneously provide a copy of the Non-Performance Notice to the any mortgagee or bondholder having a lien on legal title to Unit No. 3. If, prior to the time that Declarant first conveys legal title to the Parking Unit to a party unaffiliated with Declarant the Parking Operations Committee cannot reach agreement as to whether a Non-Performance Notice should be issued based on the criteria set forth in the first sentence of this Section 5(F)(1), then any member of the Parking Operations Committee may invoke the provisions of Section 13 (H) seeking a determination by the arbiter (provided for by those provisions) as to whether the issuance of the Non-Performance Notice is appropriate based on the criteria set forth in the first sentence of this Section 5(F)(1).

(2) If at any time the Parking Operations Committee determines that the scope, type or description of the services to be provided by the Asset Manager as specified in Exhibit C need to be amended or modified, then by unanimous vote of the Parking Operations Committee may amend the scope, type or description of services to be provided. Should a proposal for amendment of the services not be approved then the provisions of Section 13(H) of this Declaration may be invoked by any member of the Parking Operations Committee to have a determination or decision made by the party designated pursuant to the provisions of that Section, which determination or decision shall be deemed final as and when made.

(3) If Unit No. 3 Owner fails to timely cure, or have cured, the non-performance as identified in the Non-Performance Notice, then (i) the Parking Operations Committee may invoke the provisions of Section 13(H) of this Declaration to have a determination or decision made with regard to the matter at hand and thereafter the implementation or enforcement of the same as applicable, and (ii) in the case of an Emergency Situation, the Parking Operations Committee may cure the non-performance as identified in the Non-Performance Notice. With respect to costs and expenses that the Parking Operations Committee incurs in curing the non-performance as identified in the Non-Performance Notice, (i) if the determination or decision made pursuant to the provisions of Section 13(H) is that Unit No. 3 Owner was not obligated to cure the non-performance as identified in the Non-Performance Notice, then the Parking Operations Committee shall not be entitled to any

reimbursement of such costs and expenses; and (ii) if either (a) the determination or decision made pursuant to the provisions of Section 13(H) is that Unit No. 3 Owner was obligated to cure the non-performance as identified in the Non-Performance Notice, or (b) Unit No. 3 Owner and the Parking Operations Committee agree that Unit No. 3 Owner was obligated to cure the non-performance as identified in the Non-Performance Notice, then the Parking Operations Committee shall be entitled to the full reimbursement of such costs and expenses within thirty (30) days after such costs and expenses were incurred, subject however to the provisions of Section 16(A)(2) as to limitations on the liability of Unit No. 3 Owner for any costs and expenses therefore so long as the District is Unit No. 3 Owner. Any determination or decision made pursuant to the provisions of Section 13(H) shall be deemed final as and when made. Notwithstanding the foregoing, if prior to the time that Declarant first conveys to the District legal title to the Parking Unit, then, in the case of an Emergency Situation, if the Parking Operations Committee cannot reach agreement as to whether to cure the non-performance as identified in the Non-Performance Notice, then Unit No. 2 Owner may itself elect to cure such non-performance. If Unit No. 2 elects to cure and incurs costs and expenses related thereto, then Unit No. 1 Owner shall be responsible for fifty percent of any costs incurred by Unit No. 2 Owner in curing such non-performance, and Unit No. 1 Owner shall reimburse Unit No. 2 Owner for such fifty percent of costs within fifteen (15) business days after receiving a written demand therefor from Unit No. 2 Owner. Where Unit No. 2 Owner incurs such costs and expenses, Unit No. 2 Owner shall give written notice of the same to Unit No. 1 Owner and the District. At the time Unit No. 1 Owner initiates the conveyance of legal title to Unit No. 3 to the District, Unit No. 1 Owner and Unit No. 2 Owner may seek to obtain from the District repayment of costs and expenses incurred in curing such non-performance, and subject to the provisions of Section 16(A)(3) hereof, the District shall reimburse Unit No. 2 Owner and Unit No. 1 Owner for such costs and expenses as if the same were a reimbursement of the Parking Operations Committee as otherwise provided for above. Each of Unit No. 2 Owner and Unit No. 1 Owner agree to provide if requested an estoppel certificate to the District at the time it is asked to acquire legal title to Unit No. 3, which certificate shall advise the District as to whether there is any liability under these provisions as a result of actions taken by Unit No. 2 Owner to cure a non-performance condition.

6. Opening and Operation of Parking Unit; Hours of Operation.

(A) *Opening of Parking Unit.* The Parking Unit shall be opened for business in its entirety to the general public for vehicular parking on the Effective Date, provided however in no event shall the Parking Unit be required to be opened earlier than thirty (30) days after the date that Declarant shall have provided the District with access to Parking Unit to fit out the Parking Unit for operation as a public parking garage (the "Opening Date"). In the event that the Parking Unit is not opened for business on the last date that opening is required pursuant to this Section 6(A), then one or more of the members of the Parking Operations Committee may invoke the provisions of Section 13(H) below to request a determination as to whether the provisions of this Section 6(A) have been complied with.

(B) *Continuous Operation.* Except as otherwise expressly provided in this Declaration, from and after the Opening Date, Unit No. 3 Owner shall cause the Parking Unit throughout the term of this Agreement to remain open to the general public for vehicular parking during the Hours of Operation. Notwithstanding the foregoing, but subject to the provisions of

Sections 4(B)(6) and 8 of this Declaration, Unit No. 3 Owner shall have the right to close all or any portion of the Parking Garage for the following reasons:

(1) In the case of an Emergency Situation, in which case any closure shall be limited to the maximum extent possible to the area within the Parking Unit in which the Emergency Situation has occurred, and shall last only so long as reasonably required to effectively and safely address and resolve the Emergency Situation, in Unit No. 3 Owner's reasonable discretion;

(2) Due to scheduled maintenance, repairs and replacements, as identified in Section III of Exhibit B hereto, as the same may be amended from time to time, provided that Unit No. 3 Owner may not schedule such repairs and maintenance during "peak" shopping hours in the Property, as more fully addressed in Section 8 of this Declaration;

(3) Due to unscheduled maintenance and repairs necessitated by casualty or other unforeseen events, provided that Unit No. 3 Owner shall use good faith efforts to minimize any disruption to the parking availability to customers of the Property as more fully addressed in Section 8 of this Declaration.

(C) *Manner of Operation of the Parking Unit.* Parking Unit shall be operated primarily as a self park, parking operation for patrons of the Property, with the ability to provide accommodations for attendant assisted parking for two hundred forty four (244) additional vehicles to comply with the provisions of the BZA Order and the option to initiate and implement a parking valet program. Before initiation or implementation of a valet parking program or establishment of procedures for use of attendant assisted parking accommodations provided for under the BZA Order, Unit No. 3 Owner and the Parking Operator will review the same with the Parking Operations Committee, and obtain the unanimous approval of the Parking Operations Committee, which approval may not be unreasonably withheld, delayed or conditioned, provided that if implementation or operation could reasonably be expected to (1) violate the provisions of any lease with a tenant of Unit or be contrary to the normal established business practices of any occupant of a Unit, or (2) have a material, adverse impact on the Condominium, the Building or the Property as a whole, then withholding of consent would not be deemed unreasonable. Notwithstanding the foregoing, the Parking Operations Committee may not withhold its consent to establishment of procedures for use of attendant assisted parking accommodations that are required by the BZA Order or any order, regulation or law of an applicable District governmental agency or similar body.

(D) *Hours of Operation.* The minimum hours of operation of the Parking Unit shall be sixty (60) minutes prior to the normal and customary opening of business of and sixty (60) minutes following the normal and customary close of business of any establishment operating within Unit No. 1 or Unit No. 2, unless the hours of operation for the Parking Unit specified under any lease with a tenant of a Unit from time to time or the normal and ordinary business hours of an occupant of a Unit, in either case, require a earlier opening time or a later closing time of the Parking Unit, in which case the minimum hours of operation of the Parking Unit from time to time shall be the longer hours of operation dictated by such tenant lease or normal and customary ordinary business hours of such occupant for so long as any of those hours are controlling (the minimum required hours of operation being hereinafter referred to as the "Hours of Operation"). The Hours of Operation are subject to extension on a seasonal or

temporary basis from time to time as provided in Section 6(E) below of this Declaration. The Parking Unit shall remain open to the public at least during the Hours of Operation of each calendar day of a calendar year.

(E) *Extended Hours of Operation.* Each of Unit No. 1 Owner and Unit No. 2 Owner may request that Unit No. 3 Owner extend the Hours of Operation of the Parking Unit on a seasonal or temporary basis (e.g., during holiday periods or for special after-hours events within Unit No. 1 and/or Unit No. 2), and Unit No. 3 Owner shall reasonably accommodate such requests. Such requests must be provided in writing at least 30 calendar days prior to the date of commencement of the extended hours, and shall provide the Unit Owner's proposal for the extended Hours of Operation. If such request is provided within such 30-day period, Unit No. 3 Owner shall make diligent efforts to accommodate such request.

(F) *Periodic Evaluation of Hours of Operation/Permanent Changes in Hours of Operation.* Two (2) years after the Opening Date, and every two (2) years thereafter, the Parking Operations Committee shall convene to evaluate the Hours of Operation at the Parking Unit and to determine if a changes in hours is merited in light of the Parking Objectives. The unanimous vote of the Parking Operations Committee is required to affect any such change in the Hours of Operation. In the event that under any circumstance the members of the Parking Operations Committee cannot agree to any change in the Hours of Operation then the hours shall remain in place and one or more of the members of the Parking Operations Committee may invoke the provisions of Section 13(H) of this Declaration to have a determination made with regard to the matter at hand. Notwithstanding the foregoing, in no event shall the Parking Unit open less than Hours of Operation determined by application of the provisions of Section 6 (D) of this Declaration.

(G) *Interim Changes in Hours of Operation.* In the event that any Unit Owner desires a change in the Hours of Operation at a time other than during the periodic evaluation period identified herein, such party may submit the request to the Parking Operations Committee for its consideration in light of the Parking Objectives. The Parking Operations Committee's unanimous approval shall be required to effectuate any change. In the event that under any circumstance the members of the Parking Operations Committee cannot agree to any change in the Hours of Operation, than the hours shall remain in place and one or more of the members of the Parking Operations Committee may invoke the provisions of Section 13(H) below.

(H) *Parking Operations Committee Action.* In the event that (1) Unit No. 3 Owner shall fail to cause the Parking Unit to be in continuous operation during the Hours of Operation, or during any extension of the Hours of Operation agreed upon pursuant to Section 6(D) of this Declaration, except when otherwise permitted to be closed pursuant to by Section 6(B), (2) a Unit Owner disputes that Unit No. 3 Owner has legitimately closed the Parking Unit or portion thereof, (3) Unit No. 3 Owner initiates and implements a valet parking program without the unanimous approval of the Parking Operations Committee, or (4) Unit No. 3 Owner implements or operates a attendant assisted parking program inconsistent with, or without adoption of, procedures adopted by the Parking Operations Committee, then one or more of the members of the Parking Operations Committee may invoke the provisions of Section 13(H) below, to request a decision or determination as to Unit No. 3 Owner's compliance with the provisions of this Section 6.

7. Parking Rates/Budget.

(A) *Generally as to Parking Rates.* Parking rates within the Parking Unit shall be established to encourage hourly use and otherwise satisfy and fulfill the other Parking Objectives. The parking rates to be initially charged to users of the Parking Unit are as set forth on Section II of Exhibit B attached hereto. Except as set forth in Section II of Exhibit B, Employees of the Property and workers of any contractors at the Property shall be required to pay the posted parking rates, unless otherwise specifically authorized by the Parking Operations Committee by unanimous vote.

(B) *Periodic Evaluation of Parking Rates.* Subject to the provisions of Section 7(D) below, two (2) years after the Opening Date, and every (2) years thereafter, the Parking Operations Committee shall convene to evaluate parking rates for the Parking Unit and to determine if an increase or decrease in parking rates is merited in consideration of the Parking Objectives. The unanimous vote of the Parking Operations Committee is required to affect any such increase or decrease in any or all of the parking rates. In the event the members of the Parking Operations Committee cannot agree to any change in the parking rate(s), than the existing parking rate(s) shall remain in place and one or more of the Unit Owners may invoke the provisions of Section 13(H) below.

(C) *Interim Increases or Decreases in Parking Rates.* Subject to the provisions of Section 7(D) below, in the event any Unit Owner desires to increase or decrease any of the parking rates at a time other than during the periodic evaluation period identified in Section 7(B) above, then that Unit Owner may submit the request to the Parking Operations Committee for consideration in light of the Parking Objectives. The unanimous vote of the Parking Operations Committee is required to affect any such increase or decrease in the parking rate, except that where a District Deficits condition exists (as described in Section 15), then the agreement of Unit No. 1 Owner and Unit No. 2 Owner to implement a rate increase to generate revenues to eliminate any then existing District Deficits shall be sufficient to cause a temporary increase in various parking rates in amounts as reasonably determined by Unit No. 1 Owner and Unit No. 2 Owner. In the event the Parking Operations Committee cannot agree, or in the event of a District Deficits condition exists, Unit No. 1 Owner and Unit No. 2 Owner cannot agree, in either case on any parking rate change pursuant to this Section 7(C), then the existing parking rate shall remain in place and one or more of the Unit Owners may invoke the provisions of Section 13(H) below.

(D) *Consideration for Unit No. 3 Owner.* In all cases of requests for approval of any parking rate change by the Parking Operations Committee, the Parking Operations Committee shall give due consideration to any recommendation for a parking rate adjustment made by Unit No. 3 Owner based upon the information provided by Unit No. 3 Owner and findings with regard to the rate structure at Comparable Parking Facilities. The Parking Operations Committee may not unreasonably withhold or condition approval of such parking rate change recommendation made by Unit No. 3 if the percentage of the requested parking rate change (i) would be comparable to the percentage adjustments being made in Comparable Parking Facilities; and (ii) are consistent with the Parking Objectives.

(E) *No Discounted Parking Rates for Unit Owners, Parking Operator or Asset Manager.* Each Unit Owner, and each of their respective employees, contractors, agents,

invitees, guests and patrons using the Parking Unit (including without limitation the Parking Operator, the Asset Manager, Unit Owners and their respective employees) shall be required to pay the full parking rate payable by the general public for vehicular parking, except as otherwise approved by the Parking Operations Committee from time to time. Notwithstanding the foregoing, this provision shall not apply to the Washington Sports Club as provided in the initial rates chart appearing in Section II of Exhibit B.

(F) *Increases for Repayment of Public Financing.* Notwithstanding anything to the contrary contained in this Section 7, after the TIF Note is satisfied in full, Unit No. 3 Owner shall have the right to reasonably increase parking rates as necessary to make debt service on the Bonds provided that any parking rates proposed would not exceed rates then charged at Comparable Parking Facilities. In the event that Unit No. 3 Owner requires such parking rate increase(s), Unit No. 3 Owner will (i) give each other Unit Owner, the Parking Operations Committee and the Unit Owners Association prior written notice of such increase, and (ii) use diligent efforts to minimize any increase in parking rates. In the event the members of the Parking Operations Committee do not agree that increases in one or more of the parking rates was duly implemented by Unit No. 3 Owner, than the existing parking rate(s) shall remain in place and one or more of the Unit Owners may invoke the provisions of Section 13(H) below.

(G) *Parking For Construction Vehicles.* After the Opening Date, each of the Unit Owners shall use commercially reasonable efforts to require that construction vehicles or construction-related equipment, machinery or other apparatus of contractors performing work on its Unit will park elsewhere than within the Parking Unit. The foregoing shall not prevent a person hired or employed in the construction and fit out of the Building or of any Unit, or of any tenanted or occupied space in the Building or any Unit therein, who agrees to pay the posted parking rates of Unit No. 3, from being able to park in Unit No. 3 while in his or her work activities at the Property; and Unit Owner No. 3 may not be discriminate against that person who is seeking parking accommodations within Unit No. 3

(H) *Parking Unit to Serve Retail Uses with the Condominium.* The Parking Unit is intended to be operated as a public parking facility containing not less than 1,000 parking spaces with the ability to provide accommodations for attendant assisted parking for two hundred forty four (244) additional vehicles in order to comply with the provisions of the BZA Order, serving primarily the commercial, service and retail uses operating within Unit No. 1 and Unit No. 2.

(I) *Parking Validation Agreements; Parking Discount Agreements.* Except as expressly provided herein, in no event shall Unit No. 3 Owner or the Parking Operator enter into parking validation agreements, parking discount agreements, guaranteed parking availability agreements, or any other contractual arrangements for the provision of vehicular parking within the Parking Unit, without first obtaining the consent of the Parking Operations Committee, such consent not to be unreasonably withheld, conditioned or delayed by the Parking Operations Committee, unless the Parking Operations Committee believes, by majority vote, that the proposed contractual arrangement could be expected to materially and substantively violate or deviate from the Parking Objectives in one or more instances.

(J) *Budget.* Unit No. 3 Owner shall have prepared annually and shall submit to the Parking Operations Committee no less than sixty (60) days in advance of the beginning of

each fiscal year of the operation of the Unit No. 3 a budget related to the costs and expenses of ownership and operation of Unit No. 3, taking into account the need of Unit No. 3 Owner to fulfill and satisfy the Parking Objectives as well as its obligations under the Condominium Instruments. The Parking Operations Committee shall have no less than thirty (30) days to review that proposed budget, and to provide comments in reasonable detail on the propose budget to the Unit No. 3 Owner. Unit No. 3 Owner shall give reasonable consideration to the comments received from the Parking Operations Committee regarding the proposed budget and make reasonable accommodations in the proposed budget for those comments.

8. Maintenance, Repair and Replacement of the Parking Unit/Alterations of and Capital Improvements to the Parking Unit.

(A) *Standards of Maintenance, Repair and Replacement of the Parking Unit.* At its sole cost and expense, Unit No. 3 Owner shall cause the Parking Unit and all structural and non-structural components, systems and facilities within and comprising Unit No. 3 to be maintained, repaired and replaced, and capital improvements undertaken in accordance with the standards ("Maintenance Standards") set forth on the Parking Guidelines in Section III of Exhibit B hereto, as well as in accordance with the applicable provisions of the Condominium Instruments. Unit No. 3 Owner shall cause the Parking Unit to be maintained in a safe and sanitary, and fully functioning order and condition, to satisfy and fulfill the Parking Objectives and all requirements of the Condominium Instruments. All maintenance, repair and replacements, and capital improvements shall be conducted in a manner and upon a schedule at least comparable to those then in effect for Comparable Parking Facilities. Nothing in this Section 8 shall be deemed to obligate Unit No. 3 Owner to maintain, repair or replace, alter, or undertake capital improvements related to the Elevator Easement Areas and the Shopping Cart Coral Easement Areas as the same may exist from time to time, that responsibility being of the Unit Owner or Unit Owners benefited by each Easement Area from time to time. Furthermore Unit No. 3 Owner will not be liable for any maintenance, repair and replacement, alterations or capital improvements to any Common Element areas of the Condominium, unless any of the same is assigned individually to Unit No. 3, or otherwise Schedule A to the Bylaws of the Condominium assigns responsibility to Unit No. 3 Owner.

(B) *Components, Systems and Facilities to be Maintained, Repaired and Replaced.* The component, systems and facilities of the Parking Unit to be maintained, repaired and replaced by Unit No. 3 Owner in accordance with the Maintenance Standards include, without limitation, the following:

(1) The level of illumination initially provided in the Parking Unit, including daily replacement of burned out light bulbs in all drive aisles, ramps, stairwells, pedestrian walkways and parking areas of the Parking Unit, as well as any changes to the level illumination agreed upon by the Parking Operations Committee pursuant to Section 8(D) below of this Declaration;

(2) Painting of walls, parking decks and ceilings within the Parking Unit, including graphics, and paint-striping of parking spaces and directional arrows on the parking decks, protecting, and preserving or re-producing, as applicable, however then existing graphics installed in the Parking Unit, except where the Parking Operations Committee approves otherwise.

(3) Garage exhaust system and all mechanical and electrical systems;

(4) Water drainage system on all levels of the Parking Unit;

(5) Fire and life safety systems and the sprinkler system throughout the Parking Unit;

(6) Parking Unit BMS equipment;

(7) All parking facility control equipment (such as entry booths, facility access equipment, etc.);

(8) Floor slabs and parking ramps within the Parking Unit (except within the Elevator Easement Areas and Shopping Cart Corral Areas, which are to be maintained by the Unit Owner benefited by such easements);

(9) Illuminated parking signage located on the exterior of the Building and within the Parking Unit, subject to review with the Parking Operations Committee, where replacements and changes are proposed;

(10) All parking directional signage within and serving the Parking Unit, subject to review with the Parking Operations Committee, where replacements and changes are proposed; Unit No. 3 Owner shall have no liability for repair, maintenance or replacement of any signage installed by or on behalf of any other Unit Owner located within Unit No. 3 as provided in Section 11 below of this Declaration; and,

(11) Other items of maintenance, repair and replacement as required by and to be undertaken in accordance with the Condominium Instruments or this Declaration.

(C) *Permissible Times for Repairs, Maintenance and Replacements, Alterations and Capital Improvements.* Except in the event of an Emergency Situation, and recognizing the importance of the Parking Objectives, Unit No. 3 Owner shall use good faith efforts to minimize any disruption to the parking operations in the Parking Unit, and the amount of area of the Parking Unit that must be closed, in order to undertake any maintenance, repairs and replacements, alterations and capital improvements in and about Unit No. 3 or any portion thereof. Except in the event of an Emergency Situation, Unit No. 3 Owner shall provide the Parking Operations Committee with no less than 30 days' prior written notice of any scheduled capital improvement or alterations in or to the Parking Unit, as well as any scheduled maintenance, repair or replacement of the Parking Unit. Except in the event of an Emergency Situation or with the approval of the Parking Operations Committee, no maintenance, repairs and replacements, alterations or capital improvements may be undertaken (1) during those calendar months that are peak shopping months of the calendar year, initially being the calendar months of August, November and December, understanding that the Parking Operations Committee at its sole, but reasonable discretion, taking into account the Parking Objectives, may determine that there is reasonable basis to vary the identification or number of such peak shopping months, either (a) due to the practice at comparable high quality retail complexes in the Washington, D.C. metropolitan area, or (b) due to contractual obligations with tenants of a Unit or the normal and customary business practice of the occupant of a Unit, or (2) during the Hours of Operation upon

first obtaining the prior approval of the Parking Operations Committee, which approval may not be unreasonably withheld, delayed or conditioned, provided that it shall be reasonable for the Parking Operations Committee to deny approval where a Unit Owner provides evidence of a lease with a tenant or a statement of customary and normal operating procedures of an occupant that would preclude the undertaking of such activities during the Hours of Operation.

(D) *Periodic Evaluation of Maintenance Standards.*

(1) Two (2) years after the Opening Date, and every two (2) years thereafter, the Parking Operations Committee shall convene to evaluate the Maintenance Standards set forth in Exhibit B and to determine if modifications are required in light of the Parking Objectives. The unanimous vote of the Parking Operations Committee is required to affect any such change in the Maintenance Standards. In the event the members of the Parking Operations Committee cannot agree to any change in the Maintenance Standards, than the existing Maintenance Standards shall remain in place and one or more of the Unit Owners may invoke the provisions of Section 13(H) below.

(2) In the event any Unit Owner desires to modify the Maintenance Standards at a time other than during the periodic evaluation period identified herein, such party may submit the request to the Parking Operations Committee for consideration in light of Parking Objectives. The unanimous vote of the Parking Operations Committee is required to affect a change. In the event the parties cannot agree to any change to the Maintenance Standards, then the Maintenance Standards shall remain in place as unchanged and any of the parties may invoke the provisions of Section 13(H) below.

