

# **EXHIBIT 25**

1 AMENDED

2 BILL NO. 32 - 2013

3 Moved by: *Wanda R. D. Williams*

4 An Ordinance of the City Council of the City of Harrisburg authorizing THE CITY  
5 AND HARRISBURG PARKING AUTHORITY TO ENTER INTO AN ASSET  
6 TRANSFER AGREEMENT WITH THE PENNSYLVANIA ECONOMIC  
7 DEVELOPMENT FINANCING AUTHORITY, the transfer of City-owned off-street  
8 parking assets and other rights to the Harrisburg Parking Authority, and related matters.

9  
10 WHEREAS, the City of Harrisburg ("City") and the Harrisburg Parking Authority ("HPA")  
11 currently own and operate parking garages, parking lots, parking meters, and off-street parking in  
12 certain areas of the City; and

13  
14 WHEREAS, as part of the Act 47 Recovery Plan process, certain components of the off-  
15 street parking system that are owned by the City must be transferred to HPA; and

16  
17 WHEREAS, the City has determined that it is in its best interests as part of the Act 47  
18 Recovery Plan process, for HPA and the City to transfer their interests in the Parking System (as  
19 hereinafter defined) to the Pennsylvania Economic Development Financing Authority ("PEDFA")  
20 pursuant to an Asset Transfer Agreement for the City of Harrisburg Parking System ("Asset Transfer  
21 Agreement"), a copy of which is attached hereto as Exhibit "A" and incorporated herein; and

22  
23 WHEREAS, the City desires to provide for the transfer by the City to PEDFA of on-street  
24 parking spaces, and the delegation by the City to PEDFA of parking meter collection, meter rate-

25 setting authority and other non-enforcement functions, each if approved by PEDFA, and all for a  
26 term as provided in the Asset Transfer Agreement (the parking garages, parking lots, parking meters,  
27 on-street parking spaces, parking meter enforcement and parking meter rate-setting authority are  
28 collectively referred to as the "Parking System;" and the lease, transfer and delegation of the  
29 components of the Parking System are singly and collectively referred to as the "transfer" of the  
30 components and of the Parking System, as further described in the Asset Transfer Agreement); and

31

32 WHEREAS, THE TRANSFER OF THE PARKING SYSTEM TO PEDFA, OR OTHER  
33 QUALIFIED ENTITY, AND OTHER MATTERS AS DESCRIBED IN THE ASSET TRANSFER  
34 AGREEMENT ("PARKING TRANSACTION"), ARE A NECESSARY PART OF THE ACT 47  
35 RECOVERY PLAN AND THE FINANCIAL RECOVERY OF THE CITY; AND

36

37 WHEREAS, THE RECEIVER HAS RECOMMENDED THAT THE CITY APPROVE  
38 THE PARKING TRANSACTION, AS DESCRIBED HEREIN; AND

39

40 WHEREAS, in the judgment of the City Council, ENTERING INTO THE ASSET  
41 TRANSFER AGREEMENT AND the transfer of certain components of the off-street parking  
42 system, as set forth in Exhibit "B" attached hereto and incorporated herein, to HPA is in the best  
43 interests of the City; AND

44

45 WHEREAS, THE ORIGINAL VERSION OF THIS BILL, WHEN PRESENTED FOR  
46 FIRST READING AS BILL NO. 32 OF 2013, INCLUDED AS EXHIBIT "A" AN ASSET

47 TRANSFER AGREEMENT, IDENTIFIED THEREON AS VERSION NO. 18401.001-  
48 1070503v2.6; AND

49

50 WHEREAS, THAT ASSET TRANSFER AGREEMENT HAS BEEN SUBSEQUENTLY  
51 REFINED AND UPDATED BY MUTUAL AGREEMENT OF THE PARTIES; AND

52

53 WHEREAS, THAT UPDATED VERSION OF THE PROPOSED ASSET TRANSFER  
54 AGREEMENT, IDENTIFIED THEREON AS VERSION NO. 18401.001-1070503v3.5, HAS  
55 BEEN SUBSTITUTED HERE AS EXHIBIT "A" TO THIS PROPOSED ORDINANCE; AND

56

57 WHEREAS, THE COUNTY OF DAUPHIN ("DAUPHIN COUNTY") AND ASSURED  
58 GUARANTY MUNICIPAL CORP. ("AGM") ARE CREDITORS OF THE CITY AND THE  
59 HARRISBURG AUTHORITY ("THA") IN MATTERS RELATED TO THE HARRISBURG  
60 RESOURCE RECOVERY FACILITY ("RRF"); AND

61

62 WHEREAS, AS CONSIDERATION FOR THE CITY'S APPROVAL OF THE PARKING  
63 TRANSACTION, DAUPHIN COUNTY AND AGM HAVE AGREED TO GENERALLY  
64 RELEASE THE CITY AND THA FROM ANY FURTHER LIABILITY FOR THE FINANCIAL  
65 OBLIGATIONS OF THE CITY AND THA ASSOCIATED WITH THE RRF; AND

66

67 WHEREAS, IN ORDER TO PERFECT THAT GENERAL RELEASE AND AS A  
68 CONDITION OF PROCEEDING WITH THE PARKING TRANSACTION, A SETTLEMENT  
69 AGREEMENT MUST AND WILL BE EXECUTED BY DAUPHIN COUNTY AND AGM.

70 WHICH AGREEMENT WILL INCLUDE THE FULL GENERAL RELEASE OF THE CITY AND  
71 THA FROM LIABILITY AND OBLIGATIONS ARISING FROM THE FINANCING AND  
72 OPERATION OF THE RRF, ANY OF THE VARIOUS RRF PROJECTS AND RELATED  
73 MATTERS; AND

74

75 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF  
76 HARRISBURG, AND IT IS HEREBY ORDAINED BY AUTHORITY OF THE SAME. as  
77 follows:

78

79 Section 1. The City Council of the City of Harrisburg hereby determines that the  
80 PARKING TRANSACTION IS HEREBY APPROVED AND (1) THE PARKING  
81 TRANSACTION. (2) THE PROPOSED TRANSFER TO PEDFA OF THE PARKING SYSTEM  
82 AND THE OPERATION OF THE PARKING SYSTEM BY PEDFA OR PEDFA'S DESIGNEE.  
83 (3) THE ASSET TRANSFER AGREEMENT. AND (4) THE transfer of certain components of the  
84 off-street parking system to HPA is in the best interests of increasing the commerce, health, safety,  
85 and prosperity of the City of Harrisburg and does not unnecessarily burden or interfere with the  
86 operations of the City of Harrisburg.

87

88 Section 2. City Council hereby approves the ASSET TRANSFER AGREEMENT AS SET  
89 FORTH IN EXHIBIT "A" AND THE transfer of the real and personal property and improvements  
90 constituting the off-street components of the Parking System as set forth in Exhibit "B" from the  
91 City to HPA.

92

93           Section 3.     The City shall take and maintain all necessary or appropriate actions TO  
94 IMPLEMENT THE PARKING TRANSACTION AND THE ASSET TRANSFER AGREEMENT  
95 AND to transfer to HPA the property currently owned by the City and necessary or convenient for  
96 the efficient operation of the Parking System, including, without limitation, the real and personal  
97 property and improvements constituting the off-street components of the Parking System listed on  
98 Exhibit "B," AND, AS NECESSARY, THE ADOPTION AND IMPLEMENTATION OF  
99 ORDINANCES, RESOLUTIONS AND CONTRACTS CONSISTENT WITH THE TERMS OF  
100 THE ASSET TRANSFER AGREEMENT.

101  
102           Section 4.     THE FINAL TERMS AND CONDITIONS OF ALL DOCUMENTS  
103 NECESSARY TO IMPLEMENT THE PARKING TRANSACTION AND THE ASSET  
104 TRANSFER AGREEMENT, CARRY OUT THE TRANSFER OF CERTAIN COMPONENTS OF  
105 THE OFF-STREET PARKING SYSTEM TO HPA, AND SETTLE CLAIMS WITH DAUPHIN  
106 COUNTY AND AGM ARE SUBJECT TO REVIEW AND APPROVAL BY THE ATTORNEYS  
107 REPRESENTING THE CITY; PROVIDED HOWEVER, THAT NO CHANGES ALTERING  
108 THE MATERIAL TERMS AND CONDITIONS OF THE ASSET TRANSFER AGREEMENT  
109 ARE PERMITTED WITHOUT SUBSEQUENT APPROVAL OF CITY COUNCIL.

110  
111           Section 5.     The proper officers, directors, agents and employees of the City are hereby  
112 authorized, empowered and directed to do all such acts and things and to execute all such documents  
113 as may be necessary TO COMPLY WITH THE TERMS OF THE PARKING TRANSACTION,  
114 INCLUDING THE ASSET TRANSFER AGREEMENT, AS DESCRIBED HEREIN AND to carry

115 out the transfer of certain components of the off-street parking system to HPA, including all  
116 provisions of the documents as executed in connection therewith.

117

118       Section 6.     The Mayor, City Controller, City Treasurer, City Solicitor and all other  
119 appropriate City officials are hereby authorized, empowered and directed to prepare and furnish  
120 certified copies of all the proceedings and records of the City relating to THE PARKING  
121 TRANSACTION, INCLUDING THE ASSET TRANSFER AGREEMENT, AND the transfer of  
122 certain components of the off-street parking system to HPA, and such other affidavits and  
123 certificates as may be required; and all such certified copies, certificates and affidavits, including any  
124 heretofore furnished, shall constitute representations of the City as to the truth of all statements  
125 contained therein.

126

127       Section 7.     The Mayor, City Controller, City Treasurer, City Solicitor and all other  
128 appropriate City officials are authorized, directed, and instructed to take all steps necessary or  
129 appropriate to effectuate the purposes of this Ordinance.

130

131       Section 8.     In the event any provision, section, sentence, clause or part of this Ordinance  
132 shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section,  
133 sentence, clause or part of this Ordinance, it being the intent of this City that such remainder shall be  
134 and shall remain in full force and effect.

135

136       Section 9.     All ordinances and resolutions or parts thereof in conflict with the provisions  
137 herein contained are, to the extent of such conflict, hereby superseded and repealed.

138

139        Section 10. This Ordinance shall become effective ~~at the earliest date permitted by the~~  
140 ~~City's Charter~~ IN ACCORDANCE WITH APPLICABLE LAW; provided, however, that the  
141 approvals and authorizations granted herein are subject to the order by the Commonwealth Court of  
142 Pennsylvania entered on September 23, 2013 approving the Act 47 Recovery Plan.

143

144        SECTION 11. Approval of this Ordinance shall be conditioned upon (1) consummation of  
145 the long term leasing of certain parking garages and certain other assets owned by the City and the  
146 Harrisburg Parking Authority, part of the proceeds of which shall be paid to the City upon closing, as  
147 more fully described in the Harrisburg Strong Plan; and (2) the substantial performance by all  
148 stakeholders with their respective material obligations under the Harrisburg Strong Plan.

149

150        SECTION 12. APPROVAL OF THIS ORDINANCE IS FURTHER CONDITIONED  
151 UPON THE EXECUTION OF A SETTLEMENT AGREEMENT PRIOR TO CLOSING, IN A  
152 FORM ACCEPTED AND APPROVED BY THE ATTORNEYS FOR THE CITY, THAT HAS  
153 BEEN DULY AUTHORIZED AND SIGNED ON BEHALF OF DAUPHIN COUNTY AND AGM,  
154 WHICH SHALL INCLUDE A FULL AND GENERAL RELEASE OF THE CITY AND THA IN  
155 RELATION TO RRF MATTERS AS DESCRIBED ABOVE. FURTHERMORE, SUCH  
156 SETTLEMENT AGREEMENT MAY NOT CONTAIN TERMS WHICH MODIFY, ABROGATE,  
157 OR CREATE EXCEPTIONS TO THE OBLIGATIONS UNDERTAKEN BY DAUPHIN  
158 COUNTY AND AGM TO RELEASE THE CITY FULLY AND UNCONDITIONALLY FOR  
159 THOSE MATTERS ARISING FROM THE FINANCING AND OPERATION OF THE RRF, ANY  
160 OF THE VARIOUS RRF PROJECTS AND RELATED MATTERS.



161

162 Secoded by: \_\_\_\_\_

163

YEAS	NAYS
<input checked="" type="checkbox"/>	KOPLINSKI
<input checked="" type="checkbox"/>	REID
<input checked="" type="checkbox"/>	SMITH
<input checked="" type="checkbox"/>	SUMMERFORD
<input checked="" type="checkbox"/>	WEBER
<input checked="" type="checkbox"/>	WILSON
<input checked="" type="checkbox"/>	WILLIAMS
Yeas <u>7</u>	
Nays <u>0</u>	

City Council

11-12-13

Wanda L. D. Williams

President of City Council

K. P. Roberts  
City Clerk

Approved

Returned to City Council with objections

[Signature]  
Mayor  
11-13-13  
Date

Asset Transfer Agreement  
for the City of Harrisburg Parking System  
(As Signed)

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**ASSET TRANSFER AGREEMENT  
FOR THE CITY OF HARRISBURG PARKING SYSTEM**

Dated as of

December \_\_, 2013

by and among

**HARRISBURG PARKING AUTHORITY, as Transferor**

and

**PENNSYLVANIA ECONOMIC DEVELOPMENT FINANCING AUTHORITY, as Transferee**

and

**CITY OF HARRISBURG, PENNSYLVANIA**

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**THIS ASSET TRANSFER AGREEMENT** (the "Agreement") is made and entered into as of the \_\_\_ day of December, 2013, by and among the Harrisburg Parking Authority, a Pennsylvania parking authority, organized and existing under the laws of the Commonwealth of Pennsylvania (the "Transferor"), and the Pennsylvania Economic Development Financing Authority, a public body corporate and politic and an instrumentality of the Commonwealth of Pennsylvania ("Commonwealth"), organized and existing under the laws of the Commonwealth (the "Transferee"), and the City of Harrisburg, Pennsylvania, a third class city incorporated under the laws of the Commonwealth (the "City").

#### RECITALS

WHEREAS, the Transferor owns the Off-Street Parking System which serves residents and visitors to the City; and

WHEREAS, the City owns the On-Street Parking System in or about the areas in which the Off-Street Parking System is located; and

WHEREAS, the Transferor was organized by the City under and pursuant to the laws of the Commonwealth; and

WHEREAS, the Transferor currently operates the Off-Street Parking System and the On-Street Parking System and the City currently owns the On-Street Parking System; and

WHEREAS, the Transferor and the City mutually desire to provide for the continued operation of the Off-Street Parking System and the On-Street Parking System in a manner which provides upfront moneys to the Transferor and safe, efficient and profitable operation of the Parking System for the Transferor, the City and its residents and visitors; and

WHEREAS, the sale and transfer of the Parking System as provided in or pursuant to this Agreement will provide immediate funds to the Transferor and the City and permit efficient operation of the Parking System; and

WHEREAS, the Transferee is willing to lease from the Transferor and the Transferor is willing to Lease to the Transferee, the underlying ground on which the Off-Street Parking System is located, the garage structures and other improvements thereon, and acquire all right, title and interest in substantially all of the other assets of the Off-Street Parking System, as provided in this Agreement, and that certain Lease Agreement, dated as of the same date as this Agreement, by and between Transferor, as Lessor, and Transferee, as Lessee (the "Lease"); and

WHEREAS, in consideration of the acquisition price to be paid to the Transferor and in accordance with the terms of the PEDFA Intergovernmental Cooperation Agreement with the Transferee, the City is willing, pursuant to Article IX, Section 5, of the Constitution of the Commonwealth of Pennsylvania, and the Pennsylvania Intergovernmental Cooperation Law, 53 Pa. C.S. §§2301 *et seq.* (collectively, the "Intergovernmental Legislation") to transfer and delegate all of its functions, powers and responsibility with respect to the On-Street Parking System to the Transferee (except (i) the Parking Enforcement Powers which the City is delegating to DGS pursuant to the DGS Intergovernmental Cooperation Agreement, and (ii) the City's Reserved Enforcement Powers, which the City is retaining) in order to assure the

operation of the Parking System in a First Class Manner for the benefit of the City and its citizens and visitors; and

WHEREAS, the Transferee has initially designated the Capital Region Economic Development Corporation, a non-profit corporation organized under the laws of the Commonwealth ("CREDC"), as a Qualified Designee, to serve as Transferee's representative for purposes of acting on behalf of the Transferee as contemplated pursuant to the terms of this Agreement and the documents executed pursuant hereto.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, the Parties (as defined herein), intending to be legally bound hereby, agree as follows:

## ARTICLE 1

### DEFINITIONS AND INTERPRETATION

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

"Acquisition Price" means the aggregate consideration to be paid by the Transferee pursuant to Section 2.1(a).