9. Easement Rights of Unit No. 1 and Unit No. 2 Within the Parking Unit. Each of Unit No. 1 Owner and Unit No. 2 Owner has been granted certain easements in the Condominium Instruments to, among other things, (i) establish shopping cart corrals and install equipment related thereto within the Parking Unit and (ii) to construct, maintain, repair and replace penetrations in portions of the concrete floor slab between Unit No. 1 and Unit No. 2 and the Parking Unit, and between the various levels of the Parking Unit, as necessary, to install, house, maintain, repair and replace internal, electric passenger elevators or lift and related equipment, intended to connect Unit No. 1 and/or Unit No. 2, as applicable, with the Parking Unit, all as hereinafter provided:

(A) *Shopping Cart Corrals -- Number and Location.* The number and location of all shopping cart corral locations, and the beneficiaries of such shopping cart corrals (i.e., Unit No. 1 Owner and/or Unit No. 2 Owner) shall be as indicated on the Parking Layout Plan (each location within Unit No. 3, a "Shopping Cart Corral Easement Area"). Each Owner benefited by a Shopping Cart Corral Easement Areas shall be solely responsible for the installation, operation, maintenance, repair and removal of any equipment related to a shopping cart corral established within such Area for its benefit, and any and all costs incurred in connection therewith. Unit No. 3 Owner shall have no liability for any costs and expenses related thereto. Each of Unit No. 1 Owner and Unit No. 2 Owner shall require that the tenants, occupants, and/or licensees of its Units retrieve any shopping carts deposited in the various Shopping Cart Corral Easement Areas, and elsewhere within the Parking Unit periodically during the Hours of Operation, and at the end of each calendar day so as not to interfere with the parking of vehicles and the flow of traffic. Each of Unit No. 1 Owner and Unit No. 2 Owner shall indemnify, defend and hold

harmless Unit No. 3 Owner, its employees, agents, Parking Operator, mortgagees and representatives for any and all injuries, damages or claims against Unit No. 3 Owner as a result of or arising out of activities or omissions on or relating to its obligations under this Section 9(A), except as may be caused by the gross negligence or willful misconduct of Unit No. 3 Owner, its employees, agents, Parking Operator, mortgagees and representatives or any of them.

(B) *Elevator Related Easement Areas – Number and Location.* The number and location of all elevators, stair and elevator lobby easement areas, and the beneficiaries of such easements for those purposes, shall be as indicated on the Parking Layout Plan (each, an "Elevator Easement Area"). Each Owner benefiting from such easement shall be solely responsible for (1) the installation, maintenance, repair and replacement of any floor slab penetrations within the Parking Unit created in connection with the exercise of such easement rights, and (2) the installation, maintenance, repair and replacement of any internal, electric passenger elevators or lifts and related equipment and elevator lobby areas within such Elevator Easement Areas, and any costs incurred in connection therewith. Each of Unit No. 1 Owner and Unit No. 2 Owner shall indemnify, defend and hold harmless Unit No. 3 Owner, its employees, agents, Parking Operator, mortgagees and representatives for any and all injuries, damages or claims against Unit No. 3 Owner as a result of or arising out of activities or omissions on or relating to its obligations under this Section 9(B), except as may be caused by the gross negligence or willful misconduct of Unit No. 3 Owner, its employees, agents, Parking Operator, mortgagees and representatives or any of them.

(C) *Relocation of Shopping Cart Corral Easement Areas and Elevator Easement Areas/ Change in the Number of Shopping Cart Corral Easement Areas and Elevator Easement Areas/Substitution of Elevator Easement Areas.* Unit No. 3 Owner shall cooperate reasonably with each of Unit No. 1 Owner and Unit No. 2 Owner, as applicable, in the event that either Unit Owner desires to relocate one or more Shopping Cart Corral Easement Areas or Elevator Easement Areas, to change the number of either or both of Shopping Cart Corral Easement Areas and the Elevator Easement Areas, or convert any Elevator Easement Area to a Common Element, in any case (1) as may be reasonably required to support the retail operations within Unit No. 1 and Unit No. 2, or the Condominium generally, (2) to satisfy the requirements of one or more retail tenants operating within Unit No. 1 or Unit No. 2, as applicable, or (3) as may be reasonably required to fulfill the Parking Objectives. The Unit Owner requesting the relocation, substitution or a change in the number of the Shopping Cart Corral Easement Area and/or the Elevator Easement Area, as applicable, shall be responsible for all of the costs incurred in connection with such easement relocation. In no event shall the relocation of a Shopping Cart Corral Easement Areas or an Elevator Easement Area, the substitution of a Common Element area for elevator purposes for an Elevator Easement Area, or an increase in the number of the Shopping Cart Corral Easement Areas or the Elevator Easement Areas within Unit No. 3 be permitted if such relocation or increase in number would result in a failure of the Parking Unit to: provide at least 1,000 legal parking spaces; have available attendant assisted parking accommodations for an additional 244 vehicles in Unit No. 3 in accordance with the BZA Order; or cause Unit No. 3 to be in violation of any governmental law, order, ordinance or regulation. Each of Unit No. 1 Owner and Unit No. 2 Owner shall indemnify, defend and hold harmless Unit No. 3 Owner, its employees, agents, Parking Operator, mortgagees and representatives for any and all injuries, damages or claims against Unit No. 3 Owner as a result of or arising out of activities or omissions on or relating to its relocation or increase in the

number of the Shopping Cart Corral Easement Areas or its relocation or increase in or substitution for Elevator Easement Areas under this Section 9(C), except as may be caused by the gross negligence or willful misconduct of Unit No. 3 Owner, its employees, agents, Parking Operator, mortgagees and representatives or any of them.

10. Unit Owners to Cooperate with One Another.

(A) *Retail Area.* The parties hereby acknowledge that the retail uses operating within Unit No. 1 will initially include car audio and stereo installation services, which installation services to be performed in the Retail Area of Unit No. 1 which is located on the same level in the improvements on the Property as the Parking Unit. The customers and employees of Unit No. 1 utilizing the Retail Area must access the Retail Area through the Parking Unit. Unit No. 1 Owner and any tenant or licensee of Unit No. 1 performing such services shall cooperate reasonably with Unit No. 3 Owner and the Parking Operator to restrict any such installation services to the Retail Unit, to minimize any impact of such activity on the traffic flow into and out of the Parking Unit and to help ensure that Unit No. 3 Owner will be able to satisfy the Parking Objectives. In addition to the foregoing, Unit No. 1 Owner hereby agrees as follows:

(1) All activities in the Retail Area shall be performed at the sole risk and cost of Unit No. 1 Owner; Unit No. 3 Owner shall have no liability for any injury, damage or other claim occurring or that may have occurred within the Retail Area or as a result of the operations occurring within the Retail Area, except as may be caused by the gross negligence or willful misconduct of Unit No. 3 Owner, its employees, agents, Parking Operator, mortgagees and representatives or any of them;

(2) No hazardous materials of any kind or nature shall be used in the Retail Area;

(3) Unit No. 1 Owner, or its tenants or licensees, shall maintain at all times adequate limits of all-risk property insurance, commercial general liability insurance, products-completed operations insurance, workers compensation insurance and all other insurance generally required for operations similar to those being performed in the Retail Area. Unit No. 3 Owner and Parking Operator shall be named as additional insureds on such insurance policies, and adequate evidence of such insurance shall be provided to Unit No. 3 Owner at all times;

(4) Unit No. 1 shall provide notice to Unit No. 3 Owner of the hours of operation of the Retail Area, as the same change from time to time;

(5) Unit No. 3 Owner shall have no responsibility or obligation with regard to security, asset management, maintenance, repair, replacement or capital improvements for the Retail Area, which shall be provided by Unit No. 1 Owner in its sole risk and cost;

(6) Any utilities used by Unit No. 1 in the Retail Area shall be obtained by Unit No. 1 Owner through Unit No. 1, and Unit No. 1 Owner shall be solely responsible for all such utilities; and,

(7) Unit No. 1 Owner shall indemnify, defend and hold harmless Unit No. 3 Owner, its employees, agents, Parking Operator, mortgagees and representatives for any and all injuries, damages or claims against Unit No. 3 Owner as a result of or arising out of activities or omissions on or relating to the Retail Area or Unit No. 1 Owner's obligations under this Section 11.(A), except as may be caused by the gross negligence or willful misconduct of Unit No. 3 Owner, its employees, agents, Parking Operator, mortgagees and representatives or any of them.

(B) *Package Pick-Up Area.* Certain areas identified on the Parking Layout Plan are Package Pick-Up Areas portion of Unit No. 1 or Unit No. 2, as applicable, for parcel pick-up by and drop-off for patrons of Unit No. 1 and Unit No. 2, as applicable. Each of Unit No. 1 Owner, Unit No. 2 Owner and Unit No. 3 Owner recognize the importance of the Package Pick-Up Areas to the efficient and effective operation of the Condominium as an urban retail shopping center. Each of Unit No. 1 Owner and Unit No. 2 Owner, and its respective tenants or licensees, and Unit No. 3 Owner and the Parking Operator shall cooperate to ensure that package pick-up and drop off will occur only at the Package Pick-Up Areas shown on the Parking Layout Plan. Each of Unit No. 1 Owner and Unit No. 2 Owner, and its respective tenants or licensees shall cooperate reasonably with Unit No. 3 Owner and the Parking Operator to modify or adapt package pick-up and drop-off services and practices to increase the efficiency and effectiveness of the parcel delivery process for the customers of the Building, to minimize any impact of such activity on the traffic flow into and out of the Parking Unit and to help ensure that the Parking Objectives can be achieved and maintained. In addition to the foregoing, each of Unit No. 1 Owner and Unit No. 2 Owner with regard to its Package Pick-Up Area hereby agrees to the following:

(1) All activities in a Package Pick-Up Area shall be performed at the sole risk and cost of the Unit Owner to which it is assigned; Unit No. 3 Owner shall have no liability for any injury, damage or other claim occurring or that may have occurred within any Package Pick-Up Area or as a result of the operations occurring within a Package Pick-Up Area, except as may be caused by the gross negligence or willful misconduct of Unit No. 3 Owner, its employees, agents, Parking Operator, mortgagees and representatives or any of them;

(2) Each of Unit No. 1 Owner and Unit No. 2 Owner, or its tenants or licensees, shall maintain at all times adequate limits of all-risk property insurance, commercial general liability insurance, products-completed operations insurance, workers compensation insurance and all other insurance generally required for operations similar to the those being performed in its Package Pick-up Area, Unit No. 3 Owner and Parking Operator shall be named as additional insureds on such insurance policies, and adequate evidence of such insurance shall be provided to Unit No. 3 Owner at all times;

(3) Unit No. 3 Owner shall have no responsibility or obligation with regard to security, maintenance, repair, replacement or capital improvements for any Package Pick-up Area, which shall be provided by either Unit No. 1 Owner or Unit No. 2 Owner, as applicable, at such Owner's sole risk and cost;

(4) Any utilities used in a Package Pick-up Area shall be obtained by the Unit Owner to whom a Package Pick-up Area is assigned, and that Unit Owner shall be solely responsible for all such utilities;

(5) Each of Unit No. 1 Owner and Unit No. 2 Owner shall indemnify, defend and hold harmless Unit No. 3 Owner, its employees, agents, Parking Operator, mortgagees and representatives for any and all injuries, damages or claims against Unit No. 3 Owner as a result of or arising out of activities or omissions on or relating any Package Pick-up Area assigned to its or such Unit Owner's obligations under this Section 11.(B), except as may be caused by the gross negligence or willful misconduct of Unit No. 3 Owner, its employees, agents, Parking Operator, mortgagees and representatives or any of them; and,

(6) The Package Pick-Up Areas may only be used solely for package pick–up and drop-off by patrons of Unit No. 1 or Unit No. 2, as applicable.

11. Retail and Branding Signage Within the Parking Unit.

(A) *Retail Directional, Wayfinding and Branding Signage within Parking Unit.* In addition to Limited Common Element areas assigned to Unit No. 1 and Unit No. 2 under the Condominium Instruments for Identification Monuments, Unit No. 1 Owner and Unit No. 2 Owner and their respective tenants and licensees shall have the right and easement, at their sole cost and expense, to place, maintain, repair and replace retail directional, wayfinding and branding signage, vertically and horizontally (whether applied, affixed or suspended), within the Parking Unit, including signage that directs patrons of the Parking Unit to the means of access to the various retail uses operating within Unit No. 1 and Unit No. 2, all in the locations depicted and manner described in the sheets within Exhibit D to this Declaration. Unit No. 1 Owner and Unit No. 2 Owner agree to consult with Unit No. 3 Owner as to any proposed new or additional signage, and after the expiration of twelve (12) months after the Opening Date shall be required to obtain the approval of Unit No. 3 Owner as to the size, number, location and manner of installation of any proposed new or additional signage, or replacement of any then existing signage that would be inconsistent with the locations depicted and the manner of presentation described or depicted in the sheets within Exhibit D to this Declaration, which approval by Unit No. 3 Owner may not be unreasonably withheld, delayed or conditioned. Signage of any Unit Owner installed in accordance with this Section 11(A) shall be given preference as to location within Unit No. 3 where any signage is to be installed pursuant to Section 11(b) below.

(B) *Other Signage within Parking Unit.*

(1) Provided the same does not violate or otherwise undermine achievement of the Parking Objectives, Unit No. 3 Owner may use, lease or license any wall areas within the Parking Unit as and where depicted on certain sheets within Exhibit D to this Declaration (the "Permitted Signage Areas") to Qualified Advertisers (as hereinafter defined), provided that (a) the location and content of such advertising signage does not interfere with retail direction signage installed pursuant to Section 11(A) above, (b) the signage conforms to the types and content of advertising signage found in Comparable Parking Facilities, and (c) such signage would not violate any signage restrictions provided for in leases with tenants or normal operating policies of occupants of Unit No. 1 or Unit No. 2, provided Unit No. 3 Owner has been notified in writing of such restrictions at the time any lease is executed with the Unit No. 1 Owner or the Unit No. 2 Owner, or a the normal operating policy of the occupant is adopted on company wide basis.

(2) A "Qualified Advertiser" shall be (a) a retail business located in Unit No. 1 or Unit No. 2, and (b) a non-retail reputable business that this not otherwise prohibited from conducting business within the Building by the Condominium Instruments, the intent being to limit Qualified Advertisers to retail occupants of the Building and reputable non-retail companies that are not prohibited by the Condominium Instruments from conducting non-retail businesses in the Building. The company, business entity or individual being advertised shall be considered the party placing the advertisement for the purposes of determining whether such party is reputable and whether it is engaged in a retail business and any agency or other company/business entity/individual renting the advertisement on such other party's account shall be disregarded.

(C) *Parking Facility Operating Signage.* Unit No. 3 at its sole cost and expense shall maintain, repair and replace all signage located within the Parking Unit related to ingress and egress, payment system, or directional or wayfinding signage to General Common Elements of the Condominium (and not to specific retail uses operating within Unit No. 1 and Unit No. 2), to code required exit stairs, and the like, including, without limitation, any such signage depicted on the sheets within Exhibit D to this Declaration. Two (2) years after the Opening Date, and every two (2) years thereafter, the Parking Operations Committee shall convene to review this signage, including, but not limited to (i) its clear delivery of information, (ii) location, and (iii) maintenance and repair schedule. Unit No. 3 shall give due consideration to implementing any recommendations that may be made by the Parking Operations Committee arising from this review, and from any Unit Owner from time to time.

12. Other Uses Within Parking Unit.

Unit No. 3 Owner shall not be permitted to conduct any other uses within the Parking Unit other than parking (such as car washing and detailing services) without the prior unanimous approval of the Parking Operations Committee. This determination of the Parking Operations Committee is not subject to review and re-consideration pursuant to the provisions of Section 13(H) below.

13. Establishment and Operation of Parking Operations Committee.

(A) *Establishment of Committee.* There is hereby established a committee (the "Parking Operations Committee") consisting of three (3) members, one member representing each of Unit No. 1, Unit No. 2 and Unit No. 3. The Owner of each Unit shall appoint a qualified, duly authorized person to be its member on the Parking Operations Committee as to that Unit, and each member (i) shall represent only the interests of the Unit Owner who appointed such member, (ii) must independently exercise his or her rights and responsibilities as a member of the Parking Operations Committee and (iii) shall participate in the deliberations of the Parking Operations Committee and not withhold from acting as a member of the Parking Operations Committee as otherwise provided for in this Declaration. No member of the Parking Operations Committee may represent more than one Unit or the interests of a Unit Owner who did not appoint such member, notwithstanding that a Unit Owner may own multiple Units. Additionally no Unit Owner may delegate the rights and responsibilities of its member of the Parking Operations Committee to the member of the Parking Operations Committee of another Unit Owner, or delegate the right to appoint its member of the Parking Operations Committee to any other party (including, without limitation, any other Unit Owner).

(B) *Function of Committee.* The Parking Operations Committee is established in order to (i) ensure that the Parking Unit is operated and managed in a manner consistent with the requirements of this Declaration and the Parking Objectives; (ii) to preserve the rights and benefits granted to each Owner pursuant to this Declaration; and (iii) to exercise the powers, rights and duties reserved specifically herein to the Parking Operations Committee. The Parking Operations Committee shall further have the right to monitor each party's compliance with this Declaration, grant or withhold approval where applicable, recommend modifications and actions where approval is not required and, when applicable, enforce the terms of this Declaration.

(C) *Term of Office.* Each member of the Parking Operations Committee shall serve for a term of three (3) years. A member of the Parking Operations Committee may resign or may be removed, with or without cause, by the Owner so appointing that member, and such Owner shall designate his or her successor. Any successor member of the Parking Operations Committee shall serve for the remainder of the term of the member who has resigned or is removed.

(D) *Regularly Scheduled Meetings.* Regularly scheduled meetings of the Parking Operations Committee shall be held at least twice each year during the term of this Declaration. The Parking Operations Committee shall establish the dates, times and location for regularly scheduled Parking Operations Committee meetings. No less than thirty (30) days' prior notice of each regularly scheduled meeting shall be given each committee member.

(E) *Special Meetings/Emergency Actions.* Special meetings of the Parking Operations Committee may be called by any member of the Parking Operations Committee on a minimum of seven (7) days' prior notice given to each member of the Parking Operations Committee, by hand delivery, mail, fax and/or email, which notice shall state the time, place and purpose of the meeting, including supporting materials to be considered at such meeting. Notwithstanding the foregoing should an Emergency Situation or condition arise that makes it impractical or imprudent to provide the prior notice of a special meeting to members required by this Section 13(E), then Unit No. 3 Owner may act to address the Emergency Situation or condition, providing however timely and full information about the situation or condition to other Unit Owners and all members of the Parking Operations Committee, and reporting promptly thereafter to the Parking Operations Committee at a special meeting of the Parking Operations Committee duly called for that purpose.

(F) *Waiver of Notice.* Any member of the Parking Operations Committee at any time in writing may waive notice of any meeting of the Parking Operations Committee, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Parking Operations Committee at any meeting of the Parking Operations Committee shall constitute a waiver of notice by such member of the time and place of such meeting, unless such attendance is for the purpose of objecting to such meeting. If all members of the Parking Operations Committee are present at any meeting of the Parking Operations Committee, no notice shall be required and any business may be transacted at such meeting.

(G) *Quorum; Voting of Parking Operations Committee.* Provided a meeting of the Parking Operations Committee is duly called by appropriate notice, the attendance by two (2) members of the Parking Operations Committee shall constitute a quorum for the conducting of a meeting and the transaction of business; provided, however, that any quorum of less than all

three members of the Parking Operations Committee may not pass any vote requiring the unanimous consent of the committee. Unless otherwise specifically provided for in this Declaration, all actions of the Parking Operations Committee shall be passed by majority vote of all three (3) members; provided, however, that prior to the time that Declarant first conveys legal title to the Parking Unit to a party unaffiliated with Declarant, then where a decision can be made or action taken by the Parking Operations Committee by majority vote, unanimous vote of all members of the Parking Operations Committee must be achieved to give such approval or take such action. Where a vacancy exists in a member of the Parking Operations Committee, then the Parking Operations Committee may still act, but only on those matters where only a majority vote is permitted, and then both seated members must act with unanimity. Furthermore should either Unit No. 1 Owner or the Unit No. 2 Owner, or an agent of affiliate thereof, be the party proposed by Unit No. 3 Owner to become the Asset Manager, then Unit No. 3 Owner must obtain the concurrence of the other Unit Owner before designating the proposed Unit Owner as the Asset Manager.

(H) *Dispute Resolution.* If any proposed action requiring unanimous approval or consent cannot be obtained due to failure to obtain the unanimous approval or consent of the members of the Parking Operations Committee (including where unanimous approval or consent is required under the circumstance enumerated in Section 13(G) above) or where a matter or action in this Declaration is described as being subject to a decision or determination by the invocation of the procedures of this Section 13(H), then within five (5) days after the date of that meeting any member of the Parking Operations Committee may appeal that action (or failure to act) to the Arbiter pursuant to the provisions of this Section 13(H). A copy of any notice of appeal issued shall be sent to each mortgagee or bondholder having a lien on legal title to any of Unit No. 1, Unit No. 2 and Unit No. 3. In such circumstances, any member of the Parking Operations Committee may submit any disagreement or failure to act under this Declaration to the Arbiter who shall have the authority to issue a binding determination or decision on the matter, based upon the proposal that was submitted to the Parking Operations Committee for its consideration and action. The Arbiter shall render a decision in no more than twenty one (21) days after receipt of notice of appeal, except in those instances as asserted by a Unit Owner where an emergency condition or a condition that affects the health, safety and welfare of the patrons of the Parking Unit, the structural and operational integrity of the Building or the Condominium or the opening or continuous operation of the Parking Unit, or a material portion thereof, as required by Section 6 of this Declaration (each, an "Emergency Situation"), in which case if the Arbiter agrees that an Emergency Situation exists then a decision or determination shall be rendered within forty-eight (48) hours after receipt of the notice of appeal. Pending the issuance of the binding determination or decision by the Arbiter, the policy, budget, obligations or provision of this Declaration shall remain unchanged on the matter in question and the present condition, operating policy and procedure of the Parking Unit shall continued unchanged (except to the extent the Parking Operations Committee exercises its rights under Section 4(F) or 5(F) of this Declaration). Should the members of the Parking Operations Committee reach an agreement on the matter in question, prior to a determination or decision being issued by the Arbiter to the appealing member of the Parking Operations Committee, then the decision of the Parking Operations Committee shall be controlling and binding. In considering his or her decision or determination on any matter brought before the Arbiter, the Arbiter shall be guided in reaching his or her determination or decision by the Parking Objectives. So long as either Citicorp USA, Inc. or Citicorp North America, Inc. is a lienholder in legal title to any Unit in the Condominium, Citicorp USA, Inc. shall be permitted to participate in the dispute resolution process before the

Arbiter to provide its views and recommendations on the matter in dispute. The term "Arbiter" shall mean Allen J. Ross, currently of the law firm of Thelan Reid Brown Raysman & Steiner LLP of New York, New York, as of the Effective Date, and thereafter a party selected by the Parking Operations Committee by unanimous consent annually at a regularly scheduled meeting of the Parking Operations Committee on or about the anniversary date of the Execution Date, or at any other time at a special meeting of the Parking Operations Committee where the party selected as the Arbiter is no long able or willing to serve in such role, whether due to resignation, death or development of a conflict. A party selected as Arbiter at a special meeting shall serve only until the next regularly scheduled meeting of the Parking Operations Committee on or about the anniversary date of the Execution Date. In all events a party to be eligible for selection as the "Arbiter" shall be an independent, duly qualified property manager having no less than five (5) years experience in managing and overseeing operations of Comparable Parking Facilities. If, at any time, the Parking Operations Committee cannot unanimously agree on the party that is to serve to be the Arbiter, then the Parking Operations Committee shall, and any member thereof may, request the "JAMS, the Resolution Experts" organization in the District of Columbia or similar party (including the American Arbitration Association) to appoint a party to be the Arbiter, which party shall serve until such time as the Parking Operations Committee shall agree upon a party to be the Arbiter by unanimous consent at a regularly scheduled meeting or a special meeting of the Parking Operations Committee. The Arbiter shall be entitled to receive, and be reimbursed for, the party's usual and customary fees, costs and expenses. Each member of the Parking Operations Committee shall pay one third of the fees, costs and expenses of the Arbiter, where the dispute resolution process is invoked, with each being obligated to advance to the Arbiter payment based upon the Arbiter's estimate of the party's fees, costs and expenses, with a reconciliation and final payment to be made to the Arbiter by each member of the Parking Operations Committee promptly after the rendering of a decision or determination by the Arbiter and the issuance of a final, reconciled invoice for services by the Arbiter.

(I) *Enforcement.*

(1) If, after a decision or determination has been rendered pursuant to Section 13(H) above, and Unit No. 3 Owner, Unit No. 2 Owner or Unit No. 1 Owner fails to perform as required by such decision or determination, the Parking Operations Committee or any Unit Owner may seek specific performance of the determination or decision in a court of competent jurisdiction, at the cost and expense of the non-performing party, such cost and expense incurred if not fully reimbursed within thirty (30) days, subject however to the provisions of Section 16(A)(2) as to limitations on the liability of Unit No. 3 Owner for any costs and expenses therefore so long as the District is Unit No. 3 Owner.

(2) In addition to the remedy available in Section 13(I)(1) above of this Declaration, if the Arbiter makes a decision or determination with regard to a matter brought before the Arbiter pursuant to Section 13(H) of this Declaration, and the matter involves (a) the performance of the Asset Manager, (b) the performance of the Parking Operator, (c) a complaint concerning the performance of maintenance or repairs of Unit No. 3 that effect the health, safety or general welfare of patrons of the parking facility with Unit No. 3, or (d) a complaint concerning the opening, Hours of Operation or continuous operation of the parking facility as required and in accordance with the provisions of Section 6 of this Declaration, and Unit No. 3 Owner does not take material and substantive actions to implement such decision or determination by the next calendar day following receipt of notice of the Arbiter's decision or

determination, then the Parking Operations Committee (or prior to the time that Declarant conveys legal title to the Parking Unit to the District, Unit No. 2 Owner) shall have the right, subject to any provisions of any then existing and operative licensing arrangement between the Declarant and the District regarding the District's rights to operate the Parking Unit including but not limited prior notice of intent to act, to immediately enter upon the Parking Unit as agent on behalf of Unit No. 3 Owner and, at the sole expense of Unit No. 3 Owner, to take such steps as may be reasonably necessary to implement the decision or determination of the Arbiter, subject however to the provisions of Section 16A)(2) as to limitations on the liability of Unit No. 3 Owner for any costs and expenses therefore so long as the District is Unit No. 3 Owner. The Parking Operations Committee shall contemporaneously notify the mortgagee or bondholder having a lien on legal title to Unit No. 3 of the Parking Operations Committee's intent to exercise such rights. Where action to be taken by the Parking Operations Committee is the replacement of the Parking Operator then any replacement party selected as the Parking Operator by the Parking Operations Committee must meet the qualifications for that position specified in Section 4(A), and if the Bonds are still outstanding, the replacement party must either assume the then existing Parking Management Agreement or enter into a Parking Management Agreement in the same form as the then existing Parking Management Agreement in order to preserve federal tax treatment of the Bonds. If the Parking Operations Committee elects to exercise the rights provided for hereunder, then in exercising those rights the Parking Operations Committee may not do anything that would cause a default under the Public Financing or cause the Bonds to become taxable.

(J) *Conduct of Meetings.* All resolutions adopted by the Parking Operations Committee and all transactions and proceedings occurring at all meetings of the Parking Operations Committee shall be held in a Minute Book maintained for the Parking Operations Committee by Unit No. 1 Owner. The then current Robert's Rules of Order or any other rules of procedure at any time or from time to time acceptable to a majority of the members of the Parking Operations Committee shall govern the conduct of the meetings of the Parking Operations Committee, when not in conflict with any other provisions of this Declaration or the Condominium Instruments. In lieu of meetings requiring the physical presence of members of the Parking Operations Committee, meeting may be conducted by teleconference or in some other similar manner where all members of the Parking Operations Committee can participate, so long as such teleconferencing or other method provides for audible participation by all members of the Parking Operations Committee.

(K) *Action Without Meeting.* Any action by the Parking Operations Committee required or permitted to be taken at any meeting may be taken without a meeting if all of the members of the Parking Operations Committee shall consent in writing to such action. Any such unanimous written consent shall be filed with the minutes of the proceedings of the Parking Operations Committee.

(L) *Response to Requests and Inquiries from Owners.* Except as otherwise set forth in this Declaration, the Parking Operations Committee shall be obligated to respond to any written requests or inquiries made by one or more Owners within thirty (30) days following the Parking Operations Committee's receipt of any such notice or inquiry. In the event the Parking Operations Committee fails to timely respond to the requesting Owner(s) within such thirty (30) day period, and then any request made by the requesting Owner(s) shall be deemed approved.

(M) *Powers and Duties of the Parking Operations Committee.* The Parking Operations Committee shall have all of the rights, powers and duties identified in the body of this Declaration, and such other rights, powers and duties as may be approved by unanimous agreement of the Owners. Notwithstanding the above, and as provided elsewhere herein and in the Condominium Instruments, the parties acknowledge and agree that Unit No. 3 Owner shall be primarily responsible for the day-to-day operation, management and maintenance of the Parking Unit.

14. Insurance.

(A) *Agreement to Maintain Coverage; Evidence of Coverage.* Each of Unit No. 3 Owner, Unit No. 2 Owner and Unit No. 1 Owner agree, at its sole cost, to carry and keep in full force and effect at all times during the term of this Declaration, at a minimum, a commercial general liability policy with a single limit of at least Three Million Dollars ($3,000,000) including coverage for bodily injury, property damage and personal injury liability, with a combined single limit of Ten Million Dollars ($10,000,000), related to activities carried on by each of them, and their respective employees, agents and invitees in and about the Parking Unit; provided that if, as to any required coverage program the specified dollar level of insurance coverage is not readily available at commercially reasonable rates, then the then highest dollar level of coverage readily available at commercially reasonable rates, but in any case no less than a single limit of One Million Dollars ($1,000,000). Unit No. 3 Owner shall also maintain or have maintained on its behalf garage keepers legal liability insurance. Each of the Unit Owners shall insure at its sole costs and expense its personal property and fixtures located in and about Unit No. 3, to the replacement value of such personal property and fixtures.

(B) *Insurance Carrier.* The company or companies writing the insurance required to be carried and maintained by the parties pursuant to this Declaration shall be licensed to do business in the District and shall hold a Best's Insurance Rating of A-VII or better.

(C) *Identification of Insureds.* Each party's commercial general liability insurance policies and certificates evidencing such insurance shall name the other two Owners as well as the Unit Owners Association, and each of their respective agents, officers, employees, personnel, and mortgagees, as additional insureds on each of the policies of insurance required to be obtained and maintained. Any insurance carried or to be carried hereunder by the Owners shall be primary over any policy that might be carried by any of the additional insureds.

(D) *Supplemental Coverage.* Any insurance coverages required under this Section shall supplemental to any required insurance coverage provided for in the Condominium Instruments to be obtained by the Unit Owners Association and each of the Unit Owners thereunder.

15. Payment of Costs.

(A) So long as the District is the Unit No. 3 Owner, the District of Columbia Quick Payment Act of 1984, as amended from time to time (and implementing regulations thereof) shall apply to the payment of the monetary obligations of the Unit No. 3 Owner under this Declaration and under the Condominium Instruments, and the Parking Operations Committee, the Unit No. 1 Owner and Unit No. 2 Owner and the Unit Owners Association may

rely upon the fact that obligations of District as the Unit No. 3 Owner may legally be treated as payments covered by the provisions of that Act, and its implementing regulations.

(B) Should during any period of time that the District is the Unit No. 3 Owner the District is unable to pay any fees, expenses or costs related to the operation of the Parking Unit, including any fees and costs accruing under this Declaration and any assessments due to the Unit Owners Association under the Condominium Instruments attributable to it as the Owner of Unit No. 3, then Unit No. 1 Owner, Unit No. 2 Owner or both may offer to fund any short fall in the payment by the District of such fees, expenses and costs on behalf of the District ("District Deficits"), provided that such Unit Owner must first give notice to Unit No. 3 Owner in accordance with the provisions of Section 19 of this Declaration, advising Unit No. 3 Owner that the noticing Unit Owner(s) are identifying a District Deficits condition, that Unit No. 3 shall have thirty (30) days to clear and eliminate the noted District Deficits condition, and that if in the event that the Unit No. 3 Owner does not clear and eliminate the noted District Deficits condition then the Unit Owner(s) may invoke of the provisions of Section 15 (B) below in which case Unit No. 3 Owner shall become fully liable for repayment of the Shortfall Fundings (as defined below).

(C) If Unit No. 1 Owner, Unit No. 2 Owner or both (any and all being the "Advancing Owners") elect to advance funds to cover some or all of the District Deficits then the Advancing Owner(s) shall be entitled to interest accruing on the funds advanced at a rate as fixed in and pursuant to the District of Columbia Quick Payment Act of 1984, as amended from time to time (and implementing regulations thereof). Any funds advanced together with accrued interest thereon shall be referred to as "Shortfall Fundings".

(D) Additionally where a District Deficits condition exists, after the giving of notice and the expiration of the aforementioned period within which to clear and eliminate the District Deficits condition, without clearance and elimination, then Unit No. 3 Owner shall implement any parking rate change adopted pursuant to any of the provisions Section 7 of this Declaration within five (5) business days after date of receipt of notice from the Parking Operations Committee.

16. Indemnification.

(A) *Unit No. 3 Owner.*

(1) Unit No. 3 Owner hereby indemnifies and agrees to hold each of Unit No. 1 Owner, Unit No. 2 Owner and the Unit Owners Association, and each of their respective agents, officers, employees, personnel, and mortgagees, entirely free and harmless from all liability, damages, costs, claims or demands of any kind or character whatsoever which may be made against any or all of those parties as a result of, or arising out of, the death or bodily injury of any individual or any damage to property arising from the negligence or willful misconduct of Unit No. 3 Owner, its agents, officers, employees or any personnel acting at the direction of Unit No. 3 Owner or whose services are contracted for by or on behalf or for the benefit of Unit No. 3 Owner or due to the failure or refusal of Unit No. 3 Owner, or its agents, officers, employees or any personnel acting at the direction of Unit No. 3 Owner or whose services are contracted for by or on behalf or for the benefit of Unit No. 3 Owner, to comply with or abide by any rule, order, determination, regulation, ordinance or law of any federal, state or

municipal authority or any of the provisions of this Declaration, unless as to a particular Unit Owner, or as to the Unit Owners Association, the death or bodily injury of any individual or any damage to property results from the gross negligence or willful misconduct or failure to act of Unit No. 1 Owner, or its agents, officers, employees, personnel or mortgagees, Unit No. 2 Owner, or its agents, officers, employees, personnel or mortgagees, or the Unit Owners Association, or its agents, officers, employees, personnel or mortgagees, as the case may be, in which case Unit No. 3 agreement hereunder as to such Unit Owner or the Unit Owners Association applicable shall be deemed waived and void as to the specific instance of injury, death or damage.

(2) Notwithstanding anything to the contrary in this Section 16(A) or any other provision of this Declaration, so long as the District is Unit No. 3 Owner, and as such is subject to the provisions of Section 446 of the District of Columbia Home Rule Act and the federal Anti-deficiency Act (the "Anti-deficiency Act"), then Unit No. 1 Owner and Unit No. 2 Owner acknowledge that the obligations of Unit No. 3 Owner to fulfill financial obligations of any kind to any party pursuant to this Declaration, including but not limited to repayment of any Shortfall Fundings for any District Deficits and to any indemnification obligations specified herein, may be subject to the provisions of the Anti-deficiency Act, regardless of whether a particular obligation was expressly so conditioned. The District agrees that, as Unit No. 3 Owner, it will, in good faith, use best efforts to obtain and exercise all lawful and available authority to satisfy any of its financial obligations that may arise under this Declaration, including, without limitation, attempting to obtain the necessary appropriations and/or the reprogramming of available funds if such reprogramming is legal and necessary to satisfy its financial obligations; however, the obligations of the District as Unit No. 3 Owner under this Declaration are subject to the receipt of specific authority from Congress, with no implication that Congress will give such authorization. Notwithstanding the foregoing, the obligations of the District as Unit No. 3 Owner that may arise under this Declaration shall not constitute an indebtedness within the meaning of any constitution or statutory debt limitation or restriction and do not constitute an obligation for which the District, as Unit No. 3 Owner, is obligated to levy or pledge any form of taxation or for which it has levied or pledged any form of taxation.

(3) Where the District is Unit No. 3 Owner, then the following provisions shall apply:

(i) The Mayor of the District of Columbia (the "Mayor") agrees to exercise all lawful authority available to satisfy the financial obligations of the District that may arise under this Declaration. The Mayor shall, for each fiscal year, include in the budget application submitted to the Council of the District of Columbia (the "Council") not less than the anticipated amount necessary to fund the District's known potential financial obligations under this Declaration for such fiscal period. Because the District cannot be a party to a contract with uncapped fiscal liabilities, the District's liabilities for assessments under this Declaration shall be limited to the amounts appropriated. In the event that a request for such appropriations is reduced or excluded from the budget approved by the Council and submitted to United States Congress ("Congress") by the President of the United States for the applicable fiscal year or a lesser or no appropriation is made by Congress to pay any assessments under this Declaration for any period after the fiscal year for which appropriations have been made, and in the event appropriated funds for such purposes are not otherwise lawfully available, the District may not be held liable during such fiscal year to pay financial obligations arising under this Declaration in excess of the amount

appropriated upon the expiration of any then-existing appropriation. In all cases, the District shall promptly notify the each Unit Owner and the Unit Owners Association of the lack of budget authority to pay and lack of appropriated funds from which to pay the District's financial obligations under this Declaration during such fiscal year. Notwithstanding the inability of the District to obtain appropriated funds for any fiscal year for the payment of its financial obligations under this Declaration, the District shall continue to pursue in good faith in succeeding year's budget authority and appropriations to satisfy its financial obligations under this Declaration. Although assessments unpaid because of a lack of lawfully available appropriated funds shall not constitute a current or continuing obligation of the District, and although the District is not legally obligated to seek appropriations for assessments not paid due to the lack of lawfully available appropriated funds in prior fiscal year(s), the District may seek future appropriations to pay such financial obligations. The failure to obtain any or all of the appropriations authority sought for any fiscal year shall not constitute an event of default under this Declaration.

(ii) Notwithstanding the foregoing, no officer, employee, director, member or other natural person or agent of the District as the Unit No. 3 Owner shall have any personal liability in connection with the breach of the provisions of this Section 16.A.

(iii) The obligations of Unit No. 3 Owner pursuant to this Declaration may not, and the failure of the District to pay any financial obligations accruing under this Declaration will not constitute an indebtedness of the District nor shall those assessments or the failure to pay constitute an obligation for which the District is obligated to levy or pledge any form of taxation or for which the District has levied or pledged any form of taxation. No officer, employee, director, member or other natural person or agent of the District is authorized to obligate or expend any amount under this Declaration unless such amount has been appropriated by Act of Congress and is lawfully available.

(iv) As and when the District conveys legal title to Unit No. 3 to any party that is not the District (a "Third-party Purchaser"), then to the extent that there are any unpaid financial obligations of the District arising under this Declaration, then so long as the Third-party Purchaser was notified in writing by Unit No. 1 Owner, Unit No. 2 Owner or the Unit Owners Association, as applicable, prior to the conveyance of legal title to Unit No. 3 that the District was arrears in the payment and satisfaction of its financial obligations arising under this Declaration, then those unpaid financial obligations shall become a lien against legal title to Unit No. 3 as of the date and time of conveyance of legal title to that Unit and shall be the liability of the Third-party Purchaser (and all successor owners of Unit No. 3) to clear and satisfy with the Unit No. 1 Owner, Unit No. 2 Owner or the Unit Owners Association, as applicable, within thirty (30) days after the date that legal title to Unit No. 3 is conveyed to the Third-party Purchaser (or any successor, assignee or transferee). Each of Unit No. 1 Owner, Unit No. 2 Owner, and the Unit Owners Association as applicable shall have all rights and remedies available it at law to collect such unpaid financial obligations arising under this Declaration. Recognizing that the issuance of a notice by any of Unit No. 1 Owner, Unit No. 2 Owner or the Unit Owners Association is a prerequisite to holding the Third-party Purchaser (and all successor owners of Unit No. 3) liable for any unpaid financial obligations of the District under this Declaration, the District may not convey legal title to Unit No. 3 to any

Third-party Purchaser (or successor, assignee or transferee) without first having requested Unit No. 1 Owner, Unit No. 2 Owner and the Unit Owners Association to each issue a statement in writing to the Third-party Purchaser and the District advising such parties of any delinquency by the District in the payment of any of its financial obligations arising under this Declaration. The District shall request no later that thirty (30) days prior to the date of conveyance of legal title to Unit No. 3 a statement from each of Unit No. 1 Owner, Unit No. 2 Owner and the Unit Owners Association as to any District delinquency in the payment of its financial obligations under this Declaration. To be effective against the Third-party Purchaser (and all successor owners of Unit No. 3), a Unit Owner and the Unit Owners Association must submit to the District and to the Third-party Purchaser not later than ten (10) days prior to the date of conveyance of legal title to Unit No. 3 a statement of any delinquency in payment of any financial obligations arising under this Declaration.

(v) Where a Unit Owner or the Unit Owners Association timely issues a statement to the District and the Third-party Purchaser noting an existing delinquency in the payment of the District's financial obligations under this Declaration, then the applicable Unit Owner or the Unit Owners Association shall have three (3) years following the date of conveyance of legal title to Unit No. 3 by the District to institute the proceedings to enforce the lien on Unit No. 3 for those unpaid financial obligations of the District, and the Third-party Purchaser (or its successor, assignee or transferee), by accepting legal title to Unit No. 3, recognizes and acknowledges (for itself and all successor owners of Unit No. 3) the waiver and release of any limitations on enforcement by, and defenses against, any Unit Owner or the Unit Owners Association, as applicable, with regard to such matters.

(B) *Unit No. 1 Owner.* Unit No. 1 Owner hereby indemnifies and agrees to hold Unit No. 3 Owner and the Unit Owners Association, and their respective its agents, officers, employees, personnel, and mortgagee entirely free and harmless from all liability, damages, costs, claims or demands of any kind or character whatsoever which may be made against any or all of those parties as a result of, or arising out of, the death or bodily injury of any individual or any damage to property arising from the negligence or willful misconduct of Unit No. 1 Owner, its agents, officers, employees or any personnel acting at the direction of Unit No. 1 Owner or whose services are contracted for by or on behalf or for the benefit of Unit No. 1 Owner or due to the failure or refusal of Unit No. 1 Owner , its agents, officers, employees or any personnel acting at the direction of Unit No. 1 Owner or whose services are contracted for by or on behalf or for the benefit of Unit No. 1 Owner to comply with or abide by any rule, order, determination, regulation, ordinance or law of any federal, state or municipal authority or the terms of this Declaration, unless in any case the death or bodily injury of any individual or any damage to property results from the gross negligence or willful misconduct or failure to act of Unit No. 3 Owner, or its agents, officers, employees, personnel or mortgagees, in which case Unit No. 1 Owner's agreement hereunder as to Unit No. 3 Owner shall be deemed waived and void as to the specific instance of injury, death or damage.

(C) *Unit No .2 Owner.* Unit No. 2 Owner hereby indemnifies and agrees to hold Unit No. 3 Owner, and the Unit Owners Association, and their agents, officers, employees, personnel, and mortgagee entirely free and harmless from all liability, damages, costs, claims or demands of any kind or character whatsoever which may be made against any or all of those

parties as a result of, or arising out of, the death or bodily injury of any individual or any damage to property arising from the negligence or willful misconduct of Unit No. 2 Owner, its agents, officers, employees or any personnel acting at the direction of Unit No. 2 Owner or whose services are contracted for by or on behalf or for the benefit of Unit No. 2 Owner or due to the failure or refusal of Unit No. 2 Owner , its agents, officers, employees or any personnel acting at the direction of Unit No. 2 Owner or whose services are contracted for by or on behalf or for the benefit of Unit No. 2 Owner to comply with or abide by any rule, order, determination, regulation, ordinance or law of any federal, state or municipal authority or the terms of this Declaration, unless in any case the death or bodily injury of any individual or any damage to property results from the gross negligence or willful misconduct or failure to act of Unit No. 3 Owner, or its agents, officers, employees, personnel or mortgagees, in which case Unit No. 2 Owner's agreement hereunder as to Unit No. 3 Owner shall be deemed waived and void as to the specific instance of injury, death or damage.

17. Force Majeure.

(A) If a Unit Owner is unable, wholly or in part, as a direct consequence of a Force Majeure Event (as hereinbelow defined) to perform one or more of its obligations under this Declaration, including implementation of an Arbiter decision or determination made under Section 13(H), other than any obligation involving monetary matters, such as but not limited to the approval of any budget or the payment of any monies, including assessments of the Unit Owners Association, then that Unit Owner shall give to the Unit Owners Association and the other Unit Owners prompt written notice of the Force Majeure Event with full particulars concerning it and definite reasons of why such Force Majeure Event prevents the Unit Owners performance of those specific obligations. To the extent that a Force Majeure Event prevents full performance by the Unit Owner of the noticed obligations, the Unit Owner's performance of those specific obligation shall be deferred during, but no longer than the time that continuation of the Force Majeure Event specifically prevents performance of those specific obligation(s) in question. During this period a Unit Owner shall not be relieved from performance of any of its obligations that are not directly impacted or compliance is not precluded by the existence and continuation of a Force Majeure Event. Notwithstanding a deferral in performance of certain obligations, the affected Unit Owner, exercising prudent business judgment and practices, shall use commercially reasonable diligence and speed to seek alternate means and ways so that the Unit Owner will be able to comply with all of its obligations under this Declaration, including elimination of, or the mitigation of the impact of the Force Majeure Event.

(B) The term "Force Majeure Event" as herein employed shall be limited to an occurrence which is directly consequent of (i) an act of God, (ii) a civil insurrection, (iii) terrorist event or similar occurrence which physically impacts the Washington, D.C. metropolitan area, (iv) a war physically occurring on the continental United States in which the United States is a declared combatant, or (v) a casualty caused by an extraordinary natural event which is beyond the control of a prudent building owner/developer, it being expressly agreed that any matters which may be remedied by the prudent expenditure of funds shall be construed to be within the control of a Unit Owner in the event Unit Owner alleges a Force Majeure Event hereunder.

18. No Partnership. Nothing contained in this Declaration shall be deemed or construed to create a partnership or joint venture of or between (i) the Owners and any of the

operators of the Parking Unit or (ii) among the Owners. In no event shall any employee of the Parking Operator be deemed an employee of any Owner as a result of anything contained in this Declaration.

19. Notices. All notices or other communications hereunder shall be in writing and shall be deemed duly given if delivered (or rejected) in person, by recognized overnight courier, by certified mail, return receipt requested, or by registered mail, postage prepaid to the Unit Owners of the each of the Retail Unit, the Target Unit and the Parking Unit, which as of the Execution Date is as follows:

DC USA Operating Co., LLC
c/o Grid Properties Inc.
2309 Frederick Douglass Boulevard
New York, NY 10027
Attn: Drew Greenwald
Fax: (212) 678-4200

with a copy to:

DC USA Operating Co., LLC
c/o Gotham Organization Inc.
1010 Avenue of the Americas
New York, NY 10018-5402
Attn: Joel Picket
Fax: (212) 599-0917

The party to receive notices and the place notices are to be sent as to each Owner may be changed by such Owner by delivery of notice given pursuant to the provisions of this Section. Each Owner shall provide to the other Unit Owners from time to time the contact information for any mortgagee or bondholder having a lien on legal title to its Unit.

20. Rights to Mortgage Interests; Notice to Mortgagees; Opportunity to Cure.

(A) Nothing contained in this Declaration shall restrict an Owner's right to Mortgage all or any portion of its Property from time to time, so long as any such Mortgage complies with the terms and provisions of this Declaration.

(B) If a Mortgagee shall have served on all Owners a written notice specifying the name and address of such Mortgagee, such Mortgagee shall be given a copy of each and every notice required to be given by any Owner to the other Owner at the same time as such notice shall be given to the other Owner.

(C) Except as otherwise specifically provided in this Declaration, a Mortgagee shall have the right within sixty (60) days after the receipt of any such notice of claimed default given by one Owner to the other Owner to cure any matter required to be complied with pursuant to such notice, which cure shall be performed in the same manner as the other Owner is obligated under this Declaration to perform such cure (the "Mortgagee Cure Period"). Notwithstanding the foregoing, neither the Owners nor the Parking Operations Committee shall be required to forbear exercising any of their respective cure or arbitration rights in this Declaration during the

Mortgagee Cure Period. The Owners agree to accept performance by any such Mortgagee of any covenant, condition or agreement on their respective parts to be performed hereunder with the same force and effect as though performed by the Owner obligated for such performance.