"Additional Coverages" has the meaning ascribed thereto in Section 11.2(g).

"Advisory Committee" means the respective designee of each of the Qualified Designee, the Asset Manager, the Off-Street Operator, the On-Street Operator, the Transferor, the City's Mayor, the City Council, AGM, the County, and the Department of General Services (so long as the Parking Lease is in effect) which, is expected to provide advisory input to the Transferee as to (i) proposed expansion or contraction of the Parking System; (ii) compliance with the Franchise; (iii) residential permit parking; (iv) enforcement of on-street parking; (v) changes in technology and proposed capital improvements; (vi) community relations and outreach; (vii) establishment of rates and budgets; and (viii) the Operating Standards and Long Term Capital Plan.

"Affected Property" means any public or private property, including any sign pole, street lamp, and other structure, including connecting hardware, that supports a Metering Device but was initially designed to serve other purposes, a building, park, highway, street, road, roadway, railroad, rail or other transit way, sidewalks, plazas, walkways, connectors (above and below grade) and any ancillary facilities related to any of the foregoing, under the jurisdiction and control of the City, any other Governmental Authority or any other Person that is located above, below, within the boundaries of, connects or intersects with, crosses over or under or is adjacent to any Metered Parking Spaces, Unmetered Parking Spaces, or Parking Facility or any part thereof.

"Affiliate" when used to indicate a relationship with a specified Person, means a Person that, directly or indirectly, through one or more intermediaries has a ten percent (10%) or more voting or economic interest in such specified Person or controls, is controlled by or is under

common control with (which shall include, with respect to a managed fund or trust, the right to direct or cause the direction of the management and policies of such managed fund or trust as manager, advisor, supervisor, sponsor or trustee pursuant to relevant contractual arrangements) such specified Person, and a Person shall be deemed to be controlled by another Person, if controlled in any manner whatsoever that results in control in fact by that other Person (or that other Person and any Person or Persons with whom that other Person is acting jointly or in concert), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise (for purposes of this definition, a managed fund or trust shall be deemed to be an Affiliate of the Person managing, supervising, sponsoring or advising such fund or trust and a limited partner in a managed fund or trust shall be deemed to be an Affiliate of such fund or trust and of the Person managing, supervising, sponsoring or advising such fund or trust).

“Agreement” means this Asset Transfer Agreement (including all Schedules referred to herein), as amended from time to time in accordance with the terms hereof.

“Annual Capital Budget” has the meaning given it in Section 7.1(c).

“Annual Operating Budget” has the meaning ascribed thereto in Section 7.1(c).

“Approval”, “Approved”, “Approves”, “Approved by the Transferor” and similar expressions mean approved or consented to by the Transferor or City in accordance with the provisions of Section 1.14.

“Assets” means the assets of the Parking System as set forth on Schedule 1.

“Asset Manager” means the Initial Asset Manager, or any other subsequent Person serving as an asset manager for the Parking System and Parking System Operations in accordance with this Agreement, the Lease and the Indenture. The term does not include a Qualified Designee.

“Asset Management Agreement” means any agreement, contract, or commitment by which the Transferee, directly or indirectly, engages an Asset Manager, that qualifies and is consistent with the conditions set forth under Rev. Proc. 97-13 or any successor revenue procedure, regulation or other official pronouncement of the Internal Revenue Service so as to not result in private business use under § 141(b) of the Internal Revenue Code. Any agreement between Transferee and its Qualified Designee is not an Asset Management Agreement. The Transferee and the Initial Asset Manager will enter into that certain Asset Management Agreement to be dated as of December 1, 2013.

“Assignee” means any Person who obtains the Transferee Interest pursuant to a Transfer permitted in Article 15.

“Assumed Contracts” means those Parking System Contracts that will be assigned to the Transferee at the Time of Closing and are listed on Schedule 1(A-3).

“Assumed Liabilities” has the meaning ascribed thereto in Section 2.1.

"Assignment and Assumption Agreement" has the meaning ascribed thereto in Section 16.7(c).

"Audit and Review" and similar expressions mean, with respect to any matter or thing relating to the Parking System, the Parking System Operations or this Agreement, the performance by or on behalf of the Transferor of such reviews, investigations, inspections and audits relating to such matter or thing as the Transferor may reasonably determine to be necessary in the circumstances, conducted in each case in accordance with applicable United States industry accepted practices, if any; or as required by Law, but in accordance with the provisions of this Agreement and authorized by this Agreement.

"Authority Notes" means those four certain Pennsylvania Economic Development Financing Authority Surplus Notes issued by the Transferee pursuant to Section 2.13 of the Indenture, in the aggregate principal amount determined as provided in Section 2.1, for the benefit of the Transferor, substantially in the form of the "Authority Note" attached as Schedule 18, together with all replacements thereof.

"Authorization" means any approval, certificate of approval, authorization, consent, waiver, variance, exemption, declaratory order, exception, license, filing, registration, permit, notarization or other requirement of any Person that applies to the Parking System or is reasonably required from time to time for the Parking System Operations.

"Available Positions" means the positions (and hours) set forth on Schedule 7.

"Available Supervisory Positions" means the positions (and hours) set forth on Schedule 7.

"Business Day" means any Day that is not a Saturday, a Sunday or a Day observed as a holiday by the City, the Commonwealth or the United States government or a day on which banks in the city in which the corporate trust offices of the Indenture Trustee are located, are required or authorized by law (including executive order) to close.

"Capital Improvement" means (i) any improvement to the structural, electrical, electronic, or mechanical components of the Parking Facilities, (ii) technology upgrades to Metering Devices, (iii) any maintenance, repair or replacement expenditure in excess of \$100,000, Adjusted for Inflation, in the aggregate during any month, with respect to the Parking System; (iv) any other repairs, replacements, improvements, or other work to the Parking System set forth in the Annual Capital Budget; and (v) and the Required Capital Improvements.

"Capital Reserve Fund" has the meaning ascribed thereto in the Indenture.

"Capital Reserve Requirement" means the greater of \$15,000,000 or the "Measured Capital Reserve Requirement" as that term is defined in the Indenture.

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

"City Council" means the governing body of the City, authorized under the Zoning Ordinance and the MPC to grant conditional uses and adopt ordinances amending the Zoning Ordinance.

"City Documents" means the Asset Transfer Agreement, the PEDFA Intergovernmental Cooperation Agreement, the DGS Intergovernmental Cooperation Agreement, and the 2013 Harrisburg Downtown Parking Cooperation Agreement.

"City Ordinances and Resolutions" means (i) Ordinance No. 30-2013, An Ordinance of the City Council of the City of Harrisburg Authorizing the City to Enter Into an Agreement Delegating to the Pennsylvania Economic Development Financing Authority Certain Rights and Powers With Respect to Its On-Street Parking System Consisting of Collection of Meter Revenues, Rate-Setting, and Other Non-Enforcement Matters, and Approving the Pennsylvania Economic Development Financing Authority Entering Into a Contract With the Initial Manager of the Parking System to Provide Certain Functions If Approved by the Board of PEDFA; and Related Matters; (ii) Ordinance No. 31-2013, An Ordinance of the City Council of the City of Harrisburg Authorizing the City to Enter into an Intergovernmental Cooperation Agreement Delegating to the Pennsylvania Department of General Service ("DGS") Certain Enforcement Powers with Respect to On-Street Parking and Approving DGS Entering into a Contract with the Initial Manager of the Parking System to Provide Certain Enforcement Functions, and Related Matters; and (iii) Ordinance No. 32-2013, An Ordinance of the City Council of the City of Harrisburg Authorizing the City and Harrisburg Parking Authority to Enter Into an Asset Transfer Agreement with the Pennsylvania Economic Development Financing Authority, the Transfer of City-Owned Off-Street Parking Assets and Other Rights to the Harrisburg Parking Authority, and Related Matters.

"City Payments" means the payments from Revenues by the Trustee on behalf of the Transferee to the City pursuant to Section 3.3 and in accordance with the Indenture in the initial amount of \$900,000 for the 2013 Operating Year (prorated for 2013 and any other partial year), increasing on the first day of each Operating Year to the amount shown in Schedule 12.

"Claim" means any demand, action, cause of action, suit, proceeding, arbitration, lien, claim, judgment or settlement or compromise relating thereto which may give rise to a right to a payment obligation.

"Closing" has the meaning ascribed thereto in Section 2.2(a).

"Closing Consideration" has the meaning ascribed thereto in Section 2.1.

"Closing Date" has the meaning ascribed thereto in Section 2.2(a).

"Closing Period" means the period from the date hereof up to and including the Time of Closing.

"Commercial Parking Lot" means a parcel of real property or portion thereof owned by any Person, except for the City, any public authority of the City, Transferor, any other governmental entity, or the Harrisburg Redevelopment Authority, used in whole or in part for the

principal purpose of temporary or permanent storage by the public of vehicles for a stated consideration.

“Commercial Parking Structure” means a building or portion thereof owned by any Person, except for the City, any public authority of the City, Transferor, any other governmental entity, or the Harrisburg Redevelopment Authority, which encloses a space used in whole or in part for the principal purpose of temporary or permanent storage by the public of vehicles for a stated consideration.

“Competing Parking Action” has the meaning ascribed to it in Section 13.1.

“Competing Parking Area” means the area of the City described on Schedule 4.

“Consent” means any approval, consent, ratification, waiver, exemption, franchise, license, permit, novation, certificate of occupancy or other authorization, of any Person, including any Consent issued, granted, given, or otherwise made available by or under the authority of any Governmental Authority or pursuant to any applicable Law.

“Contractor” means any entity with whom a Person contracts to perform work or supply materials or labor in relation to the Parking System, including any subcontractor of any tier, supplier or materialman directly or indirectly employed pursuant to a subcontract with a Contractor.

“Covenant Dispute Notice” has the meaning given it in Section 13.5.

“Covenant Notice” has the meaning given it in Section 13.4.

“CREDC” has the meaning ascribed to that term in the Recitals.

“Credit Facility Providers” has the meaning ascribed to that term in the Indenture.

“Day” means a calendar day, beginning at 12:01 a.m. Prevailing Eastern Time.

“Debt Service Reserve Fund” has the meaning ascribed thereto in the Indenture.

“DGS” means the Commonwealth Department of General Services.

“DGS Intergovernmental Cooperation Agreement” means the agreement between the City and DGS, providing for the irrevocable delegation of the Parking Enforcement Powers by the City to DGS.

“Disqualified Contractor” means a Person which has been suspended or debarred by the Commonwealth under its Contractor Responsibility Program, Management Directive 215.9, as amended or as replaced by a successive directive, rule, regulation or statute from time to time, or has been convicted by a court of competent jurisdiction of a crime for which a term of imprisonment of one year or more could have been imposed, and any Person controlled by a Person which has been so suspended, debarred or convicted.

“Emergency” means a situation that is urgent and calls for immediate action, which, if such action is not taken, is reasonably likely to result in or create a serious risk of imminent harm or physical damage to any or all of the Parking System or any natural Person.

“Encumbrance” means any mortgage, lien, judgment, execution, pledge, charge, security interest, restriction, easement, servitude, option, reservation, lease, claim, trust, deemed trust or encumbrance of any nature whatsoever, whether arising by operation of law, judicial process, contract, agreement or otherwise created.

“Enforcement Operator” means the Person appointed by the Parking Enforcement Delegation Agency in accordance with this Agreement and the DGS Intergovernmental Cooperation Agreement to conduct Parking Enforcement Powers as described in Section 3.4(d).

“Enforcement Policies and Procedures” means the policies and procedures established by DGS, the City, the Asset Manager, and the Enforcement Operator for the administration and enforcement by the Enforcement Operator of parking rules and regulations that are designed to deter parking violations, including procedures for the issuance and collection of parking tickets and citations for non-moving violations of the parking rules and regulations with respect to the On-Street Parking System, by such means as permitted by Law, as set forth in Schedule 3, but excluding all Reserved Enforcement Powers.

“Engineering Firm” means an independent firm of professional engineers that has exhibited experience with the kinds of Parking Facilities and Metering Devices within the Parking System and having a recognized reputation for skill and experience in the design, construction, reconstruction, maintenance and repair of public parking garages and metering devices engaged by the Asset Manager pursuant to the Asset Management Agreement; provided, however, the engineering firm cannot be related to or affiliated with the Transferee, Qualified Designee, Operator or Asset Manager.

“Environment” means soil, surface waters, ground waters, land, stream sediments, surface or subsurface strata and ambient air.

“Environmental Laws” means any Laws applicable to the Parking System or Parking System Operations regulating or imposing liability or standards of conduct concerning or relating to the regulation or use of Hazardous Substances, or the protection of human health or the Environment.

“Excluded Assets” has the meaning ascribed thereto in Section 2.1.

“Excluded Liabilities” has the meaning ascribed thereto in Section 2.1.

“First Class Manner” means, with respect to each component of the Parking System, operation and maintenance in compliance with Law and in an efficient and commercially reasonable manner in accordance with prevailing parking industry best practices (including best practices relating to cleanliness, attractiveness and safety) as implemented by prudent owner/operators of parking facilities comparable in scope, size, type, condition, location, nature and purpose.

"Force Majeure" means any event beyond the reasonable control of the Transferee (and including the Asset Manager or Operator), the Transferor, or the City, as applicable, that delays, interrupts or limits the performance of a Party's obligations hereunder including an intervening act of God or public enemy, war, invasion, armed conflict, act of foreign enemy, blockade, revolution, act of terror, sabotage, civil commotions, condemnation, interference by civil or military authorities, nuclear or other explosion, radioactive or chemical contamination or ionizing radiation, fire or other casualty, tornado, flooding, earthquake or other natural disaster, riot or other public disorder, epidemic, quarantine restriction, strike, labor dispute or other labor protest, stop-work order or injunction issued by a Governmental Authority, governmental embargo, except to the extent that the consequence of such event is otherwise specifically dealt with in this Agreement or arises by reason of (i) the negligence or willful misconduct of the Parties, (ii) any act or omission by the Parties in breach of the provisions of this Agreement, (iii) lack or insufficiency of funds or failure to make payment of monies or provide required security on the part of the Transferee or (iv) any strike, labor dispute or other labor protest involving any Person retained, employed or hired by the Transferee or its Representatives to supply materials or services for or in connection with the Parking System Operations or any strike, labor dispute or labor protest pertaining to the Transferee that is caused by or attributable to any act (including any pricing or other practice or method of operation) or omission of the Transferee or its Representatives.

"Governmental Authority" means any court, federal, state, local or foreign government, department, commission, board, bureau, agency or other regulatory, administrative, governmental or quasi-governmental authority and, unless expressly excluded, includes the City. The definition of Governmental Authority excludes the Transferee.