21. Employment Covenants. In connection with its ownership and management of the Parking Unit, Unit No. 3 Owner or, as applicable, the Parking Operator, shall use commercially reasonable efforts to (1) meet a 35% goal of hiring contractors, subcontractors, vendors, licensees and other contracting parties which have been certified with the Department of Small and Local Business Development as Local, Small Disadvantaged Business Enterprises ("LSDBEs"), and (2) meet a 51% goal of hiring local and minority workers to fill positions within the Parking Unit.

22. Amendments. As and until this Declaration is terminated, this Declaration may only be modified by unanimous agreement of all of the parties that are then identified as Owners pursuant to this Declaration, and any Mortgagee (as defined in the Condominium Declaration).

23. Binding Effect. This Declaration shall be binding upon and inure to the benefit of the parties hereto and their respective successors, transferees and assigns.

24. Governing Law. This Declaration shall be governed by the laws of the District, without regard to principles of conflicts of laws.

25. Memorandum of Declaration. With the execution of this Declaration, the Owners shall record a memorandum of this Declaration in the form attached to this Declaration as Exhibit E to be recorded among the land records of the Office of the Recorder of Deeds of the District of Columbia, the cost of each recording to be shared equally by the Owners.

26. Counterparts. This Declaration may be executed and delivered in any number of counterparts, each of which so executed and delivered shall be deemed to be an original and all of which shall constitute one and the same instrument.

[Signatures Appear on the Following Page]

IN WITNESS WHEREOF, GRID Urban Ventures III, LLC, a New York limited liability company, a Managing Member of USPDC, LLC, a New York limited liability company, Managing Member of DC USA Management Co. LLC, a Delaware limited liability company, Manager and Sole Member of DC USA Operating Co., LLC, a New York limited liability company, has caused these presents to be signed in its name by Drew Greenwald, its Managing Member, and Picket Realty Construction Consultants LLC, a New York limited liability company, Manager of DC USA GO, LLC, a New York limited liability company, a Managing Member of USPDC, LLC, a New York limited liability company, Managing Member of DC USA Management Co. LLC, a Delaware limited liability company, Manager and Sole Member of DC USA Operating Co., LLC, a New York limited liability company, has caused these presents to be signed in its name by David L. Picket, a Member, for the purposes of executing, acknowledging and delivering this Declaration, as the act and deed of the various limited liability companies for themselves and in their respective interests in DC USA Operating Co., LLC, the Declarant hereunder, all as of the day and year hereinbefore written.

DC USA OPERATING CO., LLC,
a New York limited liability company

By: DC USA Management Co. LLC,
a Delaware limited liability company,
Manager and Sole Member

By: USPDC, LLC,
a New York limited liability company,
Managing Member

By: GRID Urban Ventures III, LLC,
a New York limited liability company,
Managing Member

By: _____
Drew Greenwald
Managing Member

By: DC USA GO, LLC,
a New York limited liability company,
Managing Member

By: Picket Realty Construction Consultants LLC,
a New York limited liability company,
Manager

By: _____
David L. Picket
Member

COUNTY OF _____

STATE OF NEW YORK, to wit:

I, _____, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that Drew Greenwald, Managing Member of GRID Urban Ventures III, LLC, Managing Member of USPDC, LLC, Managing Member of DC USA Management Co. LLC, itself Manager and Sole Member of DC USA Operating Co., LLC, Declarant, in the foregoing and annexed Declaration, personally appeared before me in said jurisdiction and, being personally well known to me, acknowledged said instrument to be the act and deed of said limited liability companies and delivered the same as such.

GIVEN under my hand and seal this ____ day of October, 2008.

_____
Notary Public

My commission expires: _____

[NOTARIAL SEAL]

COUNTY OF _____

STATE OF NEW YORK, to wit:

I, _____, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that David L. Picket, Member of Picket Realty Construction Consultants LLC, Manager of DC USA GO, LLC, a Managing Member of USPDC, LLC, Managing Member of DC USA Management Co. LLC, Manager and Sole Member of DC USA Operating Co., LLC, Declarant, in the foregoing and annexed Declaration, personally appeared before me in said jurisdiction and, being personally well known to me, acknowledged said instrument to be the act and deed of said limited liability companies and delivered the same as such.

GIVEN under my hand and seal this ____ day of October, 2008.

_____
Notary Public

My commission expires: _____

[NOTARIAL SEAL]

EXHIBIT A

PARKING LAYOUT PLANS FOR EACH PARKING LEVEL

[See attached Sheets 1 and 2.]

EXHIBIT B

PARKING GUIDELINES

I. *STAFFING LEVELS OF PARKING UNIT*

II. *INITIAL PARKING RATES.*

The parking rates initially charged to users of the Parking Unit are as set forth in the table below:

Nature of Parking Use	Amount Charged	Notes/Details
1. Parking 0-1 hour	$1.00	Parking rates set to promote use of retail operations.
2. Parking 1-2 hours	$2.00	Parking rates set to promote use of retail operations.
3. Parking 2-3 hours	$3.00	Parking rates set to promote use of retail operations.
4. Parking 3-4 hours	$4.00	Parking rates set to promote use of retail operations.
5. Over 4 hours	$12.00	Parking Rates to initially discourage daily parking and uses other than the retail operations within Unit No. 1 and Unit No. 2.
6. Over 8 hours	$20.00	Parking Rates to initially discourage daily parking and uses other than the retail operations within Unit No. 1 and Unit No. 2.
7. Community Overnight Rate	Parking Operations Committee Determination	Availability of capacity for community for community overnight parking to be determined not less than 6 months following the Opening Date.
8. Monthly Parking Rate	Parking Operations Committee Determination	Availability of capacity to be determined not less than 6 months following the Opening Date.
9. Commuter Parking Rate	Parking Operations Committee Determination	Availability of capacity to be determined not less than 6 months following the Opening Date.
10. Sunday morning Parking Rate	Parking Operations Committee Determination	Availability of capacity to be determined not less than 6 months following the Opening Date.
11. Employee Parking Rate for Unit No. 1, Unit No. 2 and Unit No 3	Market Rate	No Employee Discounts, except as may approved by the Parking Operations Committee.
12. Washington Sports Club ("WSC") member rates	Parking rates to be charged to members are set forth in the WSC lease. 1 The initial rate for WSC members (upon presentation of a validated parking ticket) shall be the greater of $2.00 for the first 2 hours (the "WSC Base Rate") or 50% of the publicly posted rate. 2. The WSC Base Rate will be subject to the same percentage increase as the average rate of increase for the other parking rates in the	1. WSC shall be permitted to validate parking for up to 75 guests per month who spend less than 20 minutes within the Club. No additional tickets can be validated for members spending less than 20 minutes within the Club. 2 WSC has agreed to utilize, at WSC's cost, a parking ticket validating system reasonably prescribed by Unit No. 3 Owner.

	Parking Unit.	
12. Parking Validations for Retail Shoppers	Tenants within Unit No. 1 and Unit No. 2 to determine amount of validation, if any.	1 Validation Agreement to be entered into between requesting tenants and Parking Operator. Parking validation machine to be provided to each requesting tenant. 2. No preferential validation systems will be permitted with the exception of WSC to comply with the rate structure indicated below. Any validation discounts shall be offered equally to all retail tenants with the exception of WSC to comply with the rate structure indicated below. 3. Parking Operator to calculate total amount of parking validations for each tenant, and each tenant to be billed monthly.

III. *MAINTENANCE AND REPAIR SCHEDULE AND RESPONSIBILITY/MAINTENANCE STANDARDS.*

[Document Entitled "Maintenance Schedule and Responsibility Matrix" Follows on Succeeding Pages B1 through B6.]

EXHIBIT C

ASSET MANAGEMENT SERVICES

1. **Provide leadership, take necessary actions and render any document decisions that are required to be made by the Unit No. 3 Owner pursuant to the Declaration of Parking Operations and the Condominium Instruments, exercising the same however within established parameters fixed by the District as and when it is Unit No. 3 Owner related to notice to Unit No. 3 Owner and compliance with applicable law.**

2. **Supervision of Parking Operator**

    a. Monitor Parking Operator's operation of the Unit No. 3 as a parking facility and its performance under the Parking Management Agreement. Provide all actions and render all decisions required to be made by the Unit No. 3 Owner under the Parking Management Agreement, subject to the Declaration of Parking Operations.

    b. Monitor the Parking Operator's compliance with the Condominium Instruments and the Declaration of Parking Operations. Provide all actions and render all decisions required of the Unit No. 3 Owner.

    c. Monitor the Parking Operator's revenue collection and control system. Monitor the Parking Operator's expense payment system. Recommend changes to the Unit No. 3 Owner as required.

    d. Review periodically the cleaning schedules and procedures for the portion of the cleaning that is the responsibility of the Parking Operator.

    e. Ensure compliance with Parking Operator's repair and maintenance responsibilities, including but not limited to snow removal at ramps, repainting of stall markings, repair or replacement of parking directional signs, repair or replacement of ticket dispensing machines, payment equipment and parking control equipment and maintenance of the parking offices.

    f. Ensure Parking Operator's compliance with: emergency procedures; drug testing procedures; procedures for termination of discourteous and unprofessional personnel; operational procedures regarding the valet system; monthly risk assessment inspections; towing procedures; and customer relations procedures.

    g. Periodically review equipment proposed to be leased or purchased by the Parking Operator, including the need to replace existing equipment from time to time.

    h. Review the monthly financial report generated by the Parking Operator for the preceding calendar month to ensure accurate accounting and clerical accuracy. Identify and resolve budget and accounting issues.

    i. Advise on the selection of a Parking Operator at expiration or termination of the current operator's initial term. Assist in negotiations of any future Parking Operator management contract or extension thereof with a party selected as the Parking Operator.

    j. Monitor Parking Operator's compliance with licensing, operational permitting and insurance requirements.

k. Monitor Parking Operator's staffing levels in relationship to patron volume and as necessary to fulfill the Parking Objectives and guidelines, rules and regulations adopted by the Parking Operations Committee. Make recommendations to increase or decrease staffing levels as appropriate.

l. Participate in monthly risk assessment inspections with the Parking Operator.

m. Interface with the Parking Operator, the Managing Agent of the Unit Owners Association and the security company for Unit No. 3, where applicable, in the event that emergencies arise in the Unit No. 3 and work closely with the appropriate parties to develop immediate solutions.

n. Work with Parking Operator to prepare a marketing plan for the Unit No. 3 as a parking facility that will identify rate stratification and segmentation strategies, as well as targets and capture strategies for demand generators that may bring additional business to the Unit No. 3, subject however to the Parking Objectives, and review with and approval by the Parking Operations Committee as and when applicable as provided for in the Declaration of Parking Operations.

3. **Coordinate with the property manager of Unit No. 3 to ensure compliance with the property management responsibilities for Unit No. 3, as described in Appendix A to this Asset Management Services Exhibit.**

4. **Cooperate with the Managing Agent of the Condominium and the security company providing security services for Unit No. 3 in fulfillment of the security responsibilities, as described in Appendix B to this Asset Management Services Exhibit.**

5. **Compliance**

a. Perform the obligations of the Unit No. 3 Owner under and in compliance with the Condominium Documents and the Declaration of Parking Operations.

b. Interface with Parking Operations Committee in obtaining necessary consents and particularly on Parking Operations Committee deliberations and decisions.

c. Maintain all permits necessary for the use and occupancy of the Unit No. 3, other than those operational permits that are the responsibility of the Parking Operator.

d. Oversee alterations or modifications of Unit No. 3 necessary to comply with any written notice from a governmental authority regarding compliance with laws.

e. Manage the remediation of environmental matters arising with regard to Unit No. 3.

f. Notify the Unit No. 3 Owner within 24 hours, together with copies of supporting documentation), after (i) any notice of violation of any governmental requirements under federal, state and local laws, ordinances or regulations, of which the Asset Manager shall have received written notice, (ii) any lawsuits or threats thereof involving Unit No. 3 of which the Asset Manager shall have received written notice, (iii) any fire or other damage to the Unit No. 3 of which the Asset Manager has actual knowledge and (iv) any material defect in the Unit No. 3 of which the Asset Manager shall have received actual written notice.

g. Ensure that the insurance coverages for Unit No. 3 and its operation as a parking facility comply with the minimum requirements of the Declaration of Parking

Operations and the Condominium Instruments. Periodically review coverage and adjust as required.

h. Notify, reasonably promptly, the Unit No. 3 Owner's General Liability Insurance carrier and the Unit No. 3 Owner of any personal injury or property damage occurring to or claimed by each Unit Owner, any tenant of a Unit Owner, occupant of any Unit and any third party on or with respect to the Unit No. 3 of which the Asset Manager has actual knowledge and forward to the carrier, reasonably promptly, with copies to that Owner, any summons, subpoena or other like legal document served upon the Asset Manager relating to actual or alleged potential, liability of that Owner, the Asset Manager, or the Unit Owners Association.

i. Maintain detailed records (including all reports and support documents) with respect to the management and operation of the Unit No. 3 as a parking facility and retain such records for a period of three (3) years. Unit 3 No. Owner, and its outside accountants and/or auditors, shall have the right to inspect such records at any time upon written notice during regular business hours.

6. **Accounting**

Promptly review and submit approved expenses for timely payment by Unit No. 3 Owner of all fees, expenses, costs and assessments due to third parties including to Parking Operator, Unit Owners Association and to any other Unit Owner, third party contractors, utilities, insurance premiums, etc.

7. **Budgeting**

a. Prepare a budget to include: 1) Operating Expenses and Gross Revenue (as defined in the Parking Management Agreement); 2) the cost of operation, maintenance, repairs and capital improvements on and to Unit No. 3, and the appurtenant Limited Committee Elements and easement areas to be performed for the Unit No. 3 Owner under the Declaration of Parking Operations and the Condominium Instruments; 3) the Unit No. 3 Owner's assessments under the Condominium for the budgeted period; and 4) reserves for operations, capital expenditures and Emergency Situations; provided that, where the District is Unit No. 3 Owner, the budget shall be prepared in sufficient time to be part of the budgeting process of the District for its forthcoming fiscal year but in any case no later than 180 days prior to the beginning of each fiscal year for the Condominium.

b. Prepare annually a capital expenditure plan for Unit No. 3 and its appurtenant Limited Common Element areas and easement areas for the upcoming fiscal year of the Condominium.

8. **Reporting**

a. Provide Unit No. 3 Owner within 30 days following the end of each quarter a statement of operations setting forth in reasonable detail the revenues and expenses arising out of the operation, maintenance and repair of Unit No. 3 for the prior quarter. Indicate the variance thereof to the then applicable budget and any Shortfall Fundings made by the Unit Owners Association.

b. Provide one or more monthly reports to the Unit No. 3 Owner that include:

i. Commentary regarding financial results for the month including a variance analysis, analysis of accounts receivable, ticket statistics and related issues (ticket loss and potentially lost revenue), as well as recommended solutions to all issues documented in the monthly commentary.

ii. Initiatives identified by Asset Manager during the month and recommended action plans to capture the additional revenue, implement the operating efficiency, reduce expenses, resolve identified safety issues, as well as new technological innovations that may create expense reduction opportunities, enhance revenue control, and improve customer service.

iii. Marketing initiatives and compliance with goals established for revenue production in the marketing plan.

iv. Significant problems and/or opportunities that occurred or were identified during the month and the recommendations that were made and implemented to resolve the problems and capture the benefit of each opportunity.

v. Significant personnel, insurance, or facility issues that occurred during the month and the resolution of same.

vi. Significant maintenance issues that were identified during the month and the resolution of such issues.

vii. Any incidents of non-compliance with the Condominium Instruments of the Declaration of Parking Operations.

viii. Recommendations for any actions that require explicit approval from Unit #3 Owner.

ix. Prepare a quarterly parking rate survey of the Unit No. 3 as a parking facility and Comparable Parking Facilities, with any recommendations for parking rate adjustments that might be proposed for implementation to the Parking Operations Committee to capture additional revenue.

Appendix A: Property Management Responsibilities

1. Hire and supervise all employees or outside vendors necessary or reasonably desirable for the repair and maintenance of Unit No. 3.
2. Supervise routine maintenance and repair of existing equipment and systems of Unit No. 3. Obtain service contracts from qualified third party vendors as required. Recommend to Unit No. 3 Owner and as requested provide for preventive maintenance contracts.
3. Provide and supervise staff, or retain outside contractors as required to repair or maintain items or systems within or about Unit No. 3 that are the responsibility of the Unit No. 3 Owner (as indicated in Schedule A of the Bylaws of the Condominium including, but not limited to:
    a. items of a structural nature including the concrete framing and floor slabs within Unit No. 3, interior parking ramps and the inside face of the foundation walls and ceilings;
    b. exterior items for which the Unit No. 3 Owner is responsible including roll down doors and gates at the garage entry, soffits above the parking ramp entry, the façade adjacent to parking entry ramp, the walls of the garage ramps, the lighting on the garage ramps and exterior parking signage;
    c. miscellaneous interior items including repair or replacement of the insulated ceiling at the P-1 level, firestopping, expansion joints in the garage, curbs, guard rails, wall protection/corner guards and interior doors/hardware
    d. mechanical, electrical, plumbing and fire protection items in the Unit No. 3, including the dry sprinkler system, domestic water piping, natural gas piping, sump pumps and sewage ejectors, plumbing fixtures, elevator pit pumps/drainage, HVAC unit condensate piping, sanitary sewer/vent branch piping, under slab drainage piping, floor drains/trench drains, louvers, garage exhaust fans/ductwork, HVAC units, supply, exhaust ductwork, dampers, pipe and duct insulation, building management systems, mechanical rooms, grilles, registers and diffusers, unit heaters, service switchgear/transformers, panelboards/disconnect switches, motor control centers, heat tracing, electrical conduits, wiring, interior/exterior receptacles, interior lighting and emergency lighting, CO monitoring system, and fire alarm system including wiring/devices/panels, fire alarm central station systems and equipment.
4. Coordinate with the Unit Owners Association all physical alterations or other physical improvement to Unit No. 3, and other areas that Unit No. 3 Owner seeks to undertake, all pursuant to the Condominium Documents and the Declaration of Parking Operations, as applicable or that the Unit Owners Association may elect to make including, but not limited to, those involving the security systems and facilities of Unit No. 3. Advise Unit No. 3 Owner on alternatives as appropriate.
5. Coordinate all structural, mechanical, electrical or other installations or any physical alterations or other physical improvement that Unit No. 3 Owner is required to make by law or governmental requirement including, but not limited to, statutes or regulations pertaining to air quality, environmental protection, or provisions for persons with disabilities.
6. To the extent necessary, recommend and coordinate periodic painting of Unit No. 3.

7. Maintain initial illumination levels in Unit No. 3, its appurtenant Limited Common Element areas and easement areas, including, but not limited to, replacement of bulbs or fixtures that are not the responsibility of the Parking Operator.
8. Properly make emergency repairs as required and make unscheduled or unbudgeted repairs and capital improvements immediately if, in the judgment of the Asset Manager, these repairs or improvements are necessary to avoid adversely impacting the patrons' perceptions of the Condominium and its retail operations.
9. Provide a periodic review of maintenance standards and procedures.
10. Provide regular walkthroughs to determine that the Parking Operator is keeping the Unit No. 3 in clean, presentable and sanitary condition. Recommend to Unit No. 3 Owner and the Parking Operations Committee special cleaning, graffiti removal or power washing as required.
11. Contract, for reasonable periods and upon commercially reasonable terms, in the name and at the expense of the Unit No. 3 Owner, for gas, electricity, water and such other services as are being furnished to Unit No. 3.
12. Obtain rebates and credits which may accrue under various utility agreements.
13. Advise each Unit Owner of the condition, and the need for maintenance or repair, or as appropriate replacement of signage of a Unit Owner or of its tenants/occupants permitted in Unit No. 3 pursuant to Section 11 of the Declaration.

Appendix B: Security Responsibilities

1. Monitor the Unit Owners Association's development and implementation of the security plan and protocols for Unit No. 3, including selection and retention of a security company to provide protective services that include:
    a. Provision of protection for parking lot patrons and their vehicles from criminal activity;
    b. Reporting criminal activity on and immediately surrounding the parking lot to local police;
    c. Provision of written, detailed, and informative daily activity reports for the lot; and
    d. Notifying the Office of the Deputy Mayor for Planning and Economic Development at (202) 727-6365 of any activity requiring police attention at the site, no later than 12 hours following the incident.
2. On behalf of Unit No. 3 Owner, cooperate with Unit Owners Association, the Managing Agent of the Condominium and other Unit Owners regarding in the implementation and operation by the Unit Owners Association of security program and protocols for Unit No. 3.
3. Coordinate with the Managing Agent in the development and implementation by the Parking Operator of its operational plans to be followed upon the occurrence of any of the following:
    a. Vehicular damage,
    b. Bomb threats,
    c. Spilling of automotive fuel and other hazardous materials,
    d. Carbon monoxide build-up,
    e. Injury to persons or property,
    f. Fire,
    g. Theft, robbery or other criminal acts,
    h. Acts of terrorism, and
    i. Weather emergencies.
4. Conduct periodic walkthroughs with Unit Owners Association's representatives, including the Managing Agent of the Condominium, and the security company management team to review security parameters, strategies and potential procedural changes as required.
5. Monitor on behalf of Unit No. 3 Owner, the Unit Owners Association's review and oversight of the security company's performance of security plan and protocols for Unit No. 3.
6. Periodically review and make recommendations to the Unit Owners Association on the security company's procedures for: handling emergency response procedures; selection of personnel; staffing levels in the Unit No. 3 parking operations; selection of management personnel and standards of management supervision; procedures for drug testing; procedures for termination of discourteous and unprofessional personnel; and procedures and policies for the inspection of vehicles.
7. Monitor staffing levels of approved security plan in relationship to perceived need for Unit No. 3 and its operations, and provide advice to the Managing Agent of the Unit Owners Association regarding the same, including suggested changes thereto. Review requests received by Unit Owners Association regarding the need for increased security staffing as

required for special events or as dictated by the time of the year (i.e. Holidays, Back to School season, etc.) or other considerations, and advise the Managing Agent with regard to the same.

8. Consult with the Managing Agent of the Unit Owners Association and the security company providing security services with regard to Unit No. 3, and recommend to Unit No. 3 Owner, the Managing Agent and Unit Owners Association additional, or changes in, security equipment needed to provide at least the level of security necessary to meet the Parking Objectives. Assist and advise Unit No. 3 Owner in relation to the procurement, installation, training and operation of the recommended security equipment.
9. Confirm that the insurance level of security services provider corresponds to the minimum insurance requirements.

Assist Unit No. 3 Owner, as appropriate, in advising the Unit Owners Association on the process of replacing or procuring the security services contractor at the expiration or termination of the security services contractor's agreement for Unit No. 3.

EXHIBIT D

SIGNAGE WITHIN UNIT NO. 3

[See attached Sheets.]

EXHIBIT E

FORM OF MEMORANDUM OF DECLARATION OF PARKING OPERATIONS

WHEN RECORDED MAIL TO:
David W. Briggs, Esquire
Holland & Knight LLP
2099 Pennsylvania Avenue, N.W.
Suite 100
Washington, D.C. 20006

MEMORANDUM OF DECLARATION OF PARKING OPERATIONS

THIS MEMORANDUM OF DECLARATION OF PARKING OPERATIONS (this "Memorandum") is made and entered into as of this 31st day of October, 2008, by DC USA OPERATING CO., LLC, a Delaware limited liability company ("DC USA").

RECITALS:

R-1. DC USA has entered into that certain Declaration of Parking Operations dated of even date herewith (herein the "Declaration of Parking Operations") with respect to the operation of Unit No. 3 in the DC USA Condominium as a public parking facility serving primarily other units in the DC USA Condominium (the "Parking Facilities"), the DC USA Condominium having been established by the recording of that certain Declaration For the DC USA Condominium among the land records of the Office of the Recorder of Deeds of the District of Columbia (the "Land Records") as Instrument Number 2008034084, together with Bylaws therefore recorded among the Land Records as Instrument Number 2008034085, and the filing of Condominium Plats and Plans of the DC USA Condominium among the records of the Office of the Surveyor for the District of Columbia, in Condominium Book 61 at Page 17.