"Hazardous Substance" means any solid, liquid, gas, odor, radiation or other substance or emission which is a contaminant, pollutant, dangerous substance, toxic substance, hazardous waste, subject waste, hazardous material or hazardous substance which is or becomes regulated by applicable Environmental Laws or which is classified as hazardous or toxic under applicable Environmental Laws (including gasoline, diesel fuel or other petroleum hydrocarbons, polychlorinated biphenyls, asbestos and urea formaldehyde foam insulation).

"Indemnified Party" has the meaning ascribed to it in Section 12.2(a).

"Indenture" means the Trust Indenture, between the Transferee and the Trustee, providing for the issuance of the Parking Bonds.

"Indenture Obligations" means the Authority Notes, the Parking Bonds, and all other obligations under the Indenture.

"Index" means the United States Bureau of Labor Statistics, Consumer Price Index, all Urban Consumers, Northeast Cities Index, all items, as found in Table 11 of the CPI Detailed Report published by the U.S. Department of Labor, Bureau of Labor Statistics and for calculations using this index, the CPI-U, NE Cities Index reported four months prior to the first day of each Operating Year shall be used to determine the amount of any increases based on the Index; provided, that if the Index is changed so that the base year of the Index changes, the Index shall be converted in accordance with the conversion factor published by the U.S. Department of



Labor, Bureau of Labor Statistics; provided further that if the Index is discontinued or revised during the Term, such other index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

"Information" means any and all information relating to the Parking System Operations in the Transferee's possession or control or available to the Transferee pursuant to the Asset Management Agreement, the Parking Services Agreement, or the Parking Enforcement Engagement Agreement.

"Initial Asset Manager" means PK Harris Advisors, Inc., a Georgia corporation, an affiliate of Trimont Real Estate Advisors, Inc.

"Initial Enforcement Operator" means Standard Parking Corporation.

"Initial Off-Street Operator" means Standard Parking Corporation.

"Initial On-Street Operator" means Standard Parking Corporation.

"Intergovernmental Legislation" has the meaning ascribed to it in the Preamble to this Agreement.

"Intergovernmental Transfer" has the meaning ascribed to it in Section 3.3.

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

"Lease" has the meaning ascribed to it in the Preamble to this Agreement.

"Leasehold Mortgage(s)" has the meaning set forth in the Indenture for the term "Mortgage."

"Leasehold Mortgagee" means the Trustee or its assignee of its interest as the holder of the Leasehold Mortgage.

"Leasehold Mortgagee's Notice" has the meaning ascribed to it in Section 16.2(a).

"Lessor" means the Transferor and its permitted successors and assigns under the Lease.

"Long Term Capital Plan" has the meaning ascribed to it in Section 5.2(a).

"Loss" or "Losses" means, with respect to any Person, any loss, liability, damage, penalty, charge or out-of-pocket and documented cost or expense actually suffered or incurred by such Person, but excluding any punitive, special, indirect and consequential damages and any contingent liability until such liability becomes actual.

"Material Adverse Effect" means a material adverse effect on the business, financial condition or results of operations of the Parking System taken as a whole.

“Memorandum of Lease” has the meaning ascribed thereto in Section 2.7.

“Metered Parking Fee” means the fees established as consideration for the privilege of parking a motor vehicle at a Metered Parking Space all as set forth on Schedule 5, and as may be adjusted by the Transferee pursuant to the terms of this Agreement.

“Metered Parking Revenue” means, during the Term, the revenues derived from Metered Parking Fees, not including any Parking Violation Revenue related thereto.

“Metered Parking Spaces” means those parking spaces within the Competing Parking Area where during certain periods of time, the City, requires the payment of a fee for parking a motor vehicle at that space or place for a limited period of time plus any such additional parking spaces designated within the Competing Parking Area pursuant to Sections 6.3 and 6.6. The locations of the existing Metered Parking Spaces are shown on Schedule 4.

“Metering Devices” means the parking meters, pay and display stations, electronic metering devices, and other similar devices that may be used from time to time in connection with the Parking System Operations, including any shelters used to guard the devices and patrons from the elements utilized by Transferee in its discretion, but excluding Affected Property.

“MPC” means the Pennsylvania Municipalities Planning Code (Act of 1968, P.L. 805, No. 247), as amended, and as the same may be amended, restated and codified from time to time.

“New Agreement” has the meaning ascribed thereto in Section 16.5(a).

“Non-Compete Covenant” has the meaning ascribed thereto in Section 13.1(a).

“Non-Impair Covenant” has the meaning ascribed thereto in Section 13.2(a).

“Notice of Loss” has the meaning ascribed thereto in Section 12.2(a).

“Off-Street Operator” means the Initial Off-Street Operator, or any other Person subsequently engaged by the Asset Manager pursuant to the Asset Management Agreement to operate the Off-Street Parking System.

“Off-Street Parking Facility Revenue” means the revenues derived from the Off-Street Parking System collected by the Transferee with respect to the operation of the Parking Garages and Parking Lots, excluding any Parking Violation Revenue related thereto.

“Off-Street Parking Fee” means the fees established as consideration for the privilege of parking a motor vehicle at the Parking Garages or Parking Lots all as set forth on Schedule 5, and as may be adjusted by the Transferee pursuant to the terms of this Agreement.

“Off-Street Parking Services” means the services to be provided by or on behalf of the Transferee, or the Off-Street Operator (pursuant to the Parking Services Agreement), with respect to the Off-Street Parking System under this Agreement.

"Off-Street Parking System" means the public parking system consisting of the Parking Facilities as described on Schedule 1(A-1), all improvements, including paving, structures, signage (including all parking garage entry and exit signage), fixtures, equipment, and personal property of any and every kind whatsoever forming a part of and used in connection with such garages and lots from time to time, and any property acquired pursuant to the City Island Option or otherwise becoming a part of the "Leased Premises" under the Lease, but excluding all rights (including oil, gas and mineral rights, air rights and development rights) retained by the Transferor as the fee simple owner of the Parking System Land and structures and improvements.

"On-Street Operator" means the Initial On-Street Operator, or any other Person subsequently engaged by the Asset Manager in accordance with the terms of this Agreement, the Lease and the Indenture to operate the On-Street Parking System.

"On-Street Parking Services" means the services to be provided by or on behalf of the Transferee, by the Asset Manager and the On-Street Operator (pursuant to Asset Management Agreement and the Parking Services Agreement), with respect to the On-Street Parking System under this Agreement.

"On-Street Parking System" means (i) the Metered Parking Spaces, (ii) the Metering Devices, normal meter poles, computer systems and software used in connection with the administration and operation of Metered Parking Spaces and the collection of Metered Parking Fees, and all improvements and personal property of any and every kind whatsoever forming a part of and used in connection with the operation and maintenance of the metering system associated with the Metered Parking Spaces (including all Metering Devices but excluding any interest in the streets, sidewalks, paving, sign poles, tripods, streetlights or similar real or personal property), (iii) any additional Metered Parking Spaces added from time to time, and (iv) for purposes of enforcement only, all of the Unmetered Parking Spaces, but excluding any interests in the streets, sidewalks, paving or similar real property.

"Operating Standards" has the meaning ascribed to it in Section 5.1.

"Operating Year" means (i) the period beginning on the Closing Date and ending on the next succeeding December 31; and (ii) thereafter the period from January 1 to December 31.

"Operator" has the meaning ascribed to it in Section 3.5(a).

"Other System Revenue" has the meaning ascribed thereto in Section 6.1(e).

"Parking Bonds" means the obligations, other than the Authority Notes, issued by the Transferee in connection with its payment to the Transferor of the Closing Consideration, together with any obligations issued to refund those obligations or issued to finance the Parking System pursuant to the Indenture.

"Parking Enforcement Delegation Agency" means the Commonwealth Department of General Services or any successor agency as a party to the DGS Intergovernmental Cooperation Agreement.

“Parking Enforcement Engagement Agreement” means any agreement entered into between the Parking Enforcement Delegation Agency and the Asset Manager relating to the management or conduct of the parking enforcement services under the grant of the Parking Enforcement Powers.

“Parking Enforcement Operations Agreement” means any agreement entered into between the Asset Manager and the Enforcement Operator relating to the conduct of the parking enforcement services pursuant to the Parking Enforcement Powers.

“Parking Enforcement Powers” means the power to (i) issue parking tickets or citations for non-moving violations only of the parking rules and regulations with respect to the Parking Spaces and other Laws of the City of Harrisburg with respect to the Parking System, and (ii) boot and tow vehicles in violation of the parking rules and regulations with respect to the Parking Spaces and other Laws of the City of Harrisburg with respect to the Parking System, in each case in accordance with the Enforcement Policies and Procedures set forth in Schedule 3, but excluding any Reserved Enforcement Powers. The City retains the power to concurrently exercise Parking Enforcement Powers, but not to further delegate the Parking Enforcement Powers to any other person.

“Parking Facilities” means Parking Lots and Parking Garages.

“Parking Fees” means the Metered Parking Fee and the Off-Street Parking Fee.

“Parking Garages” means the parking garages described in Schedule 1(A-1) located on one or more parcels of Parking System Land.

“Parking Lease” means the Vehicle Parking Lease by and between the Transferee, as Lessor, and the Commonwealth acting through DGS, as Lessee, providing for the letting of spaces in the Off-Street Parking System.

“Parking Lots” means the parking lots described in Schedule 1(A-1) located on and including one or more parcels of Parking System Land.

“Parking Services Agreement” means any material agreement, contract or commitment to which the Asset Manager is a party relating to the Parking System Operations as in force from time to time (including the Parking Enforcement Engagement Agreement, the Parking Enforcement Operations Agreement, and any warranties or guaranties), but excluding the Lease, any Leasehold Mortgage and financing documents related thereto.

“Parking Services” means the On-Street Parking Services and Off-Street Parking Services.

“Parking Spaces” means the Metered Parking Spaces and off-street parking spaces comprising part of the Off-Street Parking System from time to time, but excluding Unmetered Parking Spaces.

“Parking System” means the On-Street Parking System and Off-Street Parking System.

"Parking System Condition Report" has the meaning ascribed to it in Section 4.1.

"Parking System Contracts" means the agreements to which the Transferor is a party relating to the use and operations of the Parking System, including the Assumed Contracts and the Parking System Contracts that are Excluded Liabilities and are listed on Schedule 6.

"Parking System Land" means those parcels of real property upon which the Parking Garages and Parking Lots are located and as further described in the Memorandum of Lease.

"Parking System Operations" means (i) the operation, management and maintenance of the Parking System, (ii) the issuance, processing and collection of parking tickets or citations for non-moving violations of parking rules and regulations with respect to the Parking Spaces pursuant to this Agreement, and (iii) all other actions relating to the Parking System that are performed by or on behalf of the Transferee pursuant to this Agreement.

"Parking Violations" means any ticket or citation issued by the City or by the Enforcement Operator (excluding moving violations) in the Competing Parking Area in accordance with the Enforcement Policies and Procedures.

"Parking Violation Revenue" means the revenues derived from any Parking Violations issued during the Term, any related fines imposed by the court (other than actual court costs) collected for Parking Violations or citations for violations of parking rules and regulations and other non-moving violations issued by an Enforcement Operator or police officer. The Schedule for Parking Fines is set forth on Schedule 3.

"Party" means a party to this Agreement and "Parties" means some or all of them as appropriate.

"PEDFA Intergovernmental Cooperation Agreement" means the agreement between the City and the Transferee providing for the transfer and delegation to Transferee of the City's powers, functions and responsibilities (except the Parking Enforcement Powers and the Reserved Enforcement Powers) with respect to the On-Street Parking System and of the authority to set parking rates for the Parking System.

"Period of Operation" means, (i) with respect to each Metered Parking Space, the Days and the period or periods of time during each Day the parking of a motor vehicle in that Metered Parking Space is permitted and the payment of a Metered Parking Fee for use of that Metered Parking Space is required as described in Schedule 5; and (ii) with respect to the Parking Facilities, the Days and period or periods of time during each Day that the parking of a motor vehicle in a Parking Garage or Parking Lot is permitted as set forth in Schedule 5.

"Permitted Transferor Encumbrance" means, with respect to the Parking System: (i) the Transferee Interest; (ii) any Encumbrance that is being contested, or being caused to be contested, by the Transferor and disclosed in writing to the Transferee (but only for so long as such contest effectively postpones foreclosure of any such Encumbrance); (iii) any easement, covenant, condition, right-of-way, or other matters of record, or any zoning, building, environmental, health or safety Law relating to the development, use or operation of the Parking System (or other similar reservation, right and restriction) or other defects and irregularities in

the title to the Parking System existing on the Closing Date and accepted by Transferee; (iv) the police and regulatory powers of the Commonwealth of Pennsylvania, the City, and Dauphin County with respect to the Parking System, and the regulation of traffic control and use of the Public Way, including the Reserved Enforcement Powers; (v) any right reserved to or vested in any Governmental Authority by any statutory provision or under common law; (vi) any other Encumbrance permitted hereunder; (vii) any Encumbrances created, incurred, assumed or suffered to exist by the Transferee or any Person claiming through it and permitted by this Agreement or the Lease; (viii) any rights reserved to or vested in the Transferor by any statutory provision; and (ix) any amendment, extension, renewal or replacement of any of the foregoing. Notwithstanding the foregoing, no encumbrance that would materially adversely affect the security interests granted to the Trustee pursuant to the Indenture or the Leasehold Mortgage as security for the Parking Bonds shall constitute a Permitted Transferor Encumbrance.

"Permitted Transferee Encumbrance" means, with respect to the Transferee Interest: (i) any Encumbrance that is being contested in accordance with Section 3.7(a) (but only for so long as such contest effectively postpones foreclosure of any such Encumbrance); (ii) any (A) lien or security interest for obligations not yet due and payable to a Contractor or other Person, (B) any statutory lien, deposit or other non-service lien or (C) lien, deposit or pledge to secure mandatory statutory obligations or performance of bids, tenders, contracts (other than for the repayment of borrowed money) or leases, or for purposes of like general nature, any of which are incurred in the ordinary course of business of the Parking System Operations and either (A) not delinquent or (B) which are being contested by the Transferee in accordance with Section 3.7(a) (but only for so long as such contest effectively postpones enforcement of any such Encumbrance); (iii) inchoate materialmen's, mechanics', workmen's, repairmen's, employees', carriers', warehousemen's, or other like Encumbrances arising in the ordinary course of business of the Parking System or the Transferee's performance of any of its rights or obligations hereunder, and either (A) not delinquent or (B) which are being contested by the Transferee in accordance with Section 3.7(a) (but only for so long as such contest effectively postpones enforcement of any such Encumbrance); (iv) any right reserved to or vested in any Governmental Authority by any statutory provision or under common law; (v) any other Encumbrance created by the Transferee and permitted hereunder; (vi) liens incurred in the ordinary course of business in connection with workers' compensation, unemployment insurance, social security and other governmental rules and that do not in the aggregate materially impair the use, value or operation of the Parking System; (vii) any Encumbrance, security interest or pledge imposed upon the Transferee as to Transferee's assets arising from borrowings, financings, leases or similar transactions in the ordinary course of business (including any leasehold mortgage (and financing statements or other means of perfection thereto) or any Encumbrance created, incurred, or assumed pursuant to the Indenture in connection with the issuance of the Parking Bonds to the extent expressly permitted by the Indenture); and (viii) any amendment, extension, renewal or replacement of any of the foregoing.

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

"Prevailing Eastern Time" means Eastern Standard Time or Eastern Daylight Time, as applicable in the Commonwealth on the relevant day.

"Procurement Code" means the Commonwealth Procurement Code, 62 Pa.C.S. §101 *et seq.*

"Professional Engineer" means an engineer qualified and licensed as a professional engineer and an employee of an Engineering Firm.

"Property Taxes" means any ad valorem property tax attributable to the Parking System or the Transferee Interest, including any ad valorem tax on real property and improvements, building, structures, fixtures and tangible personal property.

"Prospective Rate Covenant" has the meaning ascribed thereto in the Indenture.

"Public Improvement" means any construction, reconstruction, improvement, enlargement, alteration, or repair of a building, highway, drainage system, water system, road, street, sidewalk, sidewalk area, alley, sewer, ditch, sewage disposal plant, water works, and all other structures or works of any nature by a public authority. Public Improvements include street improvements that enable the public use of the City's street network by both automobile and public non-automobile modes of transportation (e.g., transportation by pedestrian way, bicycle, public bus, or public streetcar).

"Public Parking Lot" means a parcel of real property or portion thereof owned by the City, any public authority of the City, Transferor, any other governmental entity, or the Harrisburg Redevelopment Authority used in whole or in part for the principal purpose of temporary or permanent storage by the public of vehicles for a stated consideration.

"Public Parking Structure" means a building or portion thereof owned by the City, any public authority of the City, Transferor, the Harrisburg Redevelopment Authority, or any other governmental entity which encloses a space used in whole or in part for the principal purpose of temporary or permanent storage of vehicles by the public for a stated consideration.

"Public Way" means the streets, alleys, driveways and sidewalks owned by (or for the benefit of) the City.

"Qualified Designee" means the entity from time to time selected by the Transferee to serve as its representative to oversee the administration and management of the Parking System, which is engaged under an agreement that qualifies and is consistent with the conditions set forth under Rev. Proc. 97-13 or any successor revenue procedure, regulation or other official pronouncement of the Internal Revenue Service so as to not result in private business use under § 141(b) of the Internal Revenue Code, and which shall not adversely affect the exclusion of gross income of the interest on the Parking Bonds, or another entity with respect to which Transferee has received an opinion of nationally recognized bond counsel that such entity may be the Qualified Designee without adversely affecting the tax exempt status of the Parking Bonds. Initially, the Qualified Designee is CREDC. The Transferee and CREDC will enter into that certain Parking Services Agreement (the "Servicing Agreement"), an agreement that satisfies the requirements of the next preceding sentence.

"Rate Covenant" has the meaning ascribed thereto in the Indenture.

"Rating Agency" means any of Standard & Poor's Ratings Services, Moody's Investors Service, Inc., or Fitch Investors Service, Inc., or any similar entity, or any of their respective successors.

"Recovery Plan" means Harrisburg Strong Plan, filed on August 26, 2013 and approved by the Pennsylvania Commonwealth Court by its Order entered September 23, 2013.

"Rent" has the meaning given it in the Lease.

"Representative" means, with respect to any Person, any director, officer, employee, official, partner, member, owner, agent, lawyer, accountant, auditor, professional advisor, consultant, engineer, Contractor, other Person for whom such Person is at law responsible or other representative of such Person or any professional advisor, consultant or engineer designated by such Person as its "Representative."

"Required Capital Improvements" has the meaning given that term in the Lease.

"Required Coverages" has the meaning ascribed thereto in Section 11.1.

"Reserved Enforcement Powers" means the exercise by the City of those police and regulatory powers with respect to the On-Street Parking System, including Metered Parking Spaces, and the regulation of traffic, traffic control and the use of the Public Way, including exclusive and reserved rights of the City to: (i) establish and revise from time to time all parking regulations, and fines with respect to the Public Way, excluding however, the Metered Parking Spaces; (ii) issue citations for all moving violations of the traffic laws; (iii) issue residential parking permits and enforce the City's residential permit program, except within the Competing Parking Area, as to which the City has retained the right to concurrently enforce the residential permit program and the exclusive right to issue residential parking permits; (iv) enforcement of the snow route and emergency weather restrictions; and (v) enforcement of the street sweeping parking restrictions.

"Revenues" means all revenues, receipts and income derived from the operation of the Parking System (excluding parking or gross receipts taxes and other taxes collected from users or imposed on users and remitted to the applicable taxing authority). Revenues shall also include the revenues of the Parking System that are pro-rated and transferred to the Transferee pursuant to Section 2.2(b).

"Reversion Date" means the Business Day immediately following the date on which this Agreement expires or is terminated.

"Schedule" means a schedule attached hereto and incorporated in this Agreement, unless otherwise expressly indicated by the terms of this Agreement.

"Schedule of Parking Fees" means (i) the fee schedule for Metered Parking Spaces; and (ii) the schedule of rates and charges for use of the Parking Facilities, both as set forth in Schedule 5.



“Surplus Fund” has the meaning ascribed thereto in the Indenture.

“Surplus Revenues” means amounts deposited in the Surplus Fund as provided in the Indenture.

“Taxes” means any federal, state, local or foreign income, gross receipts, commercial activity, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental, customs duties, permit fees, capital stock, franchise, profits, withholding, social security, unemployment, disability, real property, personal property, parking, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated or other tax, levy, impost, stamp tax, duty, fee, withholding or similar imposition of any kind payable, levied, collected, withheld or assessed at any time, including any interest, penalty or addition thereto, whether disputed or not; including special assessments and other lawful assessments in the nature of taxes with respect to or against the Parking System or any applicable service payments or payments in lieu of taxes lawfully assessed with respect to or against the Off-Street Parking System with respect to periods on or after the Closing Date.

“Tax Exempt Parking Bonds” means any Parking Bonds the interest on which is excluded from gross income for federal income tax purposes as of the date of issuance.

“Temporary Closure” means any interruption to, or any suspension of, Parking System Operations with respect to a Parking Space during the Period of Operation of such Parking Space for certain commercial purposes where a Temporary Closure Fee is or may be charged.

“Temporary Closure Fee” means with respect to a Temporary Closure of an On-Street Parking Space due to the request of any Person, other than the Parties, seeking a Temporary Closure for approved purposes, a fee as set forth in the City’s municipal code for Temporary Closure of such Metered Parking Spaces for a stated period.

“Term” means with respect to each of the Intergovernmental Transfer, the Lease and this Agreement, a period of approximately 40 years expiring on December 31 2053; provided however, in the event the Indenture Obligations have not been satisfied in full on or before December 31, 2053, the Term shall automatically extend for additional successive periods of one (1) calendar month until such time as the Indenture Obligations shall have been fully satisfied, and shall end on the last day of the first calendar month in which no Indenture Obligations are outstanding.

“Third Party Claim” has the meaning ascribed thereto in Section 12.2(b).

“Time of Closing” means 10:00 a.m. Prevailing Eastern Time on the Closing Date or such other time on that date as the Transferor and the Transferee agree in writing that the Closing shall take place.

“Title Policy” has the meaning ascribed thereto in Section 2.4(a)(iii).

“Transaction” means the transfer of, and acquisition of, the Assets and the Intergovernmental Transfer and the effectiveness of the PEDFA Intergovernmental Cooperation Agreement, the DGS Intergovernmental Cooperation Agreement, and the Lease.

“Transaction Document(s)” means any or all of the documents entered into by Transferee in connection with the Transaction, including this Agreement, the Lease, the Indenture, the PEDFA Intergovernmental Cooperation Agreement, the Parking Lease, the Asset Management Agreement, the Servicing Agreement, and the Authority Notes.

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

“Transferee Default” has the meaning ascribed thereto in Section 14.1(a).

“Transferee Indemnitee(s)” has the meaning ascribed thereto in Section 12.1.

“Transferee Interest” means the interest of the Transferee in the Parking System created by this Agreement, the PEDFA Intergovernmental Cooperation Agreement, and the Lease and the rights of the Transferee under or pursuant to this Agreement, the PEDFA Intergovernmental Cooperation Agreement, or the Lease.

“Transferee Request” means a written request in respect of the Parking System prepared by or on behalf of the Transferee and addressed to the Transferor and the City seeking to make a fundamental change in the dimensions or location of any part of the Parking System or seeking any modification or change to the Operating Standards pursuant to Section 6.2; provided, however, that a Transferee Request need not be submitted in connection with operations, maintenance or repair of the Parking System in the ordinary course or any other aspects of Parking System Operations permitted or reserved to the Transferee under this Agreement.

“Transferor Default” has the meaning ascribed to it in Section 14.2(a).

“Transferor’s Option” has the meaning ascribed thereto in Section 16.7(a).

“Trustee” means the commercial bank or trust company with trust powers, designated by the Transferee, which serves from time to time as Trustee pursuant to the Indenture.

“Underwriter” means Guggenheim Securities, LLC, on behalf of itself and Piper Jaffray & Co.

“Unmetered Parking Spaces” means any on-street space within the Competing Parking Area that has neither a Metering Device nor is subject to a Metered Parking Fee.

“Year” means the calendar year.

“Zoning Ordinance” means Chapter 7 of the Codified Ordinances of Harrisburg, Pennsylvania, as amended and in effect on the date of this Agreement.

“Zoning Hearing Board” means the Zoning Hearing Board of the City of Harrisburg, created pursuant to §7-305.1 of the Codified Ordinances of Harrisburg, Pennsylvania, as amended, and as authorized by the MPC.

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

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

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

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

**Section 1.6. Meaning of Including, Shall and Will.** In this Agreement, the words "include," "includes" or "including" mean "include without limitation," "includes without limitation" and "including without limitation," respectively, and the words following "include," "includes" or "including" shall not be considered to set forth an exhaustive list. The words "shall" and "will" have the same meaning.

**Section 1.7. Meaning of Discretion.** Unless otherwise stated in this Agreement, the word "discretion" with respect to any Person means the sole and absolute discretion of such Person.

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

**Section 1.9. Consents and Approvals.** Unless specified otherwise, wherever the provisions of this Agreement require or provide for or permit an approval or consent by any Party, such approval or consent, and any request therefor, must be in writing (unless waived in writing by the applicable other Party). To the extent such approval or consent is to be given, it shall not be unreasonably withheld, conditioned, or delayed.

**Section 1.10. Trade Meanings.** Unless otherwise defined herein, words or abbreviations that have well-known trade meanings are used herein in accordance with those meanings.

**Section 1.11. Laws.** Unless specified in the definitions or otherwise in this Agreement, references to a Law are considered to be a reference to (i) such Law as it may be amended from time to time, (ii) all regulations and rules pertaining to or promulgated pursuant to such Law, (iii) the successor to the Law resulting from recodification or similar reorganizing of Laws and (iv) all future Laws pertaining to the same or similar subject matter.

**Section 1.12. Generally Accepted Governmental Accounting Principles.** All accounting and financial terms used herein, unless specifically provided to the contrary, shall be interpreted and applied in accordance with generally accepted governmental accounting principles in the United States of America, consistently applied.

**Section 1.13. Calculation of Time.** For purposes of this Agreement, a period of Days shall be deemed to begin on the first Day after the event that began the period and to end at 5:00 p.m. (Prevailing Eastern Time) on the last Day of the period. If, however, the last Day of the period does not fall on a Business Day, the period shall be deemed to end at 5:00 p.m. (Prevailing Eastern Time) on the next Business Day.

**Section 1.14. Approvals, Consents and Performance.**

(a) *Procedures.* Wherever the provisions of this Agreement require or provide for or permit an approval or consent by the Transferor or City, unless a time period is specifically set forth elsewhere herein, the Transferor or the City, as applicable, shall provide approval or consent no later than ten (10) Business Days following receipt of the Transferee's request, provided, however, that if the Transferor should fail to respond within the aforesaid period, the Transferee may deem such a failure to respond a disapproval of the matter of which such approval or consent is being sought. Notwithstanding the foregoing, if any such approval or consent by the Transferor or the City requires action by Board of Directors of Transferor or the City Council of the City, the time period for response shall be thirty (30) calendar days.

(b) *Authority of the Transferor.* Wherever this Agreement provides that an act is to be taken or performed or approval or consent is to be given by the Transferor, such act may be taken or performed or approval or consent may be given by the Executive Director (or in his or her absence, any officially designated designee thereof) so long as the Transferor remains in existence, and thereafter, by the City by its Mayor (or any officially designated official of the City), and the Transferee may conclusively rely thereon in all respects.

(c) *Authority of the Transferee.* Wherever this Agreement provides that an act is to be taken or performed or approval or consent is to be given by the Transferee, such act or consent or approval may be taken or performed by the Transferee or by the Qualified Designee of the Transferee, and the Transferor and the City may rely thereon in all respects.

**Section 1.15. Incorporation of Schedules.** The Schedules are integral to, and are made a part of, this Agreement. In the event of any conflict between the terms of this Agreement and the terms of the Schedules, the terms of this Agreement shall control. Capitalized terms used but not defined in the Schedules have the meaning given them in this Agreement.

## ARTICLE 2

### THE TRANSACTION; CLOSING; CONDITIONS PRECEDENT; COVENANTS

**Section 2.1. Transfer and Acquisition.**

(a) Upon the terms and subject to the satisfaction of conditions set forth in this Agreement, on the Closing Date, effective at the Time of Closing:

(i) The Transferee shall acquire from the Transferor that portion of the Assets constituting the Off-Street Parking System as set forth on Schedule 1(A-1), excluding the assets set forth in Schedule 6 (the "Excluded Assets").

(ii) The Transferor and the Transferee shall enter into the Lease.

(iii) The Transferee shall assume the liabilities set forth on Schedule 1(A-2) (the "Assumed Liabilities") excluding the liabilities set forth on Schedule 6 (the "Excluded Liabilities").

(iv) The Transferee shall pay the Acquisition Price for the Parking System, which includes the Intergovernmental Transfer and the ownership of the Revenues, to the Transferor. The "Acquisition Price" is the upfront consideration of \$467,000,000<sup>1</sup>, subject to adjustment as provided in Section 2.1(b), plus a portion of the City Payments and the Rent payable under the Lease. The upfront portion of the Acquisition Price, including the Authority Notes, shall be payable solely from the proceeds of the Parking Bonds and from Revenues as follows:

(1) payment of the sum of \$270,000,000<sup>2</sup> (subject to adjustments as provided in Section 2.1(b)) shall be payable in immediately available funds on the Closing Date (the "Closing Consideration") to the Transferor; and

(2) delivery to the Transferor on the Closing Date of the Authority Notes in the aggregate principal amount of \$197,100,000<sup>2</sup> (subject to adjustment as provided in Section 2.1(b)).

(b) The Parties acknowledge and agree that the upfront portion of the Acquisition Price will be \$467,000,000<sup>2</sup> and will be adjusted at Closing based on actual bond interest rates in the tax-exempt municipal bond markets at Closing. The Parties further acknowledge that the allocation between the cash portion of the Acquisition Price and the aggregate principal amount of the Authority Notes to be paid and delivered at the Time of Closing may differ from the allocated amounts set forth herein depending upon the actual terms of the sale of the Parking Bonds. The Parties agree at the Time of Closing to adjust the allocation of the cash portion of the Acquisition Price and the aggregate principal amount of the Authority Notes to reflect the actual proceeds from the sale of the Parking Bonds. The adjustment to the aggregate principal

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<sup>1</sup> Final confirmation of the Acquisition Price depends upon an on-going value analysis and review of the Parking System. In addition, the upfront cash portion of the Acquisition Price depends upon market conditions and tax-exempt bond rates at the time the Parking Bonds are sold. The Closing Consideration (cash) of \$270,000,000 is a projection based on current market rates and conditions. This amount could increase or decrease. The total of the Authority Notes will be the difference between the upfront portion of the Acquisition Price and the Closing Consideration (cash).

balance of the Authority Notes will be effectuated by adjusting only the Authority Note with the largest principal balance.