R-2. DC USA currently owns all Units within the Condominium, and more particularly identified as (i) "Unit No. 1" or the "Retail Unit," and described on Exhibit A-1, attached hereto and incorporated herein (the "Unit No. 1"), (ii) "Unit No. 2" or the "Target Unit," and described on Exhibit A-2, attached hereto and incorporated herein (the "Unit No. 2"), and (iii) "Unit No. 3" or the "Parking Unit", and described on Exhibit A-3 attached hereto and incorporated herein (the "Unit No. 3").

R-3. DC USA intends to sell off legal title to each of Unit No. 2 and Unit No. 3 subject to the terms and conditions of the Declaration of Parking Operations.

R-4. Among other things, the Declaration of Parking Operations establishes the policies and procedures for the operation of the Parking Facilities, establishes the procedures for employing a vendor as an operator of the Parking Facilities (the "Operator"), sets the procedures to be followed in connection with the enforcement of any parking management Declaration entered into with the Operator, establishes the rights of the Owners and others to use parking spaces in the Parking Facilities and establishes the responsibility for payment of expenses incurred due to the operation and use of the Parking Facilities. The Declaration of Parking

Operations in intended to run with legal title to the property that is the subject of the regime of the Condominium, until terminated with the consent and by the action of all parties then in interest to legal title to that property.

R-5. This Memorandum is not intended to alter or modify in any way the terms and conditions of the Declaration of Parking Operations, and to the extent that there is found to exist any inconsistency between the provisions of this Memorandum and the provisions of the Declaration of Parking Operations, the provisions of the Declaration of Parking Operations shall be deemed controlling.

NOW THEREFORE:

1. The Recitals hereinabove set forth in this Memorandum shall be deemed incorporated by referenced into the body of this Memorandum as if fully set forth herein.

2. This Memorandum is made for the purpose of giving notice to third parties of the existence of the Declaration of Parking Operations as an encumbrance upon legal title to each of Unit No. 1, Unit No. 2 and Unit No. 3.

[Signatures Appear on the Following Page]

IN WITNESS WHEREOF, GRID Urban Ventures III, LLC, a New York limited liability company, a Managing Member of USPDC, LLC, a New York limited liability company, Managing Member of DC USA Management Co. LLC, a Delaware limited liability company, Manager and Sole Member of DC USA Operating Co., LLC, a New York limited liability company, has caused these presents to be signed in its name by Drew Greenwald, its Managing Member, and Picket Realty Construction Consultants LLC, a New York limited liability company, Manager of DC USA GO, LLC, a New York limited liability company, a Managing Member of USPDC, LLC, a New York limited liability company, Managing Member of DC USA Management Co. LLC, a Delaware limited liability company, Manager and Sole Member of DC USA Operating Co., LLC, a New York limited liability company, has caused these presents to be signed in its name by David Picket, a Member, for the purposes of executing, acknowledging and delivering this Memorandum, as the act and deed of the various limited liability companies for themselves and in their respective interests in DC USA Operating Co., LLC, all as of the day and year hereinbefore written.

DC USA OPERATING CO., LLC,
a New York limited liability company

By: DC USA Management Co. LLC,
a Delaware limited liability company,
Manager and Sole Member

By: USPDC, LLC,
a New York limited liability company,
Managing Member

By: GRID Urban Ventures III, LLC,
a New York limited liability company,
Managing Member

By: _____
Drew Greenwald
Managing Member

By: DC USA GO, LLC,
a New York limited liability company,
Managing Member

By: Picket Realty Construction Consultants LLC,
a New York limited liability company,
Manager

By: _____
David L. Picket
Member

COUNTY OF _____

STATE OF NEW YORK, to wit:

I, _____, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that Drew Greenwald, Managing Member of GRID Urban Ventures III, LLC, Managing Member of USPDC, LLC, Managing Member of DC USA Management Co. LLC, itself Manager and Sole Member of DC USA Operating Co., LLC, DC USA in the foregoing and annexed Memorandum, personally appeared before me in said jurisdiction and, being personally well known to me, acknowledged said instrument to be the act and deed of said limited liability companies and delivered the same as such.

GIVEN under my hand and seal this ____ day of October, 2008.

_____
Notary Public

My commission expires: _____

[NOTARIAL SEAL]

COUNTY OF _____

STATE OF NEW YORK, to wit:

I, _____, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that David L. Picket, Member of Picket Realty Construction Consultants LLC, Manager of DC USA GO, LLC, a Managing Member of USPDC, LLC, Managing Member of DC USA Management Co. LLC, Manager and Sole Member of DC USA Operating Co., LLC, DC USA in the foregoing and annexed Memorandum, personally appeared before me in said jurisdiction and, being personally well known to me, acknowledged said instrument to be the act and deed of said limited liability companies and delivered the same as such.

GIVEN under my hand and seal this ____ day of October, 2008.

_____
Notary Public

My commission expires: _____

[NOTARIAL SEAL]

EXHIBIT A-1 OF MEMORANDUM OF PARKING DECLARATION

DESCRIPTION OF
UNIT NO. 1

All that certain lot or parcel of land situate, lying and being in the District of Columbia, and being more particularly described as follows:

Condominium Unit 1, together with an undivided Percentage Interest in the Common Elements appertaining to said Condominium Unit 1, according to Exhibit B to the Declaration of Condominium dated March 26, 2008, and recorded in the Land Records of the District of Columbia (the "Land Records") March 31, 2008 as Instrument No. 2008034084, and the Bylaws of Condominium relating thereto dated March 26, 2008, and recorded in said Land Records March 31, 2008, as Instrument No. 2008034085, and as per Plat and Plans of Condominium Subdivision recorded in Condominium Book No. 67 at Page 17, in the Office of the Surveyor for the District of Columbia.

Property Address: 3100 14th Street, N.W., Unit 1
Washington, D.C. 20010

Condominium Unit 1 is part of Lot 721 in Square 2674, in the subdivision recorded in Book 200 at page 44 among the Records of the Office of the Surveyor for the District of Columbia.

NOTE: At the date hereof the above described land is designated on the Records of the Assessor of the District of Columbia for assessment and taxation purposes as Assessment and Taxation Lot 2001 in Square 2674.

EXHIBIT A-2 OF MEMORANDUM OF PARKING DECLARATION

DESCRIPTION OF UNIT NO. 2

All that certain lot or parcel of land situate, lying and being in the District of Columbia, and being more particularly described as follows:

Condominium Unit 2, together with an undivided Percentage Interest in the Common Elements appertaining to said Condominium Unit 2, according to Exhibit B to the Declaration of Condominium dated March 26, 2008, and recorded in the Land Records of the District of Columbia (the "Land Records") March 31, 2008 as Instrument No. 2008034084, and the Bylaws of Condominium relating thereto dated March 26, 2008, and recorded in said Land Records March 31, 2008, as Instrument No. 2008034085, and as per Plat and Plans of Condominium Subdivision recorded in Condominium Book No. 67 at Page 17, in the Office of the Surveyor for the District of Columbia.

Property Address: 3100 14th Street, N.W., Unit 2
Washington, D.C. 20010

Condominium Unit 2 is part of Lot 721 in Square 2674, in the subdivision recorded in Book 200 at page 44 among the Records of the Office of the Surveyor for the District of Columbia.

NOTE: At the date hereof the above described land is designated on the Records of the Assessor of the District of Columbia for assessment and taxation purposes as Assessment and Taxation Lot 2002 in Square 2674.

EXHIBIT A-3 OF MEMORANDUM OF PARKING DECLARATION

DESCRIPTION OF UNIT NO. 3

All that certain lot or parcel of land situate, lying and being in the District of Columbia, and being more particularly described as follows:

Condominium Unit 3, together with an undivided Percentage Interest in the Common Elements appertaining to said Condominium Unit 3, according to Exhibit B to the Declaration of Condominium dated March 26, 2008, and recorded in the Land Records of the District of Columbia (the "Land Records") March 31, 2008 as Instrument No. 2008034084, and the Bylaws of Condominium relating thereto dated March 26, 2008, and recorded in said Land Records March 31, 2008, as Instrument No. 2008034085, and as per Plat and Plans of Condominium Subdivision recorded in Condominium Book No. 67 at Page 17, in the Office of the Surveyor for the District of Columbia.

Property Address: 3100 14th Street, N.W., Unit 3
Washington, D.C. 20010

Condominium Unit 3 is part of Lot 721 in Square 2674, in the subdivision recorded in Book 200 at page 44 among the Records of the Office of the Surveyor for the District of Columbia.

NOTE: At the date hereof the above described land is designated on the Records of the Assessor of the District of Columbia for assessment and taxation purposes as Assessment and Taxation Lot 2003 in Square 2674.

Appendix A
to
Memorandum of Declaration of Parking Operations

TRUSTEE'S JOINDER, CONSENT AND SUBORDINATION TO MEMORANDUM OF DECLARATION OF PARKING OPERATIONS

On this _____ day of October, 2008, the undersigned, Verdugo Trustee Service Corporation, Trustee under that certain Deed of Trust, Assignment of Leases, Security Agreement and Fixture Filing, dated February 15, 2006, securing Citicorp USA, Inc. ("Lender"), recorded on February 16, 2006, among the land records of the Office of the Recorder of Deeds of the District of Columbia as Instrument No. 2006021130 (the "Deed of Trust"), encumbering the land, including the improvements thereon and the appurtenances thereto, described as the Unit No. 1, Unit No. 2 and Unit No. 3 in the Memorandum of Declaration of Parking Operations to which this Trustee's Joinder, Consent and Subordination is appended, with full authority from the beneficiary secured under said Deed of Trust as reflected in Appendix A-1 attached hereto, do hereby consent to the terms and conditions of the foregoing Memorandum of Declaration of Parking Operations (the "Memorandum"), and covenants and agrees that the lien, effect and operation of said Deed of Trust be subject and subordinate to the effect and operation of that certain Declaration of Parking Operations referred to in that Memorandum related to the DC USA Condominium (the "Parking Declaration"), said Deed of Trust otherwise to remain unmodified and in full force and effect; provided that such consent and subordination shall not be construed as subordinating the terms and conditions of the Deed of Trust to the terms and conditions of the Parking Declaration or as deferring to the terms and conditions of the Parking Declaration in the event of any conflict, it being the intent that the terms and conditions of the Deed of Trust shall govern in any such event and that such consent and subordination shall be effective solely to the extent necessary to permit the creation of a condominium regime form of ownership.

IN WITNESS WHEREOF, Verdugo Trustee Service Corporation, has caused this instrument to be executed by _____ its _____, and does hereby appoint said _____ as its attorney-in-fact for purposes of executing, acknowledging and delivering this instrument, for and on behalf of said corporation, all as of the day and year first hereinabove written.

VERDUGO TRUSTEE SERVICE CORPORATION

By: _____
Name:
Title:

_____)
) ss:
_____)

BEFORE ME, a Notary Public in and for the jurisdiction aforesaid, personally appeared this date _____, personally well known (or satisfactorily proven) to me to be the person whose name is subscribed to the foregoing and annexed Instrument, who, being by me first duly sworn, did depose and state that ____ is the _____ and attorney-in-fact of Verdugo Trustee Service Corporation, which entity is a party to the foregoing and annexed Instrument, and that ____, being duly authorized so to do, executed said Instrument on behalf of said entity and acknowledged the same as its free act and deed for the uses and purposes therein contained.

WITNESS my hand and official seal this _____ day of October, 2008.

_____
Notary Public
[Notarial Seal]

My Commission Expires:

APPENDIX A-1

BENEFICIARY'S AUTHORIZATION TO TRUSTEE

On this _____ day of October, 2008, Citicorp USA, Inc., Beneficiary under that certain Deed of Trust, Assignment of Leases, Security Agreement and Fixture Filing, dated February 15, 2006, securing Citicorp USA, Inc. ("Lender"), recorded on February 16, 2006, among the land records of the Office of the Recorder of Deeds of the District of Columbia as Instrument No. 2006021130 (the "Deed of Trust"), hereby authorizes Verdugo Trustee Service Corporation, Trustee, to execute the annexed Trustee's Joinder, Consent and Subordination for the purposes set forth therein.

IN WITNESS WHEREOF, Citicorp USA Inc., has caused this instrument to be executed by _____ its _____, and does hereby appoint said _____ as its attorney-in-fact for purposes of executing, acknowledging and delivering this instrument, for and on behalf of said corporation, all as of the day and year first hereinabove written.

CITICORP USA, INC.

By: _____
Name:
Title:

_____)
) ss:
_____)

BEFORE ME, a Notary Public in and for the jurisdiction aforesaid, personally appeared this date _____, personally well known (or satisfactorily proven) to me to be the person whose name is subscribed to the foregoing and annexed Instrument, who, being by me first duly sworn, did depose and state that ___ is the _____ and attorney-in-fact of Citicorp USA, Inc., which entity is a party to the foregoing and annexed Instrument, and that ____, being duly authorized so to do, executed said Instrument on behalf of said entity and acknowledged the same as its free act and deed for the uses and purposes therein contained.

WITNESS my hand and official seal this _____ day of October, 2008.

_____
Notary Public
[Notarial Seal]

My Commission Expires:

Appendix B
to
Memorandum of Declaration of Parking Operations

TRUSTEE'S JOINDER, CONSENT AND SUBORDINATION TO MEMORANDUM OF DECLARATION OF PARKING OPERATIONS

On this _____ day of October, 2008, the undersigned, Verdugo Trustee Service Corporation, Trustee under that certain Indemnity Deed of Trust, Assignment of Leases, Security Agreement and Fixture Filing, dated February 15, 2006, Citicorp North America, Inc. ("Lender"), recorded on February 16, 2006, among the land records of the Office of the Recorder of Deeds of the District of Columbia as Instrument No. 2006021132, (the "Deed of Trust"), encumbering the land, including the improvements thereon and the appurtenances thereto, described as the Unit No. 1, Unit No. 2 and Unit No. 3 in the Memorandum of Declaration of Parking Operations to which this Trustee's Joinder, Consent and Subordination is appended, with full authority from the beneficiary secured under said Deed of Trust as reflected in Appendix B-1 attached hereto, does hereby consent to the terms and conditions of the foregoing Memorandum of Declaration of Parking Operations (the "Memorandum"), and covenant and agree that the lien, effect and operation of said Deed of Trust be subject and subordinate to the effect and operation of that certain Declaration of Parking Operations referred to in the Memorandum related to the DC USA Condominium (the "Parking Declaration"), said Deed of Trust otherwise to remain unmodified and in full force and effect; provided that such consent and subordination shall not be construed as subordinating the terms and conditions of the Deed of Trust to the terms and conditions of the Parking Declaration or as deferring to the terms and conditions of the Parking Declaration in the event of any conflict, it being the intent that the terms and conditions of the Deed of Trust shall govern in any such event and that such consent and subordination shall be effective solely to the extent necessary to permit the creation of a condominium regime form of ownership.

IN WITNESS WHEREOF, Verdugo Trustee Service Corporation, has caused this instrument to be executed by _____ its _____, and does hereby appoint said _____ as its attorney-in-fact for purposes of executing, acknowledging and delivering this instrument, for and on behalf of said corporation, all as of the day and year first hereinabove written.

VERDUGO TRUSTEE SERVICE CORPORATION

By: _____
Name:
Title:

_____)
) ss:
_____)

BEFORE ME, a Notary Public in and for the jurisdiction aforesaid, personally appeared this date _____, personally well known (or satisfactorily proven) to me to be the person whose name is subscribed to the foregoing and annexed Instrument, who, being by me first duly sworn, did depose and state that ____ is the _____ and attorney-in-fact of Verdugo Trustee Service Corporation, which entity is a party to the foregoing and annexed Instrument, and that ____, being duly authorized so to do, executed said Instrument on behalf of said entity and acknowledged the same as its free act and deed for the uses and purposes therein contained.

WITNESS my hand and official seal this _____ day of October, 2008.

_____
Notary Public
[Notarial Seal]

My Commission Expires:

APPENDIX B-1

BENEFICIARY'S AUTHORIZATION TO TRUSTEE

On this _____ day of October, 2008, Citicorp North America, Inc., Beneficiary under that certain Indemnity Deed of Trust, Assignment of Leases, Security Agreement, and Fixture Filing, dated February 15, 2006, securing Citicorp North America, Inc. ("Lender"), recorded on February 16, 2006 among the land records of the Office of the Recorder of Deeds of the District of Columbia as Instrument No. 2006021132 (the "Deed of Trust"), hereby authorizes Verdugo Trustee Service Corporation, Trustee, to execute the annexed Trustee's Joinder, Consent and Subordination for the purposes set forth therein.

IN WITNESS WHEREOF, Citicorp North America, Inc., has caused this instrument to be executed by _____ its _____, and does hereby appoint said _____ as its attorney-in-fact for purposes of executing, acknowledging and delivering this instrument, for and on behalf of said corporation, all as of the day and year first hereinabove written.

CITICORP NORTH AMERICA, INC.

By: _____
Name:
Title:

_____)
) ss:
_____)

BEFORE ME, a Notary Public in and for the jurisdiction aforesaid, personally appeared this date _____, personally well known (or satisfactorily proven) to me to be the person whose name is subscribed to the foregoing and annexed Instrument, who, being by me first duly sworn, did depose and state that ___ is the _____ and attorney-in-fact of Citicorp North America, Inc., which entity is a party to the foregoing and annexed Instrument, and that ____, being duly authorized so to do, executed said Instrument on behalf of said entity and acknowledged the same as its free act and deed for the uses and purposes therein contained.

WITNESS my hand and official seal this _____ day of October, 2008.

_____
Notary Public
[Notarial Seal]

My Commission Expires:

3308723_v56

Attachment C

AGREEMENT

THIS AGREEMENT ("Agreement") is entered into as of the 13th day of June 2008, by and between the **DISTRICT OF COLUMBIA**, a body corporate and politic, existing under the Constitution and laws of the United States (the "District"), **CITICORP NORTH AMERICA, INC.**, a Delaware corporation ("Citicorp"), and **DC USA OPERATING CORP LLC**, a Delaware limited liability company ("Developer").

W I T N E S S E T H

WHEREAS, Developer has developed a retail center in the District of Columbia known as DC USA which includes a two level underground parking garage and has been subjected to a condominium ownership regime; and

WHEREAS, National Capital Revitalization Corporation ("NCRC") contracted with Developer to purchase the condominium unit comprised of the parking garage; and

WHEREAS, NCRC issued its $46,900,000 Variable Rate Revenue Bonds (DC USA Parking Garage Project) Series 2006 (the "Bonds") pursuant to a certain Indenture of Trust between NCRC and Wells Fargo Bank, N.A., as trustee, dated as of February 1, 2006 (the "Original Indenture"), the proceeds of which were to be used to finance its purchase of the parking garage; and

WHEREAS, Citicorp is the purchaser of all of the Bonds; and

WHEREAS, pursuant to the National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Clarification Emergency Act of 2007, D.C. Law 17-71, enacted by the Council of the District of Columbia (the "Act"), NCRC dissolved as of October 1, 2007, and all of its assets and obligations were vested in and assumed by the Mayor of the District of Columbia; and

WHEREAS, pursuant to a certain Agreement between the District and Citicorp, dated September 27, 2007, Citicorp consented to the amendment and restatement of the Original Indenture (as so amended and restated, the "Indenture"); and

WHEREAS, the condominium documents for the Parking Garage Project (as such term is defined in the Indenture) and certain related documents originally approved by Developer, NCRC and Citicorp have been or will be modified;

NOW THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Citicorp, the Developer and the District hereby covenant and agree as follows:

1. Definitions. For purposes of this Agreement each of the following terms shall have the respective meanings ascribed to such terms below. Capitalized terms

used but not defined in this Agreement shall have the respective meanings ascribed to such terms in the Indenture.

(a) "Anti-Deficiency Laws" shall mean (i) the federal Anti-Deficiency Act, 31 U.S.C. §§ 1341, 1342, 1349-1351 1511-1519 (2006), and D.C. Official Code §§ 1-206.03(e) and 47-105 (2006 Repl.) and (ii) the District of Columbia Anti-Deficiency Act, D.C. Official Code §§ 47-355.01 – 355.08 (2005 Repl. and 2007 Supp.), in each case as amended from time to time.

(b) "Asset Management Agreement" shall mean an agreement between the District and the Asset Manager, including the Initial Asset Management Agreement, pursuant to which the Asset Manager is to provide asset management and related services with respect to the Parking Garage Project.

(c) "Asset Manager" shall mean the party providing asset management services in respect of the Parking Garage Project. The initial Asset Manager for the Parking Garage Project shall be Spectrum Management LLC.

(d) "Capital Expenses" shall mean costs for improvements, replacements or refurbishments of the Parking Garage Project that are treated as capital expenses under generally accepted accounting principles consistently applied.

(e) "Capital Reserve Deposit Amount" shall mean Two Hundred and Fifty Thousand Dollars ($250,000) with respect to the 2008 Fiscal Year and shall increase by two and one-half percent (2.5%) for each Fiscal Year thereafter.

(f) "Capital Reserve Fund" shall mean the fund or account created by the District and held for purposes of paying Capital Expenses as provided for in Section 5(e) of this Agreement.

(g) "Condominium" shall mean the DC USA Condominium established pursuant to the Condominium Documents.

(h) "Condominium Documents" shall mean the documents and instruments establishing the DC USA Condominium, including but not limited to the Declaration for DC USA Condominium executed by the Developer, as "Declarant", the By-Laws for DC USA Condominium, and the Declaration of Parking Operations executed by the Developer, as "Declarant".

(i) "Council" means the Council of the District of Columbia.

(j) "District Parking Concessions" shall mean the value, according to then-applicable parking rates, of all discounted, validated and free parking

granted by the Parking Manager or the District, except for discounts, validations or free parking afforded pursuant to arrangements established in accordance with the Parking Declaration or approved by the Condominium unit owners.

(k) "EDSAF" shall mean the Economic Development Special Account Fund established under the Act or any successor non-lapsing fund.

(l) "Excess Capital Expense" shall mean the portion of a Capital Expense incurred that (i) exceeds the amount then available for such expense in the Capital Reserve Fund, and (ii) if the Bonds are Outstanding at the time such expense is incurred, has been approved by Citicorp, which approval shall not be unreasonably withheld.

(m) "Excess Capital Expense Amount" shall mean the amount of any Excess Capital Expense amortizable for the applicable Fiscal Year, in accordance with generally accepted accounting principles consistently applied.

(n) "Fiscal Year" shall mean the twelve-month period from October 1 through September 30 of each calendar year or such other twelve-month period as the District may designate as its fiscal year in accordance with generally accepted accounting principles consistently applied, provided that the first Fiscal Year may be prorated in accordance with generally accepted accounting principles consistently applied.

(o) "Gross Revenues" shall mean all receipts and revenues received by the Parking Manager or otherwise received by or on behalf of the District in connection with the parking of vehicles in the Parking Garage Project, and any other income generated in connection with the Parking Garage Project, including but not limited to fees, commissions and other income from vending machines, pay telephones, and ATM machines located within the Parking Garage Project, received by the Parking Manager or otherwise received by or on behalf of the District, and, for so long as the Bonds are Outstanding, including any District Parking Concessions, but excluding all sales taxes or other charges required to be remitted to any governmental authority in its governmental capacity.

(p) "Initial Asset Management Agreement shall mean the Asset Management Agreement between Spectrum Management LLC and the District.

(q) "Initial Parking Management Agreement shall mean the Parking Management Agreement between District of Columbia Parking Associates and the District.

(r) "Mayor" shall mean the Mayor of the District of Columbia.

(s) "Net Revenues" shall mean, with respect to a Fiscal Year or any other period of time, the difference between Gross Revenues and Operating Expenses for such Fiscal Year or other period of time.

(t) "Operating Expenses" shall mean the expenses of operating the Parking Garage Project as determined under generally accepted accounting principles consistently applied, including, but not limited to, (i) the Operating Expenses defined as such in the Initial Parking Management Agreement (including the fees and incentive fees paid to the Parking Manager under the Parking Management Agreement), (ii) operating expenses payable directly by the District, including expenses payable (or which would be payable but for the limitations imposed by the Anti-Deficiency Laws) under the Condominium Documents, whether denominated as common expenses, limited common expenses, special expenses or otherwise, including but not limited to amounts payable under the Parking Declaration, (iii) utility expenses and insurance premiums attributable to the Parking Garage Project, (iv) operating expenses paid by the Asset Manager pursuant to the Asset Management Agreement, (v) fees of the Asset Manager payable under the Asset Management Agreement, (vi) payments for the cost of repairs to, or (to the extent not constituting Capital Expenses) replacements at, the Parking Garage Project, (vii) budgeted lease payments for equipment located at the Parking Garage Project that are not treated as Capital Expenses under generally accepted accounting principles consistently applied, (viii) funding and replenishment of the Operating Reserve Fund as provided for in this Agreement, (ix) Excess Capital Expense Amounts, and (x) funding of the Capital Reserve Fund as provided for in this Agreement. For purposes of this Agreement "Operating Expenses" shall not include depreciation, amortization or other non-cash charges except for Excess Capital Expense Amounts.

(u) "Operating Reserve Fund" shall mean the fund or account created by the District and held for the purpose of paying unfunded Operating Expenses, as described in Section 5(d) of this Agreement.

(v) "Parking Declaration" shall mean the Declaration of Parking Operations executed by the Developer, as "Declarant" with respect to the Parking Garage Project.

(w) "Parking Manager" shall mean the party providing parking management services pursuant to the Parking Management Agreement. The initial Parking Manager shall be District of Columbia Parking Associates, a District of Columbia general partnership.

(x) "Parking Management Agreement" shall mean an agreement between the District and the Parking Manager, including the Initial Parking Management Agreement, pursuant to which the Parking Manager is to

provide parking management services with respect to the Parking Garage Project.

(y) "Parking Operations Committee" shall have the meaning ascribed to such term in the Parking Declaration.

(z) "Pledged Operating Fund" shall mean the fund or account created by the District into which all Gross Revenues shall be deposited on a bi-weekly basis, as described in Section 5(b) of this Agreement, and the amounts deposited therein, after payment of Operating Expenses, shall be subject to a valid, binding and perfected security interest for the benefit of the Bondholders pursuant to Section 490 of the Home Rule Act.

(aa) "Purchase Order" shall mean a purchase order or other mechanism by which the District legally commits appropriated funds to be used for a specified purpose.

(bb) "Task Order" shall mean a task order or other mechanism by which the District authorizes a contractor to commence work or to provide goods or services pursuant to a contract in an amount not in excess of the amount specified in the task order and for a duration specified in the task order.

(cc) "Trustee" shall mean the trustee under the Indenture.

2. Term of Agreement. This Agreement shall remain in effect until such time as neither the District nor any of its instrumentalities is the owner of the Parking Garage Project, provided that if the District or any of its instrumentalities is the owner of the Parking Garage Project when the Bonds are no longer Outstanding then the provisions of Sections 6 and 7, Subsections 4(c), (d) and (e), and the security interests pledged pursuant to Section 490 of the Home Rule Act, shall thereafter cease to be in effect, provided further that the foregoing proviso is not intended and shall not be construed to affect the terms, conditions or applicability of the Condominium Documents (including the Parking Declaration) after the Bonds are no longer Outstanding or the funding of the Operating Reserve Fund and the Capital Reserve Fund as provided for in this Agreement.

3. Ownership and Operation of the Parking Garage Project. The District shall comply with its obligations under the Garage Purchase Agreement and shall take title to the Parking Garage Project pursuant thereto as soon as practicable hereafter.

4. Parking Garage Project Budget; Financial Statements; Other Information.

(a) The District shall prepare a Parking Garage Project budget for each Fiscal Year, which budget shall include one hundred ten percent (110%) of the Operating Expenses (excluding items (viii), (ix) and (x) thereof) reasonably estimated to be payable by the District (collectively, the "Parking Garage Project Budget"). The Mayor shall include in the

Mayor's proposed annual District budget submitted to the Council pursuant to §1-204.42 of the D.C. Code, the amounts specified in the Parking Garage Project Budget. In the event that, during any Fiscal Year, expenses are incurred or reasonably anticipated that exceed the amount appropriated by the Congress for the Parking Garage Project Budget then, if the District would be obligated to pay such expenses if funds were legally available therefor, then the Mayor shall endeavor in good faith to identify and obtain additional available funds (including any funds available pursuant to the Act or, if necessary, seeking additional appropriations), and, if legally required, the Mayor shall seek lawful authority to allocate and spend the necessary additional funds, provided that, the District shall not be in default of this Agreement by virtue a failure by the Council or Congress to authorize any such funding and appropriation authority.

(b) Not later than when the Mayor sends the proposed annual District budget to the Council, the District shall forward to the Parking Operations Committee and, if the Bonds are still Outstanding, Citicorp, the Parking Garage Project Budget, plus the projected Gross Revenues that the District reasonably expects to receive during the next Fiscal Year.

(c) The District shall direct the Parking Manager to send a copy of the Parking Manager's Monthly Report (as defined in the Parking Management Agreement) to Citicorp at the same time as the Monthly Report is sent to the District.

(d) The District shall direct the Asset Manager to forward to Citicorp a copy of all financial reports regarding the operation of the Parking Garage Project sent to the District, including, but not limited to, all charges of and costs paid by the Asset Manager with regard to the Parking Garage Project.

(e) In addition to the foregoing, (i) at the same time as the District releases its annual Comprehensive Annual Financial Report, the District shall provide to Citicorp an accounting of all amounts deposited into and paid from the Pledged Operating Fund and all amounts paid from the Operating Reserve Fund, and (ii) the District shall provide to Citicorp such other information regarding the Parking Garage Project, including but not limited to information regarding the operation or finances of the Parking Garage Project, as is in the possession or reasonable control of Office of the Deputy Mayor for Planning and Economic Development, or such other branch of the District as is then responsible for the operation of the Parking Garage Project and as Citicorp may from time to time reasonably request.

(f) In addition to the reports and information to be provided to Citicorp pursuant to Subsections 4(c), 4(d) and 4(e) above, the District shall

provide to the Parking Operations Committee the following: (i) annually in conjunction with the issuance by the District of its Comprehensive Annual Financial Report, a statement of accounts as to the Capital Reserve Fund and as to the Operating Reserve Fund, apprising the Parking Operations Committee of activity in each fund during the prior fiscal year, and (ii) prior to each disbursement from the Capital Reserve Fund and from the Operating Reserve Fund, the District shall give written notice to the Parking Operations Committee of the District's intent to make a disbursement from the applicable Fund to cover District obligations, with a brief description of the obligation that will be so funded.

5. Appropriations, Collections and Maintenance of Reserves.

(a) In furtherance of, and without limiting, its covenants in the Condominium Documents with respect to its undertaking to seek funds sufficient to discharge its financial obligations thereunder, the Mayor agrees that the Mayor shall, as soon as permitted in respect of each Fiscal Year issue such Purchase Orders or Task Orders as are sufficient for the District's obligations to pay for the operations of, and goods and services provided to the District for, the Parking Garage Project, including but not limited to Purchase Orders or Task Orders to the Parking Manager, the Asset Manager, and the Unit Owners Association. The District represents that for the 2008 Fiscal Year it has identified $1,300,000 of funds in the budget of the Office of the Deputy Mayor for Economic Development as lawfully available for the operations of the Parking Garage Project, including the funding of reserve accounts associated therewith, and that it has issued the requisite Purchase Orders or Task Orders as applicable.

(b) The Mayor shall create a fund or account under the EDSAF into which all Gross Revenues shall be deposited immediately upon receipt by the District (the "Pledged Operating Fund"). No money shall be expended from the Pledged Operating Fund except for Operating Expenses and debt service on the Bonds. At the end of each Fiscal Year, with the exception of the amounts necessary to pay the Parking Manager's fees and expenses for the first month of the next Fiscal Year and to pay the annual Incentive Fee earned by the Parking Manager for the immediately completed Fiscal Year, the remaining amounts in the Pledged Operating Fund shall be applied as follows: (i) to replenish any amounts expended in the Operating Reserve Fund to bring the amount of the Fund back to $500,000; (ii) to pay up to the Capital Reserve Deposit Amount to the Capital Reserve Fund; and (iii) to use the remaining amounts to pay debt service on the Bonds. Pursuant to Section 490(a)(4) of the Home Rule Act, the Pledged Operating Fund shall be and is hereby pledged to pay debt service on the Bonds, after the payments described in this subsection (c)

(c) Except as otherwise permitted by applicable law, the amounts deposited into the Pledged Operating Fund which are utilized for payment of

Operating Expenses, including the funding of reserve accounts, must be budgeted and appropriated for such purposes. The Mayor shall, from time to time, use reasonable efforts to obtain such consents, approvals, appropriations or other authorizations as may be necessary so that the Pledged Operating Fund shall at all times be legally available for use in connection with the Parking Garage Project over and above the payment of debt service. The Mayor shall use reasonable efforts to obtain such consents, approvals, appropriations or other authorizations on a non-lapsing basis or, if not legally available on a non-lapsing basis, then for the longest term permitted by law. Pursuant to Section 490 of the Home Rule Act, amounts in the Pledged Operating Fund which are to be used to pay debt service on the Bonds are not subject to Congressional appropriations and shall be disbursed to the Trustee at the end of each Fiscal Year in accordance with this Agreement.

(d) The District shall utilize the first $500,000 of Gross Revenues received in Fiscal Year 2008 to create and maintain a general operating reserve fund or account of $500,000 (the "Operating Reserve Fund") within the EDSAF. The Mayor shall, from time to time, use reasonable efforts to obtain such consents, approvals, appropriations or other authorizations as may be necessary so that the Operating Reserve Fund may be funded and replenished and shall at all times be legally available for use in connection with the Operating Expenses of the Parking Garage Project. The Mayor shall use reasonable efforts to obtain such consents, approvals, appropriations or other authorizations on a non-lapsing basis or, if not legally available on a non-lapsing basis, then for the longest term permitted by law. The Operating Reserve Fund shall be used solely for amounts that are incurred in excess of the otherwise budgeted, appropriated and available funds to pay Operating Expenses for the applicable Fiscal Year and for which there does not then exist any other budgeted and appropriated funds, but only if, notwithstanding its reasonable efforts, the District shall have been unable to obtain funds from other sources to pay such expenses, including but not limited to additional appropriations and additional sources within the Office of the Deputy Mayor for Economic Development, provided that if due to the nature of the expense it is not practicable to delay payment in order to first seek such additional funds then monies in the Operating Reserve Fund may be used for such purpose, provided further that the Mayor shall still seek to obtain such additional funds and if, after the use of funds from the Operating Reserve Fund the District receives an additional appropriation or identifies other funds legally available therefor, the District shall restore to the Operating Reserve Fund the amount expended therefrom in connection with such expense.

(e) After funding the Operating Reserve Fund and Operating Expenses in Fiscal Year 2008, and thereafter after funding Operating Expenses and any replenishment of the Operating Reserve Fund in any Fiscal Year, the

District shall utilize the next available Gross Revenues received in a Fiscal Year up to the then applicable Capital Reserve Deposit Amount to create and maintain a capital reserve fund or account under the EDSAF (the "Capital Reserve Fund"), provided that for any Fiscal Year in which the District shall have treated an Excess Capital Expense Amount as an Operating Expense the amount deposited to the Capital Reserve Fund shall be reduced by such Excess Capital Expense Amount. The amounts deposited into the Capital Reserve Fund may be adjusted below the applicable Capital Reserve Deposit Amount if the long-term capital budget prepared by the Asset Manager indicates that a lesser annual deposit is appropriate. In no event shall the amount deposited into the Capital Reserve Fund in any Fiscal Year during which the Bonds are Outstanding exceed the then applicable Capital Reserve Deposit Amount without the prior consent of Citicorp. The Mayor shall, from time to time, use reasonable efforts to obtain such consents, approvals, appropriations or other authorizations as may be necessary so that the Capital Reserve Fund may be funded and so that amounts in the Capital Reserve Fund shall at all times be legally available for use in connection with the Parking Garage Project. The District shall use reasonable efforts to obtain such consents, approvals, appropriations or other authorizations on a non-lapsing basis or, if not legally available on a non-lapsing basis, then for the longest term permitted by law. The Capital Reserve Fund shall be used solely for Capital Expenses of the Parking Garage Project.

(f) The Mayor shall promptly notify the Condominium Unit Owners Association and, if the Bonds are still Outstanding, Citicorp, if any appropriation or other consents, approvals, or other authorizations sought pursuant to this Agreement are denied, delayed, obtained only in part or otherwise treated in a manner other than timely approval if, as a result, the District reasonably anticipates that it will not have sufficient funds with which to pay any Operating Expense or Capital Expense or will need to draw upon the Operating Reserve Fund in order to pay any Operating Expense.

6. Parking Manager.

(a) The Mayor shall at all times seek and utilize the authority available to the Mayor to retain the services of a qualified Parking Manager pursuant to a Parking Management Agreement, except as may otherwise be permitted under the Condominium Documents. The District shall enforce the Parking Management Agreement in a reasonable manner and shall make sure that the Parking Manager is furnished with a copy of the Condominium Documents, including the "Parking Objectives" as such term is defined in the Condominium Documents.

(b) The District shall not discontinue the use of a Parking Manager, or change any of the provisions of the Parking Management Agreement required by

this Agreement or the Condominium Documents without the prior written consent of Citicorp, which shall not be unreasonably withheld, delayed or conditioned, provided that the proposed changes to the Parking Management Agreement will not adversely affect the Tax-Exemption for the Bonds.

(c) The Mayor shall instruct the Parking Manager to furnish to Citicorp a copy of any notice from the Parking Manager terminating the Parking Management Agreement, asserting any default on the part of the District under the Parking Management Agreement or notifying it of any matter that is likely to materially adversely affect the operation of the Parking Garage Project or its Net Revenues, or is likely to require a material Capital Expense. The Mayor shall contemporaneously copy Citicorp on any notice to the Parking Manager terminating the Parking Management Agreement, asserting any default under the Parking Management Agreement or notifying it of any matter that is likely to materially adversely affect the operation of the Parking Garage Project or its Net Revenues, or is likely to require a material Capital Expense.

7. Asset Manager.

(a) The District shall at all times retain the services of a qualified Asset Manager except as may otherwise be permitted under the Condominium Documents. The District shall enforce the Asset Management Agreement in a reasonable manner and shall make sure that the Asset Manager is furnished with a copy of the Condominium Documents, including the "Parking Objectives" as such term is defined in the Condominium Documents.

(b) Citicorp hereby approves Spectrum Management LLC as the Asset Manager. The District shall not change the Asset Manager, or discontinue the use of an Asset Manager, for the Parking Garage Project without the prior written consent of Citicorp, which shall not be unreasonably withheld, delayed or conditioned, provided that:

(i) the compensation and other terms of the proposed agreement with the proposed Asset Manager are consistent with prevailing arm's-length market terms for the asset management of comparable retail parking facilities;

(ii) the proposed Asset Manager meets the qualifications required of an Asset Manager under the Condominium Documents and the proposed change or discontinuance is permitted under the terms thereof; and

(iii) the form and substance of the proposed Asset Management Agreement are such that the entry into such agreement by the District will not adversely affect the Tax-Exemption for the Bonds.

(c) The District shall promptly furnish to Citicorp a copy of any notice from the Asset Manager terminating the Asset Management Agreement, asserting any default on the part of the District under the Asset Management Agreement or notifying it of any matter that is likely to materially adversely affect the operation of the Parking Garage Project or its Net Revenues, or is likely to require a material Capital Expense. The District shall contemporaneously copy Citicorp on any notice to the Asset Manager terminating the Asset Management Agreement, asserting any default under the Asset Management Agreement or notifying it of any matter that is likely to materially adversely affect the operation of the Parking Garage Project or its Net Revenues, or is likely to require a material Capital Expense.

8. Notices. All notices or other instruments required or permitted under this Agreement shall be in writing and shall be delivered by hand, reputable overnight courier such as Federal Express DHL or UPS, or mailed by certified mail, postage prepaid and addressed as follows:

If to the District:

1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Attention: Deputy Mayor for Planning and
Economic Development

and

Attention: Chief Financial Officer

If to Citicorp:

Citicorp North America, Inc.
One Court Square
45th Floor
Long Island City, New York 11120
Attention: Loan Administrator

with copies to:

Citi Community Capital
1101 Pennsylvania Ave NW, Suite 1124
Washington, DC 20004
Attention: Brett MacLeod

and

Hawkins Delafield & Wood LLP
One Chase Manhattan Plaza
New York, New York 10005
Attention: Lloyd S. Lowy, Esq.

and

Wells Fargo Bank, N.A., as trustee
MAC N2702-011
9062 Old Annapolis Road
Columbia, MD 21045
Attention: CMG Public Finance

If to the Developer:

DC USA Operating Co. LLC
c/o Grid Properties, Inc.
2309 Frederick Douglas Blvd.
New York, NY 10022
Attention: Drew Greenwald

and

DC USA Operating Co. LLC
c/o Gotham Organization, Inc.
1010 Avenue of the Americas
4th Floor
New York, NY 10018
Attn: Joel Picket

9. Miscellaneous.

(a) This Agreement may not be amended except by written instrument signed by all parties. No delay or failure to enforce any provision hereof, or course of conduct shall constitute a waiver by any party of the terms hereof.

(b) This Agreement shall be governed by the law of the District of Columbia (without reference to District of Columbia conflict of law principles).

(c) This Agreement shall bind and inure to the benefit of each of the parties and their respective successors and assigns.

(d) This Agreement may be executed in two or more counterparts each of which shall constitute an original and all of which shall together constitute one and the same instrument.

(e) To the extent required by law, the obligations of the District to fulfill payment obligations pursuant to this Agreement, or any subsequent agreement entered into pursuant to this Agreement, are and shall remain subject to the provisions of (i) the Anti-Deficiency Laws, and (ii) Section 446 of the District of Columbia Home Rule Act, D.C. Official Code § 1-204.46 (2006 Repl.). To the extent provided by the Anti-Deficiency Laws or Section 446 of the District of Columbia Home Rule Act, D.C. Official Code § 1-204.46 (2006 Repl.), nothing in this Agreement shall create a payment obligation of the District in anticipation of an appropriation by Congress for such purpose, and the District's legal liability for the allocation or payment of any amounts under this Agreement for which an appropriation is legally required shall not arise or obtain in advance of the lawful availability of appropriated funds for the applicable Fiscal Year as approved by Congress.

(f) Notwithstanding the affirmative obligations of the Mayor pursuant to this Agreement, in the event that a request for budget authority or appropriations is excluded by the Council from the budget approved by the Council and submitted to Congress by the President for the applicable Fiscal Year or, if no appropriation is made by Congress to pay any amount under this Agreement for any period after the Fiscal Year for which appropriations have been made, and in the event appropriated funds for such purposes are legally required but not otherwise lawfully available, the District will not be liable to make any payment under this Agreement upon the expiration of any then-existing appropriation except as otherwise permitted by law and such action shall not constitute a default under this Agreement.

(g) Notwithstanding the foregoing, no officer, employee, director, member or other natural person or agent of the District shall have any personal

liability in connection with the breach of the provisions of this Agreement. This Agreement shall not constitute an indebtedness of the District nor shall it constitute an obligation for which the District is obligated to levy or pledge any form of taxation or for which the District has levied or pledged any form of taxation. No District of Columbia Official or employee is authorized to obligate or expend any amount under this Agreement unless such amount has been appropriated by Act of Congress and is lawfully available except as otherwise permitted by law.

(h) Nothing in this Agreement is intended or shall be construed as a limitation on the District's obligations in respect of the Bonds, including but not limited to its payment obligations in respect thereof.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned parties have caused their duly authorized representatives to execute and deliver this Agreement on their behalf as of the date first written above.

CITICORP NORTH AMERICA, INC.

By: Brett Macleod
Name: Brett Macleod
Title: Vice President

DISTRICT OF COLUMBIA

By:_____
Name:
Title:

[ADDITIONAL SIGNATURE APPEARS ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned parties have caused their duly authorized representatives to execute and deliver this Agreement on their behalf as of the date first written above.

CITICORP NORTH AMERICA, INC.

By:_____
Name:
Title:

DISTRICT OF COLUMBIA

By: _____
Name: Neil O. Albert
Title: Deputy Mayor

[ADDITIONAL SIGNATURE APPEARS ON THE FOLLOWING PAGE]

DC USA OPERATING CO., LLC,
a New York limited liability company

By: DC USA Management Co. LLC,
a Delaware limited liability company,
Manager and Sole Member

By: USPDC, LLC,
a New York limited liability company,
Managing Member

By: GRID Urban Ventures III, LLC,
a New York limited liability company,
Managing Member

By: _____
Drew Greenwald
Managing Member

By: DC USA GO, LLC,
a New York limited liability company,
Managing Member

By: Picket Realty Construction Consultants LLC,
a New York limited liability company,
Manager

By: _____
David L. Picket
Member

Attachment D

Attachment D

[Contractor's Letterhead]

[Insert Date]

District of Columbia Department of General Services
2000 14th Street, NW, 8th Floor
Washington, DC 20009

Attn: Mr. Brian J. Hanlon
Director/Chief Contracting Officer

Reference: Request for Proposals – Parking Lot Operator Services for DC USA Retail
DCAM-13-NC-0160

Dear Mr. Hanlon:

On behalf of [INSERT NAME OF BIDDER] (the "Offeror"), I am pleased to submit this proposal in response to the Department of General Services' (the "Department" or "DGS") Request for Proposals (the "RFP") for professional Parking Lot Operator Services for DC USA Retail. The Offeror has reviewed the RFP and the attachments thereto, any addenda thereto, (collectively, the "Bid Documents") and has conducted such due diligence and analysis as the Offeror, in its sole judgment, has deemed necessary in order to submit its Proposal in response to the RFP. The Offeror's proposal is based on the Bid Documents as issued and assume no material alteration of the terms of the Bid Documents. (Collectively, the proposal and the Offer Letter and Bid Sheet are referred to as the "Offeror's Bid".)

The Offeror shall provide pricing in the Bid Sheet (Attachment D) for an annual Fixed Management Fee for the base year and option years, and for a monthly Percentage of Gross Revenues over $1,200,000.00.

The Offeror acknowledges and understands that the Fixed Management Fee is a firm, fixed price and intended to be Offeror's sole compensation for the services required under the contract and should include sufficient funding for all of the Offeror's costs associated with the work, including, but not limited to, labor, tools and equipment, materials and supplies, and overhead, insurance and profit.

The Offeror's Bid is based on and subject to the following conditions:

1. The Offeror agrees to hold its proposal open for a period of at least sixty (60) days after the RFP closing date.

2. Assuming the Offeror is selected by the Department, the Offeror agrees to enter into a contract with the Department on the terms and conditions described in the Bid Documents within ten (10) days of the notice of the award.

3. Both the Offeror and the undersigned represent and warrant that the undersigned has the full legal authority to submit this bid form and bind the Offeror to the terms of the Offeror's proposal. The Offeror further represents and warrants that no further action or approval must be obtained by the Offeror in order to authorize the terms of the Offeror's proposal.

4. The Offeror and its principal team members hereby represent and warrant that they have not: (i) colluded with any other group or person that is submitting a proposal in response to the RFP in order to fix or set prices; (ii) acted in such a manner so as to discourage any other group or person from submitting a proposal in response to the RFP; or (iii) otherwise engaged in conduct that would violate applicable anti-trust law.

5. The Offeror hereby certifies that neither it nor any of its team members have entered into any agreement (written or oral) that would prohibit any contractor, subcontractor or subconsultant that is certified by the District of Columbia Office of Department of Small and Local Business Enterprises as a Local, Small, Resident Owned or Disadvantaged Business Enterprise (collectively, "LSDBE Certified Companies") from participating in the work if another company is awarded the contract.

6. This Offer Letter Form and the Offeror's Bid are being submitted on behalf of [INSERT FULL LEGAL NAME, TYPE OF ORGANIZATION, AND STATE OF FORMATION FOR THE OFFEROR].