(c) The City and DGS, as the Parking Enforcement Delegation Agency, shall execute and deliver the DGS Intergovernmental Cooperation Agreement.

(d) The City and Transferee shall execute and deliver the PEDFA Intergovernmental Cooperation Agreement.

(e) The transfer of the Parking System as provided pursuant to this Agreement shall be made to the Transferee free and clear of all liens and encumbrances, other than Permitted Transferor Encumbrances, and shall vest in the Transferee, a valid leasehold or other interest therein, free and clear of all liens and encumbrances, other than Permitted Transferor Encumbrances.

(f) The Transferor shall assign and convey the Assets constituting tangible personal property by bill of sale to the Transferee, free and clean of all liens and encumbrances. The City shall assign and convey by quitclaim bill of sale any interest it may have in any of the Assets constituting tangible personal property.

(g) The City agrees that the payment and delivery of the upfront portion of the Acquisition Price to the Transferor at Closing, and the payment to the City of the City Payment, will constitute good and valuable consideration to the City for the City's covenants and agreements herein, the Intergovernmental Transfer, and the execution and delivery of the DGS Intergovernmental Cooperation Agreement and the PEDFA Intergovernmental Cooperation Agreement.

(h) The Parties agree that a portion of the Authority Notes in an amount set forth in the Tax Certificate and Agreement filed pursuant to the Indenture will be allocated to the acquisition of the leasehold estate under the Lease and any portion of the Parking System that constitutes private use facilities under Section 141 of the Internal Revenue Code of 1986. Such allocation will not reduce the Rent payable under the Lease. The Parties further agree that the City Payments will be allocated to the Intergovernmental Transfer. The Parties agree that all of their tax returns, informational returns and other filings with the Internal Revenue Service will be consistent with such allocations.

## **Section 2.2. Closing.**

(a) The consummation of the transfer and acquisition of the Assets and the Intergovernmental Transfer (the "Closing") shall take place on December 16, 2013 or such earlier date as agreed by the Transferee and the Transferor (the "Closing Date"). The Closing shall be held at the offices of Dilworth Paxson LLP, 1500 Market Street, Suite 3500E, Philadelphia, PA, or such other place which is agreed to in writing by the Transferor and the Transferee. At the Time of Closing, the Transferee shall deliver or cause to be delivered to the Transferor the Closing Consideration due on the Closing Date and the Authority Notes, and upon receipt of such payment the Transaction shall be effective.

(b) Revenues and Assumed Liabilities shall be prorated between the Transferor and the Transferee as of 11:59 p.m. on the Day immediately preceding the Closing Date based upon the actual number of Days in the month and a 365-day year and the required payment resulting from such proration shall be added to or subtracted from the Closing Consideration accordingly. If final prorations cannot be made at the Closing for any item being prorated under this Section 2.2(b), then the Transferor and the Transferee shall allocate such items on a fair and equitable basis, with final adjustment to be made as soon as reasonably possible after the Closing Date. The Transferor and the Transferee shall have reasonable access to, and the right to inspect and audit, the other's books to confirm the final prorations to the extent permitted by Law.

### **Section 2.3. Conditions Precedent; Termination.**

(a) *Conditions for the Benefit of the Transferee.* The Transferee shall be obligated to complete the Closing only if each of the following conditions has been satisfied in full at or before the Time of Closing, unless waived by the Transferee: (i) the representations and warranties of the Transferor set forth in Section 8.1, and of the City in Section 8.2, the DGS Intergovernmental Cooperation Agreement, and the PEDFA Intergovernmental Cooperation Agreement shall be true and correct in all material respects on and as of the date hereof and at and as of the Time of Closing with the same force and effect as if made at and as of such time and date and the DGS Intergovernmental Cooperation Agreement and the PEDFA Intergovernmental Cooperation Agreement are in full force and effect; (ii) neither the Transferor nor the City shall be in material breach of any material covenant on its part contained in this Agreement which is to be performed or complied with by the Transferor or the City at or prior to the Time of Closing; (iii) the Transferor shall have obtained and delivered to the Transferee effective at the Time of Closing, valid, executed and enforceable assignments of (A) all Parking System Contracts that are Assumed Contracts, (B) other Assets to be transferred, and (C) Assumed Liabilities that are not to be terminated or amended, an approved settlement of prorated Taxes and other expenses, and a leasehold title policy or policies, in form and substance reasonably acceptable to the Transferee, insuring the leasehold interest of the Transferee (which will include an endorsement with the terms of the leasehold mortgage coverage), which policy or policies will reflect that the Transferor (as lessor) owns the good and marketable title to the Parking Facilities and Parking System Land, and has conveyed to the Transferee a valid and enforceable leasehold estate as described in the Lease and herein, subject only to Permitted Transferor Encumbrances and Permitted Transferee Encumbrances (the "Title Policy"); (iv) no material casualty shall have taken place with respect to the Parking System, (v) the Transferor shall have delivered and caused to be delivered to the Transferee and the Underwriter, legal opinions of counsel to the Transferor and the City; (vi) certified copies of the City Ordinances shall have been delivered to the Transferee; (vii) the Schedule of Parking Fees shall have been approved by the City and be in effect; (viii) the City Documents shall have been executed by the City and delivered to the Transferee; (ix) the Parking Enforcement Delegation Agency and the Asset Manager shall have executed and delivered the Parking Enforcement Engagement Agreement and the Asset Manager and the Enforcement Operator shall have executed and delivered the Parking Enforcement Operations Agreement; (x) all of the Transferor's outstanding bonds secured by any interest in the Parking System, including Revenues pledged to such bonds, are paid or defeased concurrently with the Closing as evidenced by certificates and opinions satisfactory to Transferee; and (xi) the Transferee shall have issued the Parking Bonds.

(b) *Conditions for the Benefit of the Transferor and the City.* The Transferor and the City shall be obligated to complete the Closing only if each of the following conditions precedent has been satisfied in full at or before the Time of Closing, unless waived by the Transferor and the City: (i) all representations and warranties of the Transferee in Section 8.3 shall be true and correct in all material respects on and as of the date hereof at and as of the Time of Closing with the same force and effect as if made at and as of such time; (ii) the Transferee shall not be in material breach of any material covenant on its part contained in this Agreement which is to be performed or complied with by the Transferee at or prior to the Time of Closing (including the failure of the Transferee to pay the Closing Consideration at Closing in accordance with the terms hereof); (iii) the Transferee shall have assumed the Assumed Liabilities; (iv) the Transferee shall have delivered to the Transferor and the City a legal opinion of counsel to the Transferee; (v) the Transferee shall have entered into an Asset Management Agreement with the Initial Asset Manager, (vi) the Initial Asset Manager shall have entered into a Parking Services Agreement with the Initial On-Street Operator and the Initial Off-Street Operator; (vii) the City shall have entered into a settlement agreement with AGM and the County pursuant to the Recovery Plan; (viii) the Transferee shall have delivered the fully executed Authority Notes; and (ix) the Transferee is contemporaneously issuing the Parking Bonds.

(c) *Mutual Conditions.* The Transferor, the Transferee and the City shall be obligated to complete the Closing only if each of the following conditions precedent has been satisfied in full at or before the Time of Closing, unless waived by all of the Transferor, the Transferee, and the City: (i) there shall be no preliminary or permanent injunction or temporary restraining order or other order issued by a Governmental Authority of competent jurisdiction or other legal restraint or prohibition enjoining or preventing the consummation of the Transaction; (ii) there shall be no action taken, or any Law enacted, entered, enforced or deemed applicable to the Transaction by any Governmental Authority of competent jurisdiction that, in any such case, has resulted or (in the case of any pending review or proceeding, if adversely determined) could reasonably be expected to result in such Governmental Authority conditioning or restricting the consummation of the Transaction in a manner that would impose a material impairment or make the consummation of the Transaction illegal; (iii) there shall be no pending appeal (and all periods during which an appeal could be filed shall have expired) with respect to challenges to the consummation of the Transaction or any actions taken by the City with respect thereto; (iv) the Transferor and the Transferee shall have executed and delivered the Lease; and (v) the Credit Facility Providers have issued the insurance policies and guarantees provided for under the Indenture.

(d) *Waiver of Conditions.* No waiver of any of the conditions to Closing provided for in Section 2.3 shall be effective unless prior written notice of such waiver has been given to the Credit Facility Providers.

(e) *Termination.* This Agreement may be terminated at any time prior to the Closing:

(i) by mutual consent of the Transferor, the Transferee, and the City in a written instrument;

(ii) by any Party, upon notice to the other Parties, if any Governmental Authority (excluding the City) of competent jurisdiction shall have issued an order,



decree or ruling or taken any other action permanently restraining, enjoining or otherwise prohibiting the Transaction, and such order, decree, ruling or other action has become final and nonappealable; *provided; however*, that the right to terminate this Agreement under this Section 2.3(e)(ii) shall not be available to any Party whose failure to comply with any provision of this Agreement or other conduct has been the cause of, or results in, such action;

(iii) by the Transferee, upon notice to the Transferor, if any condition set forth in Section 2.3(a) or (c) is not satisfied at the Time of Closing; provided, however, that the Transferee shall not have the right to terminate this Agreement under this Section 2.3(e)(iii) if the Transferee's failure to comply with any provision of this Agreement or other conduct has been the cause of, or resulted in, the failure of such condition or conditions to be satisfied;

(iv) by the Transferor, upon notice to the Transferee, if any condition set forth in Section 2.3(b) or (c) is not satisfied at the Time of Closing; provided, however, that the Transferor shall not have the right to terminate this Agreement under this Section 2.3(e)(iv) if the Transferor's failure to comply with any provision of this Agreement or other conduct has been the cause of, or resulted in, the failure of such condition or conditions to be satisfied; or

(v) by the City, upon notice to the Transferee, if any condition set forth in Section 2.3(b) or (c) is not satisfied at the Time of Closing; provided, however, that the City shall not have the right to terminate this Agreement under this Section 2.3(d)(v) if the City's failure to comply with any provision of this Agreement or other conduct has been the cause of, or resulted in, the failure of such condition or conditions to be satisfied.

(f) *Effect of Termination.* In the event of termination of this Agreement by either the Transferor or the Transferee as provided in herein this Agreement shall forthwith become void and there shall be no liability or obligation on the part of the Transferor or the Transferee or their respective Representatives or on the part of the Underwriter, the Asset Manager, the Off-Street Operator, the On-Street Operator, the Enforcement Operator, the Qualified Designee, or their respective Representatives.

#### **Section 2.4. Covenants.**

(a) *Cooperation.* During the Closing Period, the Parties shall cooperate with each other, the Qualified Designee, the Asset Manager, Operator, and Underwriter in order to permit the Closing to be consummated on the Closing Date, including with respect to the matters listed in Schedule 11. After the Closing Date, the Parties, the Qualified Designee, the Asset Manager and the Operator shall cooperate in a commercially reasonable manner regarding the transition of enforcement and operational control of the Parking System, including with respect to the matters listed in Schedule 11.

(b) *Reasonable Efforts.* During the Closing Period, each Party shall use all reasonable efforts (i) to take, or cause to be taken, all actions necessary to comply promptly with all

requirements under this Agreement and all legal requirements which may be imposed on such Party to consummate the Transaction as promptly as practicable, including making any necessary filings, and (ii) to obtain (and to cooperate with the other Party to obtain) any Consent of any Governmental Authority or any other public or private third party which is required to be obtained or made by such Party in connection with the consummation of the Transaction. Subject to Section 2.4(g), each Party shall promptly cooperate with and, upon request by the other Party, promptly furnish any non-confidential or non-proprietary information to the other in connection with any such efforts by, or requirement imposed upon, any of them in connection with the foregoing.

(c) *Injunctions.* If any Governmental Authority of competent jurisdiction issues a preliminary or permanent injunction or temporary restraining order or other order before the Time of Closing which would prohibit or materially restrict or hinder the Closing, each Party shall use all reasonable efforts to have such injunction, decree or order dissolved or otherwise eliminated or to eliminate the condition that formed the basis for such injunction or order, in each case as promptly as possible and, in any event, prior to the Time of Closing.

(d) *Operation of the Parking System.* During the Closing Period, the Transferor shall operate the Parking System in the ordinary course in a manner consistent with past practice, which shall include using all reasonable efforts to preserve the goodwill of the Parking System and to maintain good business relationships with Persons having business dealings with the Parking System, to maintain the Parking System in substantially the same or better condition and repair as they exist on the date hereof and in accordance with past practice (ordinary wear and tear excepted), to perform (or cause to be performed) in all material respects all of the Transferor's obligations under the Assumed Contracts, not to incur or permit Encumbrances on the Parking System (other than Permitted Transferor Encumbrances) that are not satisfied by the Closing Date (or retained by the Transferor as Excluded Liabilities after the Closing Date), and to cause the Parking System to be operated in all material respects in accordance with all applicable Laws (except to the extent any non-compliance is being contested in good faith by appropriate proceedings and which are disclosed to Transferee and Underwriter prior to the execution of this Agreement or, if occurring during the Closing Period, within three (3) Days of the Transferor becoming aware of the non-compliance but in no event less than three (3) Days prior to Closing), all to the end that the Parking System as a going concern shall be unimpaired and delivered to the Transferee at the Time of Closing in the same condition as of the date hereof; provided, however, that the Transferor shall not amend, modify, renew, execute or otherwise negotiate any contracts relating to the Parking System or the Parking System Operations after the date hereof up to the Time of Closing without the prior written approval of the Transferee, provided, further, that no such written approval shall be required for any such contract that expires prior to Closing or is not a Parking System Contract. The Transferor, shall, up to and including the Time of Closing, be entitled to all of the cash or cash equivalents in or generated by the Parking System (subject to the terms of Section 2.2(b) in the case of any cash or cash equivalents that are paid prior to the Time of Closing but are allocable to periods after the Time of Closing). Without limiting the foregoing, the Transferor shall not terminate, amend, modify or agree to a waiver of the terms of any Authorization related to the Parking System after the date of this Agreement and before the Time of Closing without the consent of the Transferee, which shall not be unreasonably withheld, conditioned or delayed.

(e) *Parking System Contracts.* The Assumed Contracts shall be assigned by the Transferor to, and assumed by, the Transferee at the Time of Closing. All Parking System Contracts that are not Assumed Contracts shall be either (i) terminated by Transferor or (ii) amended so they no longer relate to any portion of the Parking System concurrently with or as soon as possible following Closing, but in any event not later than sixty (60) days following Closing. Any amounts due with respect to such terminations are Excluded Liabilities.

(f) *Disclosure of Changes.*

(i) During the Closing Period, each Party shall immediately disclose in writing to the other Party any matter which becomes known to it which is inconsistent in any material respect with any of the representations or warranties contained in Article 8. No such disclosure, however, shall cure any misrepresentation or breach of warranty for the purposes of Section 2.3 or Article 12; and

(ii) During the Closing Period, the Transferor may supplement or amend the Schedules hereto, including one or more supplements or amendments to correct any matter which would constitute a breach of any representation, warranty, covenant or obligation contained herein. No such supplement or amendment shall be deemed to cure any breach for purposes of Section 2.3(a), provided however, if Transferee does not object in writing to any such supplement or amendment prior to Closing, Transferee shall be deemed to have agreed to such supplement or amendment and Transferor shall have no further liability for such breach.