Sincerely,

By: _____
Name: _____
Its: _____

ATTACHMENT D
BID SHEET
DCAM-13-NC-0160
PARKING LOT OPERATOR SERVICES

Contract Line Item Number	Contract Year	Annual Fixed Management Fee	Annual Percentage of Gross Revenue Above $1,200,000
001	Base year		
002	Option Year 1		
003	Option Year 2		
004	Option Year 3		
005	Option Year 4		

Company Name _____

Authorized Representative (Name) _____ Title _____

Authorized Representative (Signature _____ Date _____

Attachment E

ATTACHMENT E
PARKING LOT OPERATOR SERVICES
DCAM-13-NC-0160

EXPENSES OF DGS

1. Real and personal property taxes of DGS' property.

2. All claims, expenses, and/or damages arising from, or caused by structural or design deficiencies or by improper work or supervision during construction including, without limitation, settlement, collapse, or inadequacy of structure or equipment, and all repairs related thereto.

3. Debt service with respect to land, building, and equipment.

4. Costs of legal and auditing fees of DGS.

5. Salaries and wages of all employees of DGS.

6. Costs incurred by DGS in the supervision of obligations of the Contractor.

7. Costs of maintaining elevators, sprinkler, and ventilation systems.

8. Utilities expense of the Parking Facility.

9. Capital expenditures, improvements, alterations, additions, and all new equipment, including all architectural and engineering fees in connection therewith.

10. Costs of payroll and equipment of security personnel, if applicable.

ATTACHMENT E
PARKING LOT OPERATOR SERVICES
DCAM-13-NC-0160

EXPENSES OF CONTRACTOR

1. Salaries and reasonable travel and accommodation expenses of all executive personnel of the Contractor.

2. General and administrative expenses of the Contractor not allocable director to operations at the Parking Facility.

3. Personal property taxes of the Contractor's property located at the DC USA garage and used for operations of the DC USA garage.

Attachment F

Attachment F – Disclosure Statement

The Offeror and each of its principal team members, if any, must submit a statement that discloses and past or present business, familiar or personal relationship with any of the following individuals:

A. D.C. Department of General Services

Brian J. Hanlon	Director
Scott Burrell	Interim Chief Operating Officer
JW Lanum	Associate Director/Contracting Officer
Camille Sabbakhan	Interim General Counsel
Charles J. Brown, Jr.	Interim Deputy General Counsel
Ollie Harper	Deputy Director, Operations and Maintenance

Please identify any past or present business, familiar, or personal relationship in the space below. Use extra sheets if necessary.

_____

_____

_____

_____

_____

This is to certify that, to the best of my knowledge and belief, and after making reasonable inquiry, the above represents a full and accurate disclosure of any past or present business, familiar, or personal relationship with any of the individuals listed above. The undersigned acknowledges and understands that this Disclosure Statement is being submitted to the False Claims Act and that a failure to disclose a material relationship(s) may constitute sufficient grounds to disqualify the Offeror.

OFFEROR:

By: _____

Name: _____

Title: _____

Date: _____

Attachment G

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Office of the Chief Financial Officer

Office of Tax and Revenue

TAX CERTIFICATION AFFIDAVIT

THIS AFFIDAVIT IS TO BE COMPLETED ONLY BY THOSE WHO ARE REGISTERED TO CONDUCT BUSINESS IN THE DISTRICT OF COLUMBIA.

Date

Name of Organization/Entity
Business Address (include zip code)
Business Phone Number(s)

Principal Officer Name and Title
Square and Lot Information
Federal Identification Number
Contract Number
Unemployment Insurance Account No.

"I hereby authorize the District of Columbia, Office of the Chief Financial Officer, Office of Tax and Revenue; consent to release my tax information to an authorized representative of the District of Columbia agency from which I am seeking to enter into a contractual relationship. I understand that the information released under this consent will be limited to whether or not I am in compliance with the District of Columbia tax laws and regulations as of the date found on the government request. I understand that this information is to be used solely for the purpose of determining my eligibility to enter into a contractual relationship with a District of Columbia agency. I further authorize that this consent be valid for one year from the date of this authorization."

I hereby certify that I am in compliance with the applicable tax filing and payment requirements of the District of Columbia.

The Office of Tax and Revenue is hereby authorized to verify the above information with the appropriate government authorities. The penalty for making false statements is a fine not to exceed $5,000.00, imprisonment for not more than 180 days, or both, as prescribed by D.C. Official Code § 47-4106.

Signature of Authorizing Agent **Title**

Attachment H

Government of the District of Columbia
FIRST SOURCE EMPLOYMENT AGREEMENT

Contract Number: _____

Employer Name: _____

Project Contract Amount: _____

Employer Contract Award: _____

Project Name: _____

Project Address: _____ Ward: _____

Nonprofit Organization with 50 Employees or Less: ☐ Yes ☐ No

This First Source Employment Agreement, in accordance with The First Source Employment Agreement Act of 1984 (codified in D.C. Official Code §§ 2-219.01 – 2.219.05), The Apprenticeship Requirements Amendment Act of 2004 (Codified in D.C. Official Code §§ 2-219.03 and 32-1431) for recruitment, referral, and placement of District of Columbia residents, is between the District of Columbia Department of Employment Services, hereinafter referred to as "DOES", and _____, hereinafter, referred to as EMPLOYER. Under this Employment Agreement, the EMPLOYER will use DOES as its first source for recruitment, referral, and placement of new hires or employees for all new jobs created by the Project. The Employer will hire 51% District of Columbia residents for all new jobs created by the Project, and 35 % of all apprenticeship hours be worked by DC residents employed by EMPLOYER in connection with the Project shall be District residents registered in programs approved by the District of Columbia Apprenticeship Council.

I. GENERAL TERMS

A. Subject to the terms and conditions set forth herein, the EMPLOYER will use DOES as its first source for the recruitment, referral and placement for jobs created by the Project.

B. The EMPLOYER will require all Project contractors with contracts totaling $100,000 or more, and Project subcontractors with subcontracts totaling $100,000 or more, to enter into a First Source Employment Agreement with DOES.

C. DOES will provide recruitment, referral and placement services to the EMPLOYER, which are subject to the limitations set out in this Agreement.

D. The participation of DOES in this Agreement will be carried out by the Office of Employer Services, which is responsible for referral and placement of employees, or such other offices or divisions designated by the Office of the Director, of DOES.

E. This Agreement will take effect when signed by the parties below and will be fully effective for the duration of the Project contract and any extensions or modification to the Project contract.

F. This Agreement will not be construed as an approval of the EMPLOYER'S bid package, bond application, lease agreement, zoning application, loan, or contract/subcontract for the Project.

G. DOES and the EMPLOYER agree that, for purposes of this Agreement, new hires and jobs created for the Project (both union and nonunion) include all EMPLOYER'S job openings and vacancies in the Washington Standard Metropolitan Statistical Area created for the Project as a result of internal promotions, terminations, and expansions of the EMPLOYER'S workforce, as a result of this project, including loans, lease agreements, zoning applications, bonds, bids, and contracts.

H. This Agreement includes apprentices as defined and as amended, in D.C. Law 2-156. D.C. Official Code §§ 32-1401- 1431.

I. The EMPLOYER, prime subcontractors and subcontractors who contract with the District of Columbia government to perform construction, renovation work, or information technology work with a single contract, or cumulative contracts, of at least $500,000, let within a 12-month period will be required to register an apprenticeship program with the District of Columbia Apprenticeship Council; and this includes but is not limited to, any construction or renovation contract or subcontract signed as the result of, a loan, bond, grant, Exclusive Right Agreement, street or alley closing, or a leasing agreement of real property for one (1) year or more. In furtherance of the foregoing, the EMPLOYER shall enter into an agreement with its contractors, including the general contractor, that requires that such contractors and subcontractors for the Project participate, in apprenticeship programs for the Project that: (i) meet the standards set forth in Chapter 11 of Title 7 of the District of Columbia Municipal Regulations, and (ii) have an apprenticeship program registered with the District of Columbia's Apprenticeship Council.

II. RECRUITMENT

A. The EMPLOYER will complete the attached Employment Plan, which will indicate the number of new jobs projected to be created on the Project, salary range, hiring dates, residency status, ward information, new hire justification and union requirements.

B. The Employer will post all job vacancies in the DOES' Virtual One-Stop (VOS) at **www.jobs.dc.gov** within five (5) days of executing the Agreement. Should you need assistance posting job vacancies, please contact Job Bank at (202) 698-6001.

C. The EMPLOYER will notify DOES, by way of the First Source Office of its Specific Need for new employees for the Project, within at least five (5) business days (Monday - Friday) upon Employers identification of the Specific Need. This must be done before using any other referral source. Specific Needs shall include, at a minimum, the number of employees needed by job title, qualifications, hiring date, rate of pay, hours of work, duration of employment, and work to be performed.

D. Job openings to be filled by internal promotion from the EMPLOYER'S current workforce do not need to be referred to DOES for placement and referral. However, EMPLOYER shall notify DOES of such promotions.

E. The EMPLOYER will submit to DOES, prior to commencing work on the Project, the names, residency status and ward information of all current employees, including apprentices, trainees, and laid-off workers who will be employed on the Project.

III. REFERRAL

A. DOES will screen applicants and provide the EMPLOYER with a list of applicants according to the Notification of Specific Needs supplied by the EMPLOYER as set forth in Section II (B).

B. DOES will notify the EMPLOYER, prior to the anticipated hiring dates, of the number of applicants DOES will refer.

IV. PLACEMENT

A. The EMPLOYER will make all decisions on hiring new employees but will, in good faith, use reasonable efforts to select its new hires or employees from among the qualified persons referred by DOES.

B. In the event that DOES is unable to refer qualified personnel meeting the Employer's established qualifications, within five (5) business days (Monday - Friday) from the date of notification, from the EMPLOYER , the EMPLOYER will be free to directly fill remaining positions for which no qualified applicants have been referred. Notwithstanding, the EMPLOYER will still be required to hire 51% District residents for all new jobs created by the Project.

C. After the EMPLOYER has selected its employees, DOES will not be responsible for the employees' actions and the EMPLOYER hereby releases DOES, and the Government of the District of Columbia, the District of Columbia Municipal Corporation, and the officers and employees of the District of Columbia from any liability for employees' actions.

V. TRAINING

A. DOES and the EMPLOYER may agree to develop skills training and on-the-job training programs; the training specifications and cost for such training will be mutually agreed upon by the EMPLOYER and DOES and will be set forth in a separate Training Agreement.

VI. CONTROLLING REGULATIONS AND LAWS

A. To the extent that this Agreement is in conflict with any federal labor laws or governmental regulations, the federal laws or regulations shall prevail.

B. DOES will make every effort to work within the terms of all collective bargaining agreements to which the EMPLOYER is a party.

C. The EMPLOYER will provide DOES with written documentation that the EMPLOYER has provided the representative of any collective bargaining unit involved

with this Project a copy of this Agreement and has requested comments or objections. If the representative has any comments or objections, the EMPLOYER will promptly provide them to DOES.

VII. EXEMPTIONS

A. All contracts, subcontracts or other forms of government-assistance less than $100,000.

B. Employment openings the contractor will fill with individuals already employed by the company.

C. Job openings to be filled by laid-off workers according to formally established recall procedures and rosters.

D. Construction or renovation contracts or subcontracts in the District of Columbia totaling less than $500,000 are exempt from the requirements of Section I(H) and I(I) of the General Terms hereof.

E. Non-profit organization with 50 or less employees are exempt from the requirements.

VIII. AGREEMENT MODIFICATIONS, RENEWAL, MONITORING, AND PENALTIES

A. If, during the term of this Agreement, the EMPLOYER should transfer possession of all or a portion of its business concerns affected by this Agreement to any other party by lease, sale, assignment, merger, or otherwise this First Source Agreement shall remain in full force and effect and transferee shall remain subject to all provisions herein. In addition, the EMPLOYER as a condition of transfer shall:

1. Notify the party taking possession of the existence of this EMPLOYER'S First Source Employment Agreement.

2. Notify DOES within seven (7) business days of the transfer. This advice will include the name of the party taking possession and the name and telephone of that party's representative.

B. DOES will monitor EMPLOYER'S performance under this Agreement. The EMPLOYER will cooperate with the DOES monitoring and will submit a Contract Compliance Form to DOES monthly.

C. To assist DOES in the conduct of the monitoring review, the EMPLOYER will make available to DOES, upon request, payroll and employment records for the review period indicated for the Project.

D. The Employer will provide DOES additional information upon request.

E. With the submission of the final request for payment from the District, the EMPLOYER shall:

1. Document in a report to DOES its compliance with the requirement that 51% of the new employees hired by the EMPLOYER for the Project be District residents; or

2. Submit to DOES a request for a waiver of compliance of the requirement that 51% of the new employees hired by the EMPLOYER the Project be District residents which will include the following documentation:
   a. Documentation supporting EMPLOYERS good faith effort to comply;
   b. Referrals provided by DOES and other referral sources; and
   c. Advertisement of job openings listed with DOES and other referral sources.

F. The DOES may waive the requirement that 51% of the new employees hired by the EMPLOYER for the Project be District residents, if DOES finds that:

1. A good faith effort to comply is demonstrated by the EMPLOYER; or

2. The EMPLOYER is located outside the Washington Standard Metropolitan Statistical Area and none of the contract work is performed inside the Washington Standard Metropolitan Statistical Area:

   The Washington Standard Metropolitan Statistical Area includes the District of Columbia, the Virginia Cities of Alexandria, Falls Church, Manasas, Manasas Park, Fairfax, and Fredericksburg; the Virginia Counties of Fairfax, Arlington, Prince William, Loundon, Stafford, Clarke, Warren, Fauquier, Culpeper, Spotsylvania, and King George; the Maryland Counties of Montgomery, Prince Georges, Charles, Frederick, and Calvert; and the West Virginia Counties of Berkeley and Jefferson.

3. The EMPLOYER enters into a special workforce development training or placement arrangement with DOES; or

4. DOES certifies that there are insufficient numbers of District residents in the labor market possessing the skills required by the EMPLOYER for the positions created as a result of the Project. No failure by Employer to request a waiver under any other provision hereunder shall be considered relevant to a requested waiver under this Subsection.

G. Willful breach of the First Source Employment Agreement by the EMPLOYER, failure to submit the Contract Compliance Report, or deliberate submission of falsified data, may be enforced by the DOES through imposition of penalties, including monetary fines of 5% of the total amount of the direct and indirect labor costs of the contract for the positions created by EMPLOYER.

H. The parties acknowledge that the provisions of E and F of Article VIII apply only to First Source hiring.

I. Nonprofit organizations with 50 or less employees are exempt from the requirement that 51% of the new employees hired by the EMPLOYER on the Project be District residents.

J. The EMPLOYER and DOES, or such other agent as DOES may designate, may mutually agree to modify this Agreement.

K. The EMPLOYER's noncompliance with the provisions of this Agreement may result in termination.

IX. LOCAL, SMALL, DISADVANTAGES USINESS ENTERPRISE

A. Is your firm a certified Local, Small, Disadvantaged Business Enterprise (LSDBE)? ☐ YES ☐ NO

If yes, certification number:_____

X. APPRENTICESHIP PROGRAM

A. Do you have a registered Apprenticeship program with the D.C. Apprenticeship Council? ☐ YES ☐ NO

If yes, D.C. Apprenticeship Council Registration Number: _____

XI. SUBCONTRACTOR

A. Is your firm a subcontractor on this project? ☐ YES ☐ NO
If yes, name of prime contractor: _____

Dated this _____ day of _____ 20_____

_____
Signature Dept. of Employment Services

_____
Signature of Employer

_____
Name of Company

_____
Address

_____
Telephone

_____
E-mail

EMPLOYMENT PLAN

NAME OF EMPLOYER: _____

ADDRESS OF EMPLOYER: _____

TELEPHONE NUMBER: _____ FEDERAL IDENTIFICATION NO.: _____

CONTACT PERSON: _____ TITLE: _____

E-MAIL: _____ TYPE OF BUSINESS: _____

_____

DISTRICT CONTRACTING AGENCY: _____

CONTRACTING OFFICER: _____ TELEPHONE NUMBER: _____

TYPE OF PROJECT: _____ CONTRACT AMOUNT: _____

EMPLOYER CONTRACT AMOUNT: _____

PROJECT START DATE: _____ PROJECT END DATE: _____

EMPLOYER START DATE: _____ EMPLOYER END DATE: _____

NEW JOB CREATION PROJECTIONS: Please indicate ALL new position(s) your firm will create as a result of the Project. If the firm WILL NOT be creating any new employment opportunities, please complete the attached justification sheet with an explanation. Attach additional sheets as needed.

JOB TITLE		# OF JOBS F/T P/T	SALARY RANGE	UNION MEMBERSHIP REQUIRED NAME LOCAL#	PROJECTED HIRE DATE
A					
B					
C					
D					
E					
F					
G					
H					
I					
J					
K					

CURRENT EMPLOYEES: Please list the names, residency status and ward information of all current employees, including apprentices, trainees, and transfers from other projects, who will be employed on the Project. Attach additional sheets as needed.

NAME OF EMPLOYEE	CURRENT DISTRICT RESIDENT √Please Check	WARD
	☐	
	☐	
	☐	
	☐	
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	☐	
	☐	

JUSTIFICATION SHEET: Please provide a detailed explanation of why the Employer will not have any new hires on the Project.

Attachment I

>

WD 05-2103 (Rev.-12) was first posted on www.wdol.gov on 06/19/2012

REGISTER OF WAGE DETERMINATIONS UNDER THE SERVICE CONTRACT ACT
By direction of the Secretary of Labor

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
WAGE AND HOUR DIVISION
WASHINGTON D.C. 20210

Diane C. Koplewski
Director

Division of
Wage Determinations

Wage Determination No.: 2005-2103
Revision No.: 12
Date Of Revision: 06/13/2012

States: District of Columbia, Maryland, Virginia

Area: District of Columbia Statewide
Maryland Counties of Calvert, Charles, Frederick, Montgomery, Prince George's, St Mary's
Virginia Counties of Alexandria, Arlington, Fairfax, Falls Church, Fauquier, King George, Loudoun, Prince William, Stafford

Fringe Benefits Required Follow the Occupational Listing

OCCUPATION CODE - TITLE	FOOTNOTE	RATE
01000 - Administrative Support And Clerical Occupations		
01011 - Accounting Clerk I		15.08
01012 - Accounting Clerk II		16.92
01013 - Accounting Clerk III		22.30
01020 - Administrative Assistant		31.41
01040 - Court Reporter		21.84
01051 - Data Entry Operator I		14.38
01052 - Data Entry Operator II		15.69
01060 - Dispatcher, Motor Vehicle		17.87
01070 - Document Preparation Clerk		14.21
01090 - Duplicating Machine Operator		14.21
01111 - General Clerk I		14.88
01112 - General Clerk II		16.24
01113 - General Clerk III		18.74
01120 - Housing Referral Assistant		25.29
01141 - Messenger Courier		13.62
01191 - Order Clerk I		15.12
01192 - Order Clerk II		16.50
01261 - Personnel Assistant (Employment) I		18.15
01262 - Personnel Assistant (Employment) II		20.32
01263 - Personnel Assistant (Employment) III		22.65
01270 - Production Control Clerk		22.03
01280 - Receptionist		14.43
01290 - Rental Clerk		16.55
01300 - Scheduler, Maintenance		18.07
01311 - Secretary I		18.07
01312 - Secretary II		20.18
01313 - Secretary III		25.29
01320 - Service Order Dispatcher		16.98
01410 - Supply Technician		28.55
01420 - Survey Worker		20.03
01531 - Travel Clerk I		13.29
01532 - Travel Clerk II		14.36
01533 - Travel Clerk III		15.49
01611 - Word Processor I		15.63
01612 - Word Processor II		17.67

01613 - Word Processor III	19.95
05000 - Automotive Service Occupations	
05005 - Automobile Body Repairer, Fiberglass	25.26
05010 - Automotive Electrician	23.51
05040 - Automotive Glass Installer	22.15
05070 - Automotive Worker	22.15
05110 - Mobile Equipment Servicer	19.04
05130 - Motor Equipment Metal Mechanic	24.78
05160 - Motor Equipment Metal Worker	22.15
05190 - Motor Vehicle Mechanic	24.78
05220 - Motor Vehicle Mechanic Helper	18.49
05250 - Motor Vehicle Upholstery Worker	21.63
05280 - Motor Vehicle Wrecker	22.15
05310 - Painter, Automotive	23.51
05340 - Radiator Repair Specialist	22.15
05370 - Tire Repairer	14.44
05400 - Transmission Repair Specialist	24.78
07000 - Food Preparation And Service Occupations	
07010 - Baker	13.85
07041 - Cook I	12.55
07042 - Cook II	14.60
07070 - Dishwasher	10.11
07130 - Food Service Worker	10.66
07210 - Meat Cutter	18.08
07260 - Waiter/Waitress	9.70
09000 - Furniture Maintenance And Repair Occupations	
09010 - Electrostatic Spray Painter	19.86
09040 - Furniture Handler	14.06
09080 - Furniture Refinisher	20.23
09090 - Furniture Refinisher Helper	15.52
09110 - Furniture Repairer, Minor	17.94
09130 - Upholsterer	19.86
11000 - General Services And Support Occupations	
11030 - Cleaner, Vehicles	10.54
11060 - Elevator Operator	10.54
11090 - Gardener	17.52
11122 - Housekeeping Aide	11.83
11150 - Janitor	11.83
11210 - Laborer, Grounds Maintenance	13.07
11240 - Maid or Houseman	11.26
11260 - Pruner	11.58
11270 - Tractor Operator	16.04
11330 - Trail Maintenance Worker	13.07
11360 - Window Cleaner	12.85
12000 - Health Occupations	
12010 - Ambulance Driver	20.41
12011 - Breath Alcohol Technician	20.27
12012 - Certified Occupational Therapist Assistant	23.11
12015 - Certified Physical Therapist Assistant	21.43
12020 - Dental Assistant	17.18
12025 - Dental Hygienist	44.75
12030 - EKG Technician	27.67
12035 - Electroneurodiagnostic Technologist	27.67
12040 - Emergency Medical Technician	20.41
12071 - Licensed Practical Nurse I	19.07
12072 - Licensed Practical Nurse II	21.35
12073 - Licensed Practical Nurse III	24.13
12100 - Medical Assistant	15.01
12130 - Medical Laboratory Technician	18.04
12160 - Medical Record Clerk	17.42
12190 - Medical Record Technician	19.50
12195 - Medical Transcriptionist	18.77

12210 - Nuclear Medicine Technologist		37.60
12221 - Nursing Assistant I		10.80
12222 - Nursing Assistant II		12.14
12223 - Nursing Assistant III		13.98
12224 - Nursing Assistant IV		15.69
12235 - Optical Dispenser		20.17
12236 - Optical Technician		15.80
12250 - Pharmacy Technician		18.12
12280 - Phlebotomist		15.69
12305 - Radiologic Technologist		31.11
12311 - Registered Nurse I		27.64
12312 - Registered Nurse II		33.44
12313 - Registered Nurse II, Specialist		33.44
12314 - Registered Nurse III		40.13
12315 - Registered Nurse III, Anesthetist		40.13
12316 - Registered Nurse IV		48.10
12317 - Scheduler (Drug and Alcohol Testing)		21.73
13000 - Information And Arts Occupations		
13011 - Exhibits Specialist I		19.86
13012 - Exhibits Specialist II		24.61
13013 - Exhibits Specialist III		30.09
13041 - Illustrator I		20.48
13042 - Illustrator II		25.38
13043 - Illustrator III		31.03
13047 - Librarian		33.88
13050 - Library Aide/Clerk		14.21
13054 - Library Information Technology Systems Administrator		30.60
13058 - Library Technician		19.89
13061 - Media Specialist I		18.73
13062 - Media Specialist II		20.95
13063 - Media Specialist III		23.36
13071 - Photographer I		16.65
13072 - Photographer II		18.90
13073 - Photographer III		23.67
13074 - Photographer IV		28.65
13075 - Photographer V		33.76
13110 - Video Teleconference Technician		20.39
14000 - Information Technology Occupations		
14041 - Computer Operator I		18.92
14042 - Computer Operator II		21.18
14043 - Computer Operator III		23.60
14044 - Computer Operator IV		26.22
14045 - Computer Operator V		29.05
14071 - Computer Programmer I	(see 1)	26.36
14072 - Computer Programmer II	(see 1)	
14073 - Computer Programmer III	(see 1)	
14074 - Computer Programmer IV	(see 1)	
14101 - Computer Systems Analyst I	(see 1)	
14102 - Computer Systems Analyst II	(see 1)	
14103 - Computer Systems Analyst III	(see 1)	
14150 - Peripheral Equipment Operator		18.92
14160 - Personal Computer Support Technician		26.22
15000 - Instructional Occupations		
15010 - Aircrew Training Devices Instructor (Non-Rated)		36.47
15020 - Aircrew Training Devices Instructor (Rated)		44.06
15030 - Air Crew Training Devices Instructor (Pilot)		52.81
15050 - Computer Based Training Specialist / Instructor		36.47
15060 - Educational Technologist		35.31
15070 - Flight Instructor (Pilot)		52.81
15080 - Graphic Artist		26.80
15090 - Technical Instructor		25.08