(g) *Access to Information.* During the Closing Period, but subject to confidentiality obligations binding on the Transferor with respect to any Person (provided that the Transferor has disclosed to the Transferee the existence of the applicable document that is subject to such confidentiality limitation in order to enable the Transferee to evaluate the materiality and significance of the lack of disclosure based on such limitations) the Transferor shall (i) give the Transferee and its Representatives reasonable access during normal business hours and on reasonable notice to the Parking System, subject to the Transferor's policies and regulations regarding safety and security and any other reasonable conditions imposed by the Transferor, (ii) permit the Transferee and its Representatives to make such inspections as they may reasonably request and (iii) to furnish the Transferee and its Representatives with such financial and operating data and other information that is available with respect to the Parking System as they may from time to time reasonably request. Subject to applicable Law, the Transferee shall hold and will cause its Representatives to hold in strict confidence all documents and information it obtains concerning the Parking System in connection with the Transaction. After the Closing Date, the Transferee shall at the request of the Transferor, in connection with claims or actions brought by or against third parties based upon events or circumstances concerning the Parking System prior to the Closing Date, (A) provide reasonable assistance in the collection of information or documents and (B) direct the Asset Manager and the Operator to make their employees available when reasonably requested by the Transferor.

(h) *Casualty Loss Prior to Closing.* If prior to the Time of Closing, a material casualty loss, destruction or damage to all or a portion of the Parking System has occurred, then the Transferee may terminate this Agreement.

(i) *Policies of Insurance.* During the Closing Period, the Transferor shall continue in force all applicable policies of insurance maintained by the Transferor in respect of the Parking System. At the Time of Closing, the Transferee, shall be responsible for obtaining insurance for the Parking System in accordance with the terms hereof.

(j) *Employees.* Transferee shall cause the Asset Manager to cause the Operator to offer employment to existing employees of Transferor and to up to seven employees of the City for Available Positions on or prior to the Closing Date, prior to offering an Available Position to someone who is not an existing employee of Transferor or the City, and in each case with respect to employees of the Transferor or the seven employees of the City, subject to and in accordance with the following conditions as part of new initial terms and conditions of employment set by Operator:

(i) the existing employee is qualified in the discretion of Operator for the Available Position to be offered;

(ii) wages will be offered at an hourly rate which will be a minimum of ninety percent (90%) of the employee's current base hourly rate if the employee is hired in the same position or classification or a higher paying classification; this wage rate provision shall be effective for a period of twelve (12) months, after which time wages rates may be modified in accordance with any collective bargaining agreement if one exists, or unilaterally by Operator if there is no collective bargaining representative;

(iii) if an existing employee is hired for a lower paying position or job classification and was hired by Transferor prior to September 1, 2003, the employee will be paid an hourly rate which will be a minimum of ninety percent (90%) of the employee's current base hourly rate; if the existing employee is hired for a lower paying position or classification and was hired by Transferor on or after September 1, 2003, the employee will be paid an hourly rate which will be the lesser of ninety percent (90%) of the employee's current base hourly rate or ninety percent (90%) of the base hourly rate of a bargaining unit employee in the same or similar classification; these wage rate provisions shall be effective for a period of twelve (12) months, after which time wage rates may be modified in accordance with any collective bargaining agreement if one exists, or unilaterally by Operator if there is no collective bargaining representative; and

(iv) existing employees who are eligible for health, prescription, dental and vision insurance will pay a maximum of ten percent (10%) of health, prescription, dental and vision insurance premiums for a plan selected by the employee from options as determined by Operator which are substantially equivalent to Transferor's current plan of benefits; this provision shall be effective for a period of twelve (12) months, after which time contributions and plan benefits may be modified in accordance with any collective bargaining agreement if one exists, or unilaterally by Operator if there is no collective bargaining representative.

Transferee shall cause the Asset Manager to cause the Operator to maintain the positions, hours and offered wage rates of the Available Positions for twelve (12) months following Closing; provided that this covenant shall apply to each Available Position only for so long as each such

position is filled by an existing employee of Transferor or the seven existing employees of the City, and only for those existing employees who are hired by Operator contemporaneously with the Closing hereunder. For a period of twelve (12) months following the expiration of the 12-month period described in the previous sentence, Transferee shall cause the Asset Manager to cause the Operator to maintain at least thirty-one (31) full-time equivalent positions in its operation of the Parking System.

The provisions of this Section 2.4(j) only apply to bargaining unit positions.

(k) *Supervisory Employees.* Transferee shall cause the Asset Manager to cause the Operator to offer employment to the existing supervisory employees of Transferor for Available Supervisory Positions on or prior to the Closing Date, prior to offering an Available Supervisory Position to someone who is not an existing employee of Transferor, and in each case subject to and in accordance with the following conditions:

(i) the existing employee is qualified in the discretion of Operator for the Available Supervisory Position to be offered;

(ii) wages will be offered at an hourly rate which will be a minimum of Ninety Percent (90%) of the employee's current base hourly rate; this wage rate provision shall be effective for a period of twelve (12) months, after which time wages rates may be modified by Operator; and

(iii) existing employees who are eligible for health, prescription, dental and vision insurance will pay a maximum of ten percent (10%) of health, prescription, dental and vision insurance premiums for a plan selected by the employee from options as determined by Operator which are substantially equivalent to Transferor's current plan of benefits; this provision shall be effective for a period of twelve (12) months, after which time contributions and plan benefits may be modified by Operator.

Transferee shall cause the Asset Manager to cause Operator to maintain the positions, hours and wage rates of the Available Supervisory Positions for twelve (12) months following Closing; provided that this covenant shall apply to each Available Supervisory Position only for so long as each such position is filled by an existing supervisory employee of Transferor who is hired by Operator contemporaneously with the Closing hereunder.

**Section 2.5. Intended Treatment for Federal and State Income Tax Purposes.** This Agreement is intended for United States federal and state income tax purposes to be the acquisition by the Transferee of a leasehold interest in and to the Parking System including the Parking System Land, acquisition of certain personal property associated with the Parking System, and acquisition of the rights and interests comprising the Intergovernmental Transfer, all within the meaning of sections 197(d)(1)(D) and (F) of the Internal Revenue Code of 1986, and sections 1.197-2(b)(8) and (10) of the Income Tax Regulations thereunder, for and during the Term to provide Parking Services, and the assignment and transfer to the Transferee of all other section 197 intangibles (within the meaning of such in the Internal Revenue Code of 1986) held by the Transferor with respect to the Parking System and conveyed by this Agreement. The Transferor and the Transferee agree that the Closing Consideration will be allocated among the

assets that the Transferee is obtaining the use of pursuant to this Agreement using the residual allocation provisions of Section 1060 of the Internal Revenue Code of 1986 as provided therein.

**Section 2.6. Closing Deliveries.** At the Time of Closing, each Party shall execute and deliver all agreements, bills of sale, assignments, meter licenses, endorsements, instruments and documents as are reasonably necessary in the opinion of the other Party to effect the Transaction (and in form and substance that are reasonably satisfactory to such other Party).

**Section 2.7. Memorandum of Lease.** At the time of Closing, the Parties shall execute and deliver a memorandum of lease (the "Memorandum of Lease") in the form attached to the Lease, which shall be filed with the Dauphin County Recorder's Office. To the extent that after Closing, changes are made to this Agreement with respect to the Term, Parking System Land, or other material matters set forth in the Memorandum of Lease, the Parties shall execute, deliver, and record an amendment to the recorded Memorandum of Lease reflecting such changes. The Parties agree not to record this Agreement or the Lease itself.

**Section 2.8. No General Obligations.** Notwithstanding anything herein or in the Lease and all other Transaction Documents to the contrary, the obligations, covenants, and agreements of the Transferee pursuant to this Agreement shall be limited non-recourse obligations of the Transferee, payable solely from proceeds of the Parking Bonds and the Revenues of the Parking System, shall not constitute a pledge of the faith and credit of the Transferee or of any assets of the Transferee other than Transferee's right, title and interest in and to the Parking System, and the Transferor shall have no claim against the Transferee for the performance of any obligation or for payment of any amount due pursuant to this Agreement, the Lease or any other Transaction Document from any assets or revenues of the Transferee, other than Revenues and proceeds of the Parking Bonds.

THE OBLIGATIONS OF THE TRANSFEREE UNDER THIS AGREEMENT, THE LEASE AND ANY OTHER TRANSACTION DOCUMENTS ARE LIMITED OBLIGATIONS PAYABLE SOLELY FROM THE PROCEEDS OF THE BONDS AND REVENUES AND SUCH OBLIGATIONS SHALL NOT BE DEEMED AN OBLIGATION OF THE COMMONWEALTH OR ANY POLITICAL SUBDIVISION THEREOF. NEITHER THE COMMONWEALTH NOR ANY POLITICAL SUBDIVISION IS OR SHALL BE OBLIGATED TO MAKE ANY PAYMENTS UNDER THIS AGREEMENT, THE LEASE OR ANY OTHER TRANSACTION DOCUMENT. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE COMMONWEALTH OR ANY POLITICAL SUBDIVISION THEREOF IS PLEDGED TO ANY PAYMENT HEREUNDER, UNDER THE LEASE OR UNDER ANY OTHER TRANSACTION DOCUMENT. THE TRANSFEREE IS NOT A POLITICAL SUBDIVISION OF THE COMMONWEALTH AND HAS NO TAXING POWER.

### ARTICLE 3

#### TERMS OF THE LEASE AND THE INTERGOVERNMENTAL TRANSFER

**Section 3.1. Right to Use and Present Condition.**

(a) *Right to Use.* The Transferor agrees that the Transferee shall, at all times during the Term, be entitled to and shall have the use of the Parking System and the rights and privileges granted to the Transferee hereunder, subject to the provisions contained in this Agreement and the Lease.

(b) Except as specifically set forth herein, the Transferee understands, agrees and acknowledges that the Transferee (i) by the execution of this Agreement, agrees to accept the Parking System "AS IS" at the Time of Closing and (ii) has inspected the Parking System and is aware of its condition and acknowledges that the Transferor neither has made nor is making any representation or warranty, express or implied, regarding the condition of the Parking System (or any part thereof) or its suitability for the Transferee's proposed use, except as expressly provided in this Agreement or the Lease.

**Section 3.2. The Lease.** The Transferor will lease the Off-Street Parking System and Parking System Land, including the Parking Garages and Parking Lots, to Transferee pursuant to the Lease for a stated term of approximately 40 years expiring December 31, 2053. The Term of the Lease will expire December 31, 2053, subject to extension if the Indenture Obligations have not been satisfied on or before December 31, 2053. The Transferee shall cause to be performed the Off-Street Parking Services in accordance with the Operating Standards during the Term of the Lease.

**Section 3.3. The Intergovernmental Transfer.**

(a) As authorized by the Intergovernmental Legislation, the City hereby irrevocably grants to the Transferee all of the City's powers, functions and responsibilities (except for the Parking Enforcement Powers and the Reserved Enforcement Powers) for the Term with respect to the On-Street Parking System and further irrevocably transfers, assigns and sets over to the Transferee all of the City's rights, title and interest in and to the Revenues derived from the On-Street Parking System, including the Metered Parking Revenues and the Parking Violation Revenues for the Term (collectively, the "Intergovernmental Transfer"). The assignment and transfer of the Revenues as provided pursuant to this Agreement shall be made to the Transferee free and clear of all liens and encumbrances, and shall fully assign and convey all right, title and interest of the City in and to the Revenues to Transferee for the Term. The City and the Transferee will enter into the PEDFA Intergovernmental Cooperation Agreement in connection with the transfer of the powers, functions and responsibilities enumerated herein, including the delegation to the Transferee of the authority to set Metered Parking Fees. Also in connection with Intergovernmental Transfer and as authorized by the Intergovernmental Legislation, the City and DGS will enter into the DGS Intergovernmental Cooperation Agreement to transfer and delegate to DGS the Parking Enforcement Powers and DGS has further immediately entered into the Parking Enforcement Engagement Agreement with the Asset Manager.

(b) The City hereby irrevocably grants to the Transferee a license to enter upon, in, under, over and across the Public Way, only to the extent and at such times as shall be necessary or desirable for the Transferee or its Representatives (including the Asset Manager and the Operator) to access the Parking System in order to conduct Parking System Operations, including operating, maintaining, inspecting, constructing, repairing and managing the Parking System and all supporting structures and appurtenances thereto and interconnecting the same to

any electric utility, telephonic or other communication lines, collecting Revenues, and installing monitoring or observation technology or equipment reasonably necessary for Parking System Operations. The rights granted to the Transferee in this Section 3.3(b) do not create a priority in favor of the Transferee over any other user of the Public Way and all provisions of Law, including applicable City permit requirements, relating to the conduct of a private business or franchise in that part of the Public Way that is part of an actual Parking Space in the Public Way.

(c) The Transferee will not be responsible for the installation, removal, and repair of signage not relating to the Parking System (such as signs regarding no standing/stopping, bus/taxi zones, traffic control, etc.).

(d) The Transferee shall cause to be performed the On-Street Parking Services in accordance with the Operating Standards during the Term of the Intergovernmental Transfer.

(e) In consideration of the Intergovernmental Transfer and subject to Section 2.8 and Article 5 of the Indenture, the Transferee agrees to make the City Payments to the City in equal monthly installments as provided in the Indenture.

#### **Section 3.4. Parking System Operations.**

(a) *Use.* Except as otherwise specifically provided herein and subject to the limitations in Section 2.8, the Transferee shall, at all times during the Term, (i) maintain and operate, or cause the Parking System to be maintained and operated, and perform or cause the Parking System Operations to be performed in a First Class Manner and in accordance with the Operating Standards and the Long Term Capital Plan, and (ii) subject to the rate restrictions in Schedule 5, and other provisions of this Agreement, operate the Parking System to provide sufficient Revenues to satisfy all expenses and obligations of the Parking System under this Agreement, and in accordance with its covenants under the Indenture, including the Rate Covenant and the Prospective Rate Covenant, consistent with business conditions from time to time existing and consistent with business and economic development in the City and the public good. Maintenance and operation of the Parking System and performance of the Parking System Operations in accordance with the Operating Standards and Long Term Capital Plan shall be presumed to constitute maintenance, operation and performance in a First Class Manner.

(b) *Costs and Expenses.* Except as otherwise specifically provided herein, Transferee shall, at all times during the Term, pay or cause to be paid from Revenues and other moneys legally available therefor arising from Transferee's Interest in the Parking System, all costs and expenses relating to the Parking System Operations as and when the same are due and payable.

(c) *Assumed Liabilities.* The Transferee agrees to assume and discharge or perform when due, all Assumed Contracts and all Assumed Liabilities.

(d) *Issuance of Parking Tickets, Enforcement, and Adjudication.*

(i) With the exception of the Reserved Enforcement Powers, the Enforcement Operator and the City's designated law enforcement or parking enforcement officers have the exclusive right and responsibility to administer Parking Enforcement, in accordance.



with the Enforcement Policies and Procedures, the DGS Intergovernmental Cooperation Agreement, this Agreement and applicable Law.

(ii) The City is responsible for the adjudication related to Parking Enforcement.

(e) *Parking Rates After Parking Bonds No Longer Outstanding.* At such time as no Parking Bonds are "Outstanding" (as defined in the Indenture), but so long as any of the Authority Notes are outstanding, the Transferee covenants and agrees that parking rates for the Parking System shall comply with the "Net Revenue Covenant" as defined in the Indenture, unless otherwise consented to by the holders of the Authority Notes.

### **Section 3.5. Operator Engagement; Asset Manager.**

(a) The Parking System Operations shall, at all times during the Term, be under the direction and supervision of an Asset Manager who shall supervise and manage an on-street operator and an off-street operator with the expertise, qualifications, experience, competence, skills and know-how to perform the Parking System Operations in accordance with this Agreement (collectively, the "Operator"). Any Parking Services Agreement shall provide that the Operator shall continue to serve as the Operator until the Asset Manager has designated another Person to be the Operator and such Person is qualified in accordance with Section 3.5(b). The Transferee shall not engage or appoint a replacement Asset Manager unless such replacement Asset Manager is qualified in accordance with Section 3.5(b). The Operator shall at all times be subject to the direction and supervision of the Transferee and/or its Qualified Designee through the Asset Manager. Any Asset Management Agreement or Parking Services Agreement between the Asset Manager and any Operator, or the Transferee and the Asset Manager, shall by its terms, but subject to the terms of this Agreement, terminate without penalty upon the termination of this Agreement or if the Asset Manager or Operator is required to be replaced under the terms of the Indenture.

(b) *Qualification.* The Transferee may select a replacement Operator or Asset Manager in accordance with the requirements of the Indenture (including approval of the Credit Facility Providers to the extent required therein) and the Leasehold Mortgage, based on the following factors: (i) the ability of the proposed Asset Manager or Operator to respectively manage or operate the Parking System in a manner that complies with the Operating Standards; (ii) the financial strength and integrity of the proposed Asset Manager or Operator; (iii) the background and reputation of the proposed Asset Manager or Operator; (iv) compliance with the Procurement Code to the extent required; and (v) the absence of status as a Disqualified Contractor.

### **Section 3.6. Authorizations; Qualifications.**

(a) *Compliance.* The Transferee shall obtain or cause to be obtained, comply with or cause to be complied with, promptly renew or cause to be renewed, and maintain or cause to be maintained in good standing, all Authorizations; provided, however, that if the Transferee is, at any time during the Term, required to obtain any Authorization from a Governmental Authority (excluding the Transferor) that the Transferor was not required to obtain in connection with its

operation of the Parking System prior to the Time of Closing, the City and the Transferor shall use its reasonable efforts to assist the Transferee in obtaining such Authorization at no cost to the Transferor.

(b) *Qualifications.* The Transferee will endeavor to maintain its existence during the Term.

**Section 3.7. No Encumbrances.**

(a) *By the Transferee.* The Transferee shall not do any act or thing that will create any Encumbrance (other than a Permitted Transferee Encumbrance) against the Parking System and shall promptly remove any Encumbrance (other than a Permitted Transferee Encumbrance or a Permitted Transferor Encumbrance) against the Parking System. The Transferee shall not be deemed to be in default hereunder if the Transferee continuously, diligently and in good faith contests any such involuntary Encumbrance, or the validity thereof (or causes such contest), by appropriate legal proceedings that shall operate to prevent such involuntary Encumbrance from adversely affecting the operation of the Parking System; provided that the Transferee has provided or caused to be provided notification to the Transferor that it is the intent of the Transferee to contest the validity or collection thereof or cause such contest.

(b) *By the Transferor.* The Transferor shall not do any act or thing that will create any Encumbrance (other than a Permitted Transferor Encumbrance) against the Parking System and shall promptly remove any Encumbrance (other than a Permitted Transferor Encumbrance or a Permitted Transferee Encumbrance) against the Parking System that came into existence as a result of an act of or omission by the Transferor or a Person claiming through the Transferor. The Transferor shall not be deemed to be in default hereunder if the Transferor continuously, diligently and in good faith contests any such involuntary Encumbrance, or the validity thereof (or causes such contest), by appropriate legal proceedings that shall operate to prevent such involuntary Encumbrance from adversely affecting the operation of the Parking System; provided that the Transferor has given advance notification to the Transferee that it is the intent of the Transferor to contest the validity or collection thereof or cause such contest.

(c) *Removal.* Each Party, if requested by the other Party and at such other Party's costs and expense (in the case of Transferee, solely from Revenues or proceeds of the Bonds), shall use its reasonable efforts to assist such other Party in attempting to remove any Encumbrance that has come into existence as a result of an act of or omission by such other Party.

**Section 3.8. Tax Exempt Parking Bonds.** Notwithstanding anything herein to the contrary, the Transferor, the Transferee, and the City each agree not to take any action that would have the effect of causing interest on any of the Tax Exempt Parking Bonds to be included in gross income for federal income tax purposes.

**Section 3.9. Payment of Taxes.**

(a) Except as otherwise provided in this Section 3.9(a) and subject to the limitations of Section 2.8, the Transferee shall pay or cause to be paid when due all Taxes payable during the Term in respect of the use or conduct of business with respect to the Parking System. The

Transferee shall have the right to contest in good faith the validity or amount of any Taxes which it is responsible to collect and remit or cause to be collected and remitted, or to pay or cause to be paid under this Section 3.9(a) and the Transferor hereby agrees to cooperate with the Transferee's exercise of such right, provided that (i) the Transferee has given prior notice to the Transferor of each such contest, (ii) no contest by the Transferee may involve a reasonable possibility of forfeiture or sale of the Parking System, and (iii) upon the final determination of any contest by the Transferee, if the Transferee has not already done so, the Transferee shall pay or cause to be paid any amount found to be due, together with any costs, penalties and interest.

(b) Transferee shall cause the Asset Manager to cause the Operator to deduct from the payments received by or on behalf of Transferee under the Parking Lease (or any replacement, amendment, or supplement thereto) and under any other lease of parking spaces to any department, agency or division of the Commonwealth or other Commonwealth governmental entity, 20% (or such lesser percentage as may be equal to the City's then imposed parking tax) of each payment, such that such amount, together with the balance of the payment, equals the gross payments received (excluding however, any amounts for expense reimbursements or services other than for the rental of Parking Spaces) and to set aside such amounts (defined in the Indenture as the "Parking Lease City Payments") and pay them to the City. The City shall accept such payments and agrees not to assert that Transferee or the Operator is liable for or obligated to pay the City's parking tax with respect to such payments or revenues.

### **Section 3.10. Utilities.**

(a) Subject to the limitations of Section 2.8, the Transferee shall pay or cause to be paid when due all charges (including all applicable Taxes and fees) for gas, electricity, light, heat, power, telephone, water, sewer, and all other utilities and services used in the Parking System Operations or supplied to the Parking System during the Term.

(b) *Utility Coordination.* The Transferee shall cause the Asset Manager to coordinate or ensure the coordination of all Parking System Operations with utilities and Persons having service lines, pipelines, transmission lines and other equipment, cables, systems and other apparatus in, on, under, over or adjacent to the Parking System. The Transferee shall cause the Asset Manager to make provision for the removal or temporary or permanent relocation and restoration of utilities and other services and any lines, equipment, cables, systems and other apparatus that intersect, interfere with, interface with or otherwise affect the Parking System Operations and arrange for temporary rights of entry and access to utilities and other services to be made available that are necessary in connection with the Parking System Operations or as may exist under this Agreement or applicable Law; provided that the City shall cooperate with the Transferee and use best efforts to minimize the impact of work performed by the City with respect to the Transferee's obligations under this Section 3.10(b).

(c) *Affected Property Coordination.* The Transferee shall be responsible for coordinating or ensuring the coordination of all Parking System Operations with Affected Property. The Transferee shall arrange for temporary right-of-entry and access to the property of all relevant Governmental Authorities or other Persons as may be necessary in connection with the Parking System Operations or as may exist under this Agreement, the Lease or applicable

Law. The Transferor and the City shall cooperate with the Transferee with respect to the Transferee's obligations under this Section 3.10(c).

**Section 3.11. Notices of Defaults and Claims.**

(a) *Notice by the Transferee.* The Transferee shall promptly give notice to the Transferor (i) if the Transferee becomes aware that a Transferee Default has occurred under this Agreement (provided, however, that the failure to give such notice shall not constitute an independent Transferee Default) and (ii) of all material claims, proceedings, disputes (including labor disputes) or litigation in respect of the Transferee pertaining to the Parking System, or the Parking System Operations (whether or not such claim, proceeding or litigation is covered by insurance) of which the Transferee is aware and which claim, proceeding, dispute or litigation is reasonably expected to adversely affect the operations of the Parking System or to affect the title to or result in an Encumbrance on the Parking System. The Transferee shall provide to or cause to be provided to the Transferor with all reasonable information requested by it from time to time concerning the status of such claims, proceedings or litigation.

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

**Section 3.12. Reversion of Off-Street Parking System.** At the end of the Term, the Transferee shall surrender and deliver, or cause to be surrendered and delivered, as provided in the Lease, to the Transferor all of its rights, title and interest in the Off-Street Parking System (including all improvements to the Off-Street Parking System and property added after the Time of Closing, all amounts, if any, on deposit in the Capital Reserve Fund, exclusive of the PEDFA Account of the Capital Reserve Fund, and all tangible and intangible personal property of the Transferee (including inventories)) that is included in the Off-Street Parking System, subject, however, as to any intellectual property included in the Parking System, to any restrictions or prohibitions to disclosure, transfer or sharing thereof and any other rights of third parties with respect thereto, all in accordance with the provisions of Section 14.3. In addition, the Transferee shall assign and convey (via bill of sale) to the Transferor, all Personal Property and all additions and replacements owned by the Transferee and used in connection with the operation of the Off-Street Parking System. With respect to any third party software utilized by the Transferee, Asset Manager, or Operator in the operation of the Off-Street Parking System at the time of the Reversion Date, the Transferee will cooperate with the Transferor to enable the Transferor to obtain appropriate license rights and terms to the Transferor for continued operation following reversion.

**Section 3.13. Termination of the Intergovernmental Transfer.** At the end of the Term, the Transferee shall surrender and deliver, or cause to be surrendered and delivered, to the

Transfer all of its rights, title and interest in and under the Intergovernmental Transfer, the On-Street Parking System, the Revenues, and all tangible and intangible personal property of the Transferee (including inventories)) that is included in the On-Street Parking System, subject, however, as to any intellectual property included in the On-Street Parking System, to any restrictions or prohibitions to disclosure, transfer or sharing thereof and any other rights of third parties with respect thereto, all in accordance with the provisions of Section 14.3. With respect to any third party software utilized by the Transferee, Asset Manager, or Operator in the operation of the On-Street Parking System at the time of the Reversion Date, the Transferee will cooperate with the City to enable the City to obtain appropriate license rights and terms to the City for continued operation following reversion.

**Section 3.14. Police, Fire, Emergency, and Public Safety Access Rights.**

Notwithstanding any other provision of this Agreement, at all times during the Term and without notice or compensation to the Transferee (i) any police, fire, and emergency services and any other security or emergency personnel while on duty and acting in their official capacities and in response to an emergency, shall have access, in connection with those official capacities, to the Parking System; provided, however, that such access shall not permit the parking of vehicles, except in response to an emergency and (ii) the City shall have access to the Parking System as necessary for the protection of public safety; provided, however, that such access shall not permit the parking of vehicles, except in response to an emergency and (iii) any Governmental Authority with jurisdiction over the Parking System shall have access to the Parking System as necessary for emergency management and homeland security purposes, including the prevention of or response to a public safety emergency; provided, however, that such access shall not permit the parking of vehicles, except in response to an emergency.

**Section 3.15. Air Rights.** The Transferor hereby reserves, and is not demising, selling or leasing to Transferee, the right and easement to construct or forever maintain the air rights with respect to the Parking Facilities and other property within the Parking System, including (i) any and all space located above the surface grade of any such property upon which there are no improvements, as such surface grade exists as of the date of this Agreement, and (ii) any and all space located above any improvements within the Parking System as of the date hereof; provided that in no event shall the Transferor be permitted to exercise the reserved rights under this Section 3.15 in a way that would materially interfere with the Parking System or Parking System Operations, or without the consent of the Transferee, which consent shall not be unreasonably withheld. The Transferee shall have the right to review and approve, in advance, all plans, plats, lots splits and similar engineering required for the creation of any air rights parcels with respect to the Parking Facilities. All easements and agreements necessary for support, access, shared utilities, common walls and the like shall also be subject to Transferee's advance review and approval.

**Section 3.16. City Island.** The City Island garage and parking lots are Excluded Assets. Nonetheless, the Parties agree that it is in their mutual interest that the City Island garage and a portion of the City Island surface parking lots be available to be added to the Parking System in the future. Adding the City Island garage and a portion of the surface parking lots to the Parking System will require, among other things, some form of subdivision of the real property comprising City Island, an amendment to that certain Stadium Park Permit dated as of October \_\_, 2007, between the City and Senators Partners LLC, and the consent of Senators Partners LLC

under the Stadium Park Permit. The Parties intend to negotiate an option to lease pursuant to which the City would transfer fee title to the City Island garage and a portion of the surface parking lots to the Transferor and the Transferor will grant an option to the Transferee permitting the Transferee to add the City Island garage and a portion of the surface parking lots to the Parking Facilities leased under the Lease, as described in more detail in Schedule 16. The City agrees to proceed diligently and in good faith to negotiate the consent of Senators Partners LLC to such a transfer, to negotiate an amendment to the Stadium Park Permit that will permit the contemplated addition of the City Island garage and a portion of the surface parking lots to the Parking System, and to attempt to reach agreement with the Transferee and the Transferor on the detailed terms, conditions, and provisions of, the contemplated option to lease. The Parties will enter into the contemplated option to lease if acceptable terms, conditions and provisions thereof are agreed upon by the Parties; provided no failure to do so will constitute a default by any Party.

#### ARTICLE 4

#### CAPITAL IMPROVEMENTS

**Section 4.1. Transferee Responsibility for Capital Improvements.** Subject to the availability of sufficient funds as provided in the Indenture, including Revenues, the Transferee shall be responsible to cause to be made all capital repairs, replacements, and improvements with respect to the Parking System required to be completed during the Term in accordance with the terms of this Agreement and the Long Term Capital Plan. The Transferee shall cause the Asset Manager to engage an Engineering Firm to perform a physical assessment of the Parking System (including inspection of all major components) and to submit a report of its findings (the "Parking System Condition Report") to the Transferee and the Advisory Committee. The Parking System Condition Report shall be signed and sealed by a Professional Engineer and shall describe any defects that were found and any improvements required to comply with the Long Term Capital Plan or Section 3.4(a). The initial Parking System Condition Report shall be delivered to the Transferee and the Advisory Committee on or before December 31, 2015, and subsequent Parking Condition Reports shall be delivered to the Transferee and the Advisory Committee on or before December 31 of each third year thereafter. The Parking System Condition Report due December 31, 2048, and each Parking System Condition Report delivered thereafter, shall state whether, in the opinion of the Professional Engineer, each component of the Parking System will be functionally or physically obsolete at the expiration of the Term. The Asset Manager may obtain a Parking System Condition Report more frequently if required in its reasonable judgment. The Transferee shall cause the Asset Manager to prepare an Annual Capital Budget each year to maintain compliance with the Operating Standards.

**Section 4.2. Authorizations Related to Capital Improvements.** The Transferee's obligation to perform the Required Capital Improvements and the Capital Improvements provided for in the Annual Capital Budget shall be subject to its receipt of any and all Authorizations as required by Applicable Law; provided such Authorizations shall not be unreasonably or untimely withheld or delayed.

**Section 4.3. Required Capital Improvements.** The Transferee shall make or cause to be made the Required Capital Improvements as provided in the Lease.

## ARTICLE 5

### OPERATING STANDARDS AND ADVISORY COMMITTEE

#### Section 5.1. Operating Standards.

(a) The Transferee shall cause the Asset Manager and the Operator to develop operating standards complying with the requirements set forth in Schedule 2 ("Operating Standards"). The Operating Standards shall include a certificate signed and sealed by a Professional Engineer, stating that in the opinion of the Professional Engineer, the Operating Standards comply with the requirements set forth in Schedule 2 and that maintenance and operation of the Parking System and performance of the Parking System Operations in accordance with the Operating Standards will constitute maintenance, operation and performance in a First Class Manner.

(b) On or before March 31, 2014, the Transferee shall cause the Asset Manager and the Operator to prepare or cause to be prepared the initial Operating Standards and deliver them to the Transferor and the Advisory Committee. The Transferee may cause the Operating Standards to be revised at any time as conditions warrant. Copies of every revision of the Operating Standards shall be delivered to the Transferor and the Advisory Committee.

(c) The Operating Standards, the Long Term Capital Plan, and all revisions shall be submitted to the Advisory Committee for advisory input and comment. The Advisory Committee will have thirty (30) days to review and comment upon the Operating Standards and Long Term Capital Plan. The Transferee shall cause the Asset Manager and the Operator to adopt the initial Operating Standards and initial Long Term Capital Plan (including any changes made after review of the advisory input and comments from the Advisory Committee) not later than May 31, 2014. The Transferee shall cause the Asset Manager to deliver copies of the final adopted Operating Standards and Long Term Capital Plan (both including the required certificate signed and sealed by a Professional Engineer) to the Transferor and the Advisory Committee.

#### Section 5.2. Long Term Capital Plan.

(a) The Transferee will cause the Asset Manager to prepare and deliver to the Transferor and the Advisory Committee a long term capital plan (the "Long Term Capital Plan") based on the Parking System Condition Reports (a copy of which shall be attached to the Long Term Capital Plan), covering projected Capital Expenditures for repair, renovation and replacement of the Parking Assets in each of the next ten (10) Operating Years (including years that may follow the expiration of the Term) in order to permit the Parking System to be operated and maintained in a First Class Manner during the entire ten-year period. Consistent with the Rate Covenant and Prospective Rate Covenant, the Long Term Capital Plan will also detail the expected sources of moneys to fund the Long Term Capital Plan, including currently available funds in the Capital Reserve Fund, proceeds of Additional Bonds and reasonable expectations of revenues projected to be generated. The Long Term Capital Plan will specify the Current Year's Required Reserve Deposit (as defined in the Indenture) and the projected deposit for the next four years. The Long Term Capital Plan shall satisfy the requirements of the Indenture and the Lease. The Long Term Capital Plan and the revisions every three (3) years shall include a

certificate signed and sealed by a Professional Engineer, stating that in the opinion of the Professional Engineer, the implementation of the proposed or revised Long Term Capital Plan, as the case may be, together with operation and maintenance of the Parking System in accordance with the Operating Standards, will enable the Parking System to be operated and maintained in a First Class Manner during the full ten-year period covered by the Long Term Capital Plan (including years that may follow the expiration of the Term).

(b) On or before March 31, 2014, the Transferee shall cause the Asset Manager to prepare or cause to be prepared the initial Long Term Capital Plan and deliver it to the Transferor and the Advisory Committee. The Advisory Committee will have thirty (30) days to review and comment upon the initial Long Term Capital Plan. The Transferee shall cause the Asset Manager and the Operator to adopt the initial Long Term Capital Plan (including any changes made after review of the advisory input and comments from the Advisory Committee) not later than May 31, 2014. A revised Long Term Capital Plan shall be prepared and delivered on or before March 31, 2016 (based on the Parking System Condition Report required to be delivered on or before December 31, 2015), and every three (3) years thereafter. The Long Term Capital Plan due March 31, 2049, and each Long Term Capital Plan adopted thereafter, shall provide for the performance of the following: (a) replacement, prior to the expiration of the Term, of all components of the Parking System, other than Parking Garages, projected by the Professional Engineer to be functionally or physically obsolete at the expiration of the Term; and (b) the demolition, leaving a clear buildable lot, during the first Operating Year after the expiration of the Term, of up to one Parking Garage, if any, projected by the Professional Engineer to be functionally or physically obsolete at the expiration of the Term, and in any event, not more than one. The Transferee may cause the Long Term Capital Plan to be revised at any time as conditions warrant. Copies of every revision of the Long Term Capital Plan shall be delivered to the Transferor and the Advisory Committee.

### **Section 5.3. Modifications of Schedule 2.**

(a) Proposed modifications to the Off-Street Operating Standards elements of Schedule 2 shall be provided by the Asset Manager to the Advisory Committee for advisory input, which advisory input shall be provided by the Advisory Committee within sixty (60) days of submission of the proposed modifications. Proposed modifications of the Operating Standards shall include a certificate signed and sealed by a Professional Engineer, stating that in the opinion of the Professional Engineer, maintenance and operation of the Parking System and performance of the Parking System Operations in accordance with Operating Standards that comply with the requirements set forth in Schedule 2, as modified by the proposed modifications, will constitute maintenance, operation and performance in a First Class Manner. Modifications shall be subject to Approval by the Transferor, which Approval will not be unreasonably withheld, conditioned or delayed. The Transferor shall respond in writing to the Asset Manager and the Advisory Committee with respect to any proposed modifications of the Off-Street Operating Standards elements of Schedule 2 within 60 days of notice from the Asset Manager of the proposed changes (including comments or recommendations of the Advisory Committee, if any) and if the Transferor disapproves of a proposed modification, the notice of disapproval shall be given in writing and shall specify in detail the Transferor's reasons for disapproval and any changes that would make the proposal acceptable to the Transferor. If the Transferor fails to respond with Approval or disapproval as required herein within the 60-day



period, the Asset Manager may give another notice to the Transferor stating that the failure of the Transferor to approve or disapprove the proposed modifications within 15 days of the second notice shall constitute Approval. The Transferor's failure to give notice of approval or disapproval as required herein within said 15-day period shall be deemed Approval of the proposed modification. Copies of any final modifications shall be delivered to the Transferor and the Advisory Committee.

(b) Proposed modifications to the On-Street Operating Standards elements of Schedule 2 shall be provided by the Asset Manager to the Advisory Committee for advisory input, which shall be provided by the Advisory Committee within sixty (60) days of submission. Modifications shall be subject to Approval by the City, which Approval will not be unreasonably withheld, conditioned or delayed. The City shall respond in writing to the Asset Manager and the Advisory Committee with respect to any proposed modifications of the On-Street Operating Standards elements of Schedule 2 within 60 days of notice from the Asset Manager of the proposed changes (including comments or recommendations of the Advisory Committee, if any) and if the City disapproves of a proposed modification, the notice of disapproval shall be given in writing and shall specify in detail the City's reasons for disapproval and any changes that would make the proposal acceptable to the City. If the City fails to respond with Approval or disapproval as required herein within the 60-day period, the Asset Manager may give another notice to the City stating that the failure of the City to approve or disapprove the proposed modifications within 15 days of the second notice shall constitute Approval. The City's failure to give notice of approval or disapproval as required herein within said 15-day period shall be deemed Approval of the proposed modification. Copies of any final modifications shall be delivered to the City and the Advisory Committee.

**Section 5.4. Public Input.** The Transferee shall refer and direct public complaints, concerns and suggestions regarding the Parking System to the Advisory Committee for advisory input and public comment.

**Section 5.5. Advisory Committee Governance.** The Advisory Committee shall hold meetings and operate in accordance with the Advisory Committee Governance policies and procedures set forth in Schedule 14.

## ARTICLE 6

### METERED PARKING REVENUE, OFF-STREET PARKING FACILITY REVENUE AND PARKING VIOLATION REVENUES

#### **Section 6.1. Parking Revenue.**

(a) *Parking System Ordinance & Schedule of Parking Fees.* The Schedule of Parking Fees shall be in effect at or before the Time of Closing.

(b) *Metered Parking Revenue.* The Transferee shall, during the Term, (i) have the exclusive right to collect and retain all of the Metered Parking Revenue derived from the Metered Parking Fees, at rates not exceeding those permitted by the Schedule of Parking Fees then in effect, with respect to the parking of any vehicle at a Metered Parking Space in the On-

Street Parking System in accordance with the provisions of this Agreement, and, (ii) have all right, title, entitlement and interest in all Metered Parking Revenues.

(c) *Off-Street Parking Facility Revenue.* The Transferee shall, during the Term, (i) have the right to collect and enforce payment of fees and charges, at rates not exceeding those permitted by the Schedule of Parking Fees then in effect, with respect to the parking of any vehicle in the Off-Street Parking System in accordance with the provisions of this Agreement, and (ii) have all right, title, entitlement and interest in all Off-Street Parking Facility Revenues.

(d) *Parking Violation Revenue.* Subject to the PEDFA Intergovernmental Cooperation Agreement and the Indenture, the Transferee shall, during the Term, have the right to collect and retain all of the Parking Violation Revenues derived from the Parking Enforcement conducted by the Enforcement Operator or the City's designated parking or law enforcement officers.

(e) *Other System Revenue.* Subject to the limitations set forth in this Agreement and the Indenture and subject to applicable Law, the Transferee may develop alternative sources of revenue derived from the Parking System, which may include the development of plans and programs to enhance rentals and revenue derived from advertisements (all such alternative sources being "Other System Revenue"). The Transferee may utilize space in the Parking Facilities for certain commercial activities and uses, including advertisements, electric charging stations and other new uses in order to generate Other System Revenue; provided that any use to generate Other System Revenue shall not adversely affect the tax-exempt status of the Parking Bonds.

## **Section 6.2. Parking Fee and Period of Operation Adjustments.**

(a) *Changes in Metered Parking Fees.* On or after January 1, 2014, the Transferee may adjust the Metered Parking Fees; provided that increases shall not exceed the Metered Parking Fees permitted by Schedule 5. Any increase of the Metered Parking Fee in excess of the Metered Parking Fees permitted by Schedule 5 is subject to approval by the City; provided that as stated in Schedule 5, no approval is required for any increase that is necessary to achieve compliance with the Rate Covenant and the Prospective Rate Covenant.

(b) *Changes in Period of Operation.* The Transferee may adjust the Period of Operation for the Parking Spaces, provided, however, that the Transferee shall not increase or cause to be increased the hours of operation for the Metered Parking Spaces beyond 11 hours a day within the first 5 years of this Agreement, except as necessary to achieve compliance with the Rate Covenant and the Prospective Rate Covenant.

(c) *Adjustments in Off-Street Parking Fees.* On or after January 1, 2014, the Transferee may adjust the rates for Off-Street Parking; provided the increases shall not exceed the rates permitted under Schedule 5, except as may be necessary to achieve compliance with the Rate Covenant. Any increase of the rates for Off-Street Parking in excess of the rates permitted by Schedule 5 is subject to approval by the Transferor; provided that as stated in Schedule 5, no approval is required for any increase that is necessary to achieve compliance with the Rate Covenant and the Prospective Rate Covenant.

(d) *Compliance with Rate Covenants.* Notwithstanding anything in this Agreement to the contrary, the Transferee can increase Parking Fees over any limits provided in Schedule 5 in amounts determined by the Transferee to be necessary, from time to time, to achieve compliance with the Rate Covenant and the Prospective Rate Covenant, without any approval or consent from the Transferor or the City.

**Section 6.3. Removal/Replacement of Metered Parking Spaces.** Upon not less than sixty (60) days notice as provided in Section 6.4, a Metered Parking Space may be removed from the On-Street Parking System by the City provided the City substitutes one or more Metered Parking Spaces within the Competing Parking Area that produce revenue equal to at least ninety percent (90%) of the gross revenue of the removed space during the first six full calendar months following substitution, as compared to the same prior six month period from the previous calendar year, after adjustment for any differential in parking meter rates. In the event the City removes more than five (5) Metered Parking Spaces at any one time or in any one Operating Year, the substituted Metered Parking Spaces must produce at least ninety-five percent (95%) of the gross revenue of the removed spaces during the comparable six-month period following substitution. In the event the City removes more than twenty-five (25) Metered Parking Spaces at any one time or in any one Operating Year, the substituted Metered Parking Spaces must produce at least one hundred percent (100%) of the gross revenue of the removed spaces during the comparable six-month period following substitution. If the substituted Metered Parking Spaces do not produce the required level of replacement gross revenues, the City shall either (i) return the removed space(s) to the On-Street Parking System and remove the substituted spaces, or (ii) add additional substituted spaces sufficient in the reasonable judgment of the Transferee to make up the revenue shortfall on a going forward basis. Such election by the City shall be made within forty-five (45) days of notice from the Asset Manager to the City of the gross revenue shortfall and shall be implemented within sixty (60) days of such notice from the Asset Manager to the City. Failure of the City to timely make the required election or timely permit the implementation of its election shall give the Transferee the right to offset against the City Payments all gross revenue shortfalls from the date of the Asset Manager's notice to the City of the shortfall until the date of implementation of the City's election.

**Section 6.4. Notice.** Notice of any designation or removal and replacement of a Metered Parking Space by the City pursuant to this Article 6 shall be provided in writing to the Transferee, the Qualified Designee, the Asset Manager, the Operator, and the Advisory Committee, prior to such designation or removal.

**Section 6.5. Temporary Closure; Temporary Closure Fees.** The City shall have the right to designate a Temporary Closure from time to time, of any Parking Space or Parking Spaces, subject to the Temporary Closure Fees and the terms of this Article 6. Subject to its obligations arising under the Indenture, the Transferee shall be entitled to cause to be collected and retained any applicable Temporary Closure Fee from any Person requesting such Temporary Closure, excluding the City.

**Section 6.6. Additional Metered Parking Spaces.**

(a) During the Term, the City may, in its reasonable discretion, designate and transfer to Transferee additional Metered Parking Spaces by notice to Transferee and each additional

Metered Parking Space transferred pursuant to this Section 6.6 shall become part of the Parking System unless the Transferee gives notice of its refusal to accept the additional Metered Parking Spaces within twenty (20) days of the City's notice to the Transferee, and provided that the Transferee shall not unreasonably withhold its acceptance.

(b) The Transferee is authorized to add eighty-eight (88) parking spaces to the Meter Parking Spaces at the locations shown on the map attached as part of Schedule 4 and identified as "Proposed New Parking Meters." Such additional parking spaces shall provide a 15 minute "grace period" before users are required to pay the Metered Parking Fee. The Transferee shall provide not less than sixty (60) days prior notice to the City of its commencement of operation of the Metering Devices for such additional spaces, which notice shall include a detailed explanation of how the "grace period" will be implemented. If the City does not provide notice to the Transferee objecting to the details of the "grace period" implementation within thirty (30) days of its receipt of the notice, the City shall be deemed to have approved such details and the Transferee may proceed to install and operate the Metering Devices. The City shall not unreasonably object to the details of implementation and if it does object, it shall provide specific details of its objection.

**Section 6.7. Mitigation of Temporary Closure.** The Transferee and City shall each use its best efforts to provide the other with reasonable written notice of the Temporary Closure of any material portion of the Parking System. Upon receipt of such notice, the Parties shall negotiate in good faith to arrange to mitigate any potential damages or dissatisfaction to users of the Parking System caused by and during such Temporary Closure.

## ARTICLE 7

### REPORTING; AUDITS; INSPECTIONS

#### **Section 7.1. Reports.**

(a) *Environmental Incident Management and Notifications.* The Transferee shall provide notice or shall cause notice to be provided to the Transferor as promptly as possible, and, in any event, not later than two (2) Business Days following the Transferee, Qualified Designee, Asset Manager, or Operator becoming aware of the discharge, dumping, spilling (accidental or otherwise) of any reportable quantity, as defined under applicable Environmental Law, of Hazardous Substances which occurs with respect to the Parking System after the Closing, the time, the agencies involved, the damage that has occurred and the remedial action taken or to be taken. The Transferee shall, to the extent of available insurance proceeds or Revenues, pay or cause to be paid the costs and expenses of any remediation required as a result of any discharge, dumping or spilling of Hazardous Substances (whether or not of any reportable quantity). The foregoing shall not limit the Transferee's rights to indemnity under Section 12.1.

(b) *Financial Reports.* The Transferee shall deliver or cause to be delivered to the Transferor as soon as reasonably available after the end of each Operating Year but not later than 120 days thereafter, a copy of the audited balance sheets of the Parking System at the end of each such Operating Year and the related audited statements of income, and cash flows for the Operating Year, including, in each case, the notes thereto, together with the report thereon of the

independent certified