15095 - Technical Instructor/Course Developer	30.67
15110 - Test Proctor	20.20
15120 - Tutor	20.20
16000 - Laundry, Dry-Cleaning, Pressing And Related Occupations	
16010 - Assembler	9.88
16030 - Counter Attendant	9.88
16040 - Dry Cleaner	12.94
16070 - Finisher, Flatwork, Machine	9.88
16090 - Presser, Hand	9.88
16110 - Presser, Machine, Drycleaning	9.88
16130 - Presser, Machine, Shirts	9.88
16160 - Presser, Machine, Wearing Apparel, Laundry	9.88
16190 - Sewing Machine Operator	13.78
16220 - Tailor	14.66
16250 - Washer, Machine	10.88
19000 - Machine Tool Operation And Repair Occupations	
19010 - Machine-Tool Operator (Tool Room)	21.14
19040 - Tool And Die Maker	23.38
21000 - Materials Handling And Packing Occupations	
21020 - Forklift Operator	18.02
21030 - Material Coordinator	22.03
21040 - Material Expediter	22.03
21050 - Material Handling Laborer	13.83
21071 - Order Filler	15.09
21080 - Production Line Worker (Food Processing)	18.02
21110 - Shipping Packer	15.09
21130 - Shipping/Receiving Clerk	15.09
21140 - Store Worker I	11.72
21150 - Stock Clerk	16.86
21210 - Tools And Parts Attendant	18.02
21410 - Warehouse Specialist	18.02
23000 - Mechanics And Maintenance And Repair Occupations	
23010 - Aerospace Structural Welder	27.21
23021 - Aircraft Mechanic I	25.83
23022 - Aircraft Mechanic II	27.21
23023 - Aircraft Mechanic III	28.53
23040 - Aircraft Mechanic Helper	17.54
23050 - Aircraft, Painter	24.73
23060 - Aircraft Servicer	19.76
23080 - Aircraft Worker	21.01
23110 - Appliance Mechanic	21.75
23120 - Bicycle Repairer	14.43
23125 - Cable Splicer	26.02
23130 - Carpenter, Maintenance	21.40
23140 - Carpet Layer	20.49
23160 - Electrician, Maintenance	27.98
23181 - Electronics Technician Maintenance I	24.94
23182 - Electronics Technician Maintenance II	26.47
23183 - Electronics Technician Maintenance III	27.89
23260 - Fabric Worker	19.13
23290 - Fire Alarm System Mechanic	22.91
23310 - Fire Extinguisher Repairer	17.62
23311 - Fuel Distribution System Mechanic	22.81
23312 - Fuel Distribution System Operator	19.38
23370 - General Maintenance Worker	21.43
23380 - Ground Support Equipment Mechanic	25.83
23381 - Ground Support Equipment Servicer	19.76
23382 - Ground Support Equipment Worker	21.01
23391 - Gunsmith I	17.62
23392 - Gunsmith II	20.49
23393 - Gunsmith III	22.91
23410 - Heating, Ventilation And Air-Conditioning	23.89

Mechanic	
23411 - Heating, Ventilation And Air Contditioning Mechanic (Research Facility)	25.17
23430 - Heavy Equipment Mechanic	22.91
23440 - Heavy Equipment Operator	22.91
23460 - Instrument Mechanic	22.59
23465 - Laboratory/Shelter Mechanic	21.75
23470 - Laborer	14.98
23510 - Locksmith	21.90
23530 - Machinery Maintenance Mechanic	23.12
23550 - Machinist, Maintenance	22.91
23580 - Maintenance Trades Helper	18.27
23591 - Metrology Technician I	22.59
23592 - Metrology Technician II	23.80
23593 - Metrology Technician III	24.96
23640 - Millwright	28.19
23710 - Office Appliance Repairer	22.96
23760 - Painter, Maintenance	21.75
23790 - Pipefitter, Maintenance	24.63
23810 - Plumber, Maintenance	22.29
23820 - Pneudraulic Systems Mechanic	22.91
23850 - Rigger	22.91
23870 - Scale Mechanic	20.49
23890 - Sheet-Metal Worker, Maintenance	22.91
23910 - Small Engine Mechanic	20.49
23931 - Telecommunications Mechanic I	29.95
23932 - Telecommunications Mechanic II	31.55
23950 - Telephone Lineman	27.41
23960 - Welder, Combination, Maintenance	22.91
23965 - Well Driller	22.91
23970 - Woodcraft Worker	22.91
23980 - Woodworker	17.62
24000 - Personal Needs Occupations	
24570 - Child Care Attendant	12.79
24580 - Child Care Center Clerk	17.77
24610 - Chore Aide	10.57
24620 - Family Readiness And Support Services Coordinator	16.90
24630 - Homemaker	18.43
25000 - Plant And System Operations Occupations	
25010 - Boiler Tender	27.30
25040 - Sewage Plant Operator	20.84
25070 - Stationary Engineer	27.30
25190 - Ventilation Equipment Tender	19.49
25210 - Water Treatment Plant Operator	20.84
27000 - Protective Service Occupations	
27004 - Alarm Monitor	20.57
27007 - Baggage Inspector	12.71
27008 - Corrections Officer	22.80
27010 - Court Security Officer	24.72
27030 - Detection Dog Handler	20.57
27040 - Detention Officer	22.80
27070 - Firefighter	24.63
27101 - Guard I	12.71
27102 - Guard II	20.57
27131 - Police Officer I	26.52
27132 - Police Officer II	29.67
28000 - Recreation Occupations	
28041 - Carnival Equipment Operator	13.59
28042 - Carnival Equipment Repairer	14.63
28043 - Carnival Equpment Worker	9.24
28210 - Gate Attendant/Gate Tender	13.01

28310 - Lifeguard		11.59
28350 - Park Attendant (Aide)		14.56
28510 - Recreation Aide/Health Facility Attendant		10.62
28515 - Recreation Specialist		18.04
28630 - Sports Official		11.59
28690 - Swimming Pool Operator		18.21
29000 - Stevedoring/Longshoremen Occupational Services		
29010 - Blocker And Bracer		23.13
29020 - Hatch Tender		23.13
29030 - Line Handler		23.13
29041 - Stevedore I		21.31
29042 - Stevedore II		24.24
30000 - Technical Occupations		
30010 - Air Traffic Control Specialist, Center (HFO)	(see 2)	39.92
30011 - Air Traffic Control Specialist, Station (HFO)	(see 2)	26.84
30012 - Air Traffic Control Specialist, Terminal (HFO)	(see 2)	29.56
30021 - Archeological Technician I		20.19
30022 - Archeological Technician II		22.60
30023 - Archeological Technician III		27.98
30030 - Cartographic Technician		27.98
30040 - Civil Engineering Technician		26.41
30061 - Drafter/CAD Operator I		20.19
30062 - Drafter/CAD Operator II		22.60
30063 - Drafter/CAD Operator III		25.19
30064 - Drafter/CAD Operator IV		31.00
30081 - Engineering Technician I		22.92
30082 - Engineering Technician II		25.72
30083 - Engineering Technician III		28.79
30084 - Engineering Technician IV		35.64
30085 - Engineering Technician V		43.61
30086 - Engineering Technician VI		52.76
30090 - Environmental Technician		27.41
30210 - Laboratory Technician		23.38
30240 - Mathematical Technician		28.94
30361 - Paralegal/Legal Assistant I		21.36
30362 - Paralegal/Legal Assistant II		26.47
30363 - Paralegal/Legal Assistant III		32.36
30364 - Paralegal/Legal Assistant IV		39.16
30390 - Photo-Optics Technician		27.98
30461 - Technical Writer I		21.93
30462 - Technical Writer II		26.84
30463 - Technical Writer III		32.47
30491 - Unexploded Ordnance (UXO) Technician I		24.74
30492 - Unexploded Ordnance (UXO) Technician II		29.93
30493 - Unexploded Ordnance (UXO) Technician III		35.88
30494 - Unexploded (UXO) Safety Escort		24.74
30495 - Unexploded (UXO) Sweep Personnel		24.74
30620 - Weather Observer, Combined Upper Air Or Surface Programs	(see 2)	25.19
30621 - Weather Observer, Senior	(see 2)	27.98
31000 - Transportation/Mobile Equipment Operation Occupations		
31020 - Bus Aide		14.32
31030 - Bus Driver		20.85
31043 - Driver Courier		13.98
31260 - Parking and Lot Attendant		10.07
31290 - Shuttle Bus Driver		15.66
31310 - Taxi Driver		13.98
31361 - Truckdriver, Light		15.66
31362 - Truckdriver, Medium		17.90
31363 - Truckdriver, Heavy		19.18
31364 - Truckdriver, Tractor-Trailer		19.18
99000 - Miscellaneous Occupations		

99030 - Cashier	10.03
99050 - Desk Clerk	11.58
99095 - Embalmer	23.05
99251 - Laboratory Animal Caretaker I	11.30
99252 - Laboratory Animal Caretaker II	12.35
99310 - Mortician	31.73
99410 - Pest Controller	17.69
99510 - Photofinishing Worker	13.20
99710 - Recycling Laborer	18.50
99711 - Recycling Specialist	22.71
99730 - Refuse Collector	16.40
99810 - Sales Clerk	12.09
99820 - School Crossing Guard	13.43
99830 - Survey Party Chief	21.94
99831 - Surveying Aide	13.63
99832 - Surveying Technician	20.85
99840 - Vending Machine Attendant	14.43
99841 - Vending Machine Repairer	18.73
99842 - Vending Machine Repairer Helper	14.43

ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS:

HEALTH & WELFARE: $3.71 per hour or $148.40 per week or $643.07 per month

VACATION: 2 weeks paid vacation after 1 year of service with a contractor or successor; 3 weeks after 5 years, and 4 weeks after 15 years. Length of service includes the whole span of continuous service with the present contractor or successor, wherever employed, and with the predecessor contractors in the performance of similar work at the same Federal facility. (Reg. 29 CFR 4.173)

HOLIDAYS: A minimum of ten paid holidays per year, New Year's Day, Martin Luther King Jr's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. (A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.) (See 29 CFR 4174)

THE OCCUPATIONS WHICH HAVE NUMBERED FOOTNOTES IN PARENTHESES RECEIVE THE FOLLOWING:

1) COMPUTER EMPLOYEES: Under the SCA at section 8(b), this wage determination does not apply to any employee who individually qualifies as a bona fide executive, administrative, or professional employee as defined in 29 C.F.R. Part 541. Because most Computer System Analysts and Computer Programmers who are compensated at a rate not less than $27.63 (or on a salary or fee basis at a rate not less than $455 per week) an hour would likely qualify as exempt computer professionals, (29 C.F.R. 541. 400) wage rates may not be listed on this wage determination for all occupations within those job families. In addition, because this wage determination may not list a wage rate for some or all occupations within those job families if the survey data indicates that the prevailing wage rate for the occupation equals or exceeds $27.63 per hour conformances may be necessary for certain nonexempt employees. For example, if an individual employee is nonexempt but nevertheless performs duties within the scope of one of the Computer Systems Analyst or Computer Programmer occupations for which this wage determination does not specify an SCA wage rate, then the wage rate for that employee must be conformed in accordance with the conformance procedures described in the conformance note included on this wage determination.

Additionally, because job titles vary widely and change quickly in the computer industry, job titles are not determinative of the application of the computer professional exemption. Therefore, the exemption applies only to computer employees who satisfy the compensation requirements and whose primary duty consists of:

(1) The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications;

(2) The design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;

(3) The design, documentation, testing, creation or modification of computer programs related to machine operating systems; or

(4) A combination of the aforementioned duties, the performance of which requires the same level of skills. (29 C.F.R. 541.400).

2) AIR TRAFFIC CONTROLLERS AND WEATHER OBSERVERS - NIGHT PAY & SUNDAY PAY: If you work at night as part of a regular tour of duty, you will earn a night differential and receive an additional 10% of basic pay for any hours worked between 6pm and 6am. If you are a full-time employed (40 hours a week) and Sunday is part of your regularly scheduled workweek, you are paid at your rate of basic pay plus a Sunday premium of 25% of your basic rate for each hour of Sunday work which is not overtime (i.e. occasional work on Sunday outside the normal tour of duty is considered overtime work).

HAZARDOUS PAY DIFFERENTIAL: An 8 percent differential is applicable to employees employed in a position that represents a high degree of hazard when working with or in close proximity to ordinance, explosives, and incendiary materials. This includes work such as screening, blending, dying, mixing, and pressing of sensitive ordance, explosives, and pyrotechnic compositions such as lead azide, black powder and photoflash powder. All dry-house activities involving propellants or explosives. Demilitarization, modification, renovation, demolition, and maintenance operations on sensitive ordnance, explosives and incendiary materials. All operations involving regrading and cleaning of artillery ranges.

A 4 percent differential is applicable to employees employed in a position that represents a low degree of hazard when working with, or in close proximity to ordance, (or employees possibly adjacent to) explosives and incendiary materials which involves potential injury such as laceration of hands, face, or arms of the employee engaged in the operation, irritation of the skin, minor burns and the like; minimal damage to immediate or adjacent work area or equipment being used. All operations involving, unloading, storage, and hauling of ordance, explosive, and incendiary ordnance material other than small arms ammunition. These differentials are only applicable to work that has been specifically designated by the agency for ordance, explosives, and incendiary material differential pay.

** UNIFORM ALLOWANCE **

If employees are required to wear uniforms in the performance of this contract (either by the terms of the Government contract, by the employer, by the state or local law, etc.), the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such uniforms is an expense that may not be borne by an employee where such cost reduces the hourly rate below that required by the wage determination. The Department of Labor will accept payment in accordance with the following standards as compliance:

The contractor or subcontractor is required to furnish all employees with an adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition, where uniform cleaning and maintenance is made the responsibility of the employee, all contractors and subcontractors subject to this wage determination shall (in the absence of a bona fide collective bargaining

agreement providing for a different amount, or the furnishing of contrary affirmative proof as to the actual cost), reimburse all employees for such cleaning and maintenance at a rate of $3.35 per week (or $.67 cents per day). However, in those instances where the uniforms furnished are made of "wash and wear" materials, may be routinely washed and dried with other personal garments, and do not require any special treatment such as dry cleaning, daily washing, or commercial laundering in order to meet the cleanliness or appearance standards set by the terms of the Government contract, by the contractor, by law, or by the nature of the work, there is no requirement that employees be reimbursed for uniform maintenance costs.

The duties of employees under job titles listed are those described in the "Service Contract Act Directory of Occupations", Fifth Edition, April 2006, unless otherwise indicated. Copies of the Directory are available on the Internet. A links to the Directory may be found on the WHD home page at http://www.dol.gov/esa/whd/ or through the Wage Determinations On-Line (WDOL) Web site at http://wdol.gov/.

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND WAGE RATE {Standard Form 1444 (SF 1444)}

Conformance Process:

The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed classes of employees shall be paid the monetary wages and furnished the fringe benefits as are determined. Such conforming process shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees. The conformed classification, wage rate, and/or fringe benefits shall be retroactive to the commencement date of the contract. {See Section 4.6 (C)(vi)} When multiple wage determinations are included in a contract, a separate SF 1444 should be prepared for each wage determination to which a class(es) is to be conformed.

The process for preparing a conformance request is as follows:

1) When preparing the bid, the contractor identifies the need for a conformed occupation(s) and computes a proposed rate(s).

2) After contract award, the contractor prepares a written report listing in order proposed classification title(s), a Federal grade equivalency (FGE) for each proposed classification(s), job description(s), and rationale for proposed wage rate(s), including information regarding the agreement or disagreement of the authorized representative of the employees involved, or where there is no authorized representative, the employees themselves. This report should be submitted to the contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work.

3) The contracting officer reviews the proposed action and promptly submits a report of the action, together with the agency's recommendations and pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. (See section 4.6(b)(2) of Regulations 29 CFR Part 4).

4) Within 30 days of receipt, the Wage and Hour Division approves, modifies, or disapproves the action via transmittal to the agency contracting officer, or notifies the contracting officer that additional time will be required to process the request.

5) The contracting officer transmits the Wage and Hour decision to the contractor.

6) The contractor informs the affected employees.

Information required by the Regulations must be submitted on SF 1444 or bond paper.

When preparing a conformance request, the "Service Contract Act Directory of Occupations" (the Directory) should be used to compare job definitions to insure that duties requested are not performed by a classification already listed in the wage determination. Remember, it is not the job title, but the required tasks that determine whether a class is included in an established wage determination. Conformances may not be used to artificially split, combine, or subdivide classifications listed in the wage determination.

Attachment J

LIVING WAGE ACT FACT SHEET

The "Living Wage Act of 2006," Title I of D.C. Law 16-18, (D.C. Official Code §§2-220.01-.11) became effective June 9, 2006. It provides that District of Columbia government contractors and recipients of government assistance (grants, loans, tax increment financing) in the amount of $100,000 or more shall pay affiliated employees wages no less than the current living wage rate.

Effective January 1, 2010, the living wage rate is $12.50 per hour.

Subcontractors of D.C. government contractors who receive $15,000 or more from the contract and subcontractors of the recipients of government assistance who receive $50,000 or more from the assistance are also required to pay their affiliated employees no less than the current living wage rate.

"Affiliated employee" means any individual employed by a recipient who receives compensation directly from government assistance or a contract with the District of Columbia government, including any employee of a contractor or subcontractor of a recipient who performs services pursuant to government assistance or a contract. The term "affiliated employee" does not include those individuals who perform only intermittent or incidental services with respect to the government assistance or contract, or who are otherwise employed by the contractor, recipient or subcontractor.

Exemptions – The following contracts and agreements are exempt from the Living Wage Act:

1. Contracts or other agreements that are subject to higher wage level determinations required by federal law (i.e., if a contract is subject to the Service Contract Act and certain wage rates are lower than the District's current living wage, the contractor must pay the higher of the two rates);

2. Existing and future collective bargaining agreements, provided that the future collective bargaining agreement results in the employee being paid no less than the current living wage;

3. Contracts for electricity, telephone, water, sewer or other services provided by a regulated utility;

4. Contracts for services needed immediately to prevent or respond to a disaster or eminent threat to public health or safety declared by the Mayor;

5. Contracts or other agreements that provide trainees with additional services including, but not limited to, case management and job readiness services, provided that the trainees do not replace employees subject to the Living Wage Act;

6. An employee, under 22 years of age, employed during a school vacation period, or enrolled as full-time student, as defined by the respective institution, who is in high school or at an accredited institution of higher education and who works less than 25 hours per week; provided that he or she does not replace employees subject to the Living Wage Act;

7. Tenants or retail establishments that occupy property constructed or improved by receipt of government assistance from the District of Columbia; provided, that the tenant or retail establishment did not receive direct government assistance from the District of Columbia;

8. Employees of nonprofit organizations that employ not more than 50 individuals and qualify for taxation exemption pursuant to Section 501 (c) (3) of the Internal Revenue Code of 1954, approved August 16, 1954 (68A Stat. 163; 26. U.S.C. §501(c)(3);

9. Medicaid provider agreements for direct care services to Medicaid recipients, provided, that the direct care service is not provided through a home care agency, a community residence facility, or a group home for mentally retarded persons as those terms are defined in section 2 of the Health-Care and Community Residence Facility, Hospice, and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code §44-501); and

10. Contracts or other agreements between managed care organizations and the Health Care Safety Net Administration or the Medicaid Assistance Administration to provide health services.

Enforcement

The Department of Employment Services (DOES) and the D.C. Office of Contracting and Procurement (OCP) share monitoring responsibilities.

If you learn that a contractor subject to this law is not paying at least the current living wage you should report it to the Contracting Officer.

If you believe that your employer is subject to this law and is not paying you at least the current living wage, you may file a complaint with the DOES Office of Wage – Hour, located at 64 New York Ave., NE, Room 3105, (202) 671-1880.

For questions and additional information, contact the Office of Contracting and Procurement at (202) 727-0252 or the Department of Employment Services on (202) 671-1880.

Please note: *This fact sheet is for informational purposes only as required by Section 106 of the Living Wage Act. It should not be relied on as a definitive statement of the Living Wage Act or any regulations adopted pursuant to the law.*

Attachment K

DGS

DCAM-13-NC-0160
ATTACHMENT K
PARKING LOT OPERATOR SERVICES

Name: _____

Performance Element (See Description p. 2)	**Excellent***	**Good**	**Acceptable**	**Poor**	**Unacceptable****
Quality of Services/ Work					
Timeliness of Performance					
Cost Control					
Business Relations					
Customer Satisfaction					

1. Name of Organization: _____
2. Name & Title of Evaluator: _____
3. Telephone Number of Evaluator: _____
4. E-mail address of Evaluator: _____
5. Signature of Evaluator: _____ Date: _____
6. Describe type of service received: _____
7. Contract Number _____ Contract Amount _____
8. Contract Period of Performance _____

*Remarks on Excellent Performance: Provide data supporting this observation.
(Continue on separate sheet if needed)

** Remarks on Unacceptable Performance: Provide data supporting this observation.
(Continue on separate sheet if needed)

RATING GUIDELINES

Summarize Contractor performance in each of the rating areas. Assign each area a rating of 0 (Unacceptable), 1 (Poor), 2 (Acceptable), 3 (Good), 4(Excellent), or ++ (Plus). Use the following instructions a guidance in making these evaluations.

	Quality Product/Service	**Cost Control**	**Timeless of Performance**	**Business Relations**
	-Compliance with contract requirements -Accuracy of reports -Appropriateness of personnel -Technical excellence	-Within budget (over/ under target costs) -Current, accurate, and complete billings -Relationship of negated costs to actual -Cost efficiencies -Change order issue	-Meet Interim milestones -Reliable -Responsive to technical directions -Completed on time, including wrap-up and -contract administration -No liquidated damages assessed	-Effective management -Businesslike correspondence -Responsive to contract requirements -Prompt notification of contract problems -Reasonable/cooperative -Flexible -Pro-active -effective contractor recommended solutions -Effective snail/small disadvantaged business Subcontracting program
0. Zero	Nonconformances are comprises the achievement of contract requirements, despite use of Agency resources	Cost issues are comprising performance of contract requirements.	Delays are comprising the achievement of contract requirements, Despite use of Agency resources.	Response to inquiries, technical/ service/administrative issues is not effective and responsive.
1. Unacceptable	Nonconformances require major Agency resources to ensure achievement of contract requirements.	Cost issues require major Agency resources to ensure achievement of contract requirements.	Delays require major Agency resources to ensure achievement of contract requirements.	response to inquiries, technical/ service/administrative issues is marginally effective and responsive.
2. Poor	Nonconformance require minor Agency resources to ensure achievement of contract requirements.	Costs issues require minor Agency resources to ensure achievement of contract requirements.	Delays require minor Agency resources to ensure achievement of contract requirements.	Responses to inquiries, technical/ service/administrative issues is somewhat effective and responsive.
3. Acceptable	Nonconformances do not impact achievement of contract requirements.	Cost issues do not impact achievement of contract requirements.	Delays do not impact achievement of contract requirements.	Responses to inquires, technical/ service/administrative issues is usually effective and responsive.
4. Good	There are no quality problems.	There are no cost issues.	There are not delays.	Responses to inquiries, technical/ service/administrative issues is effective and responsive,
5. Excellent	The contractor has demonstrated an exceptional performance level in some or all of the above categories.			

Please include completed evaluation form in the Offeror's Technical Proposal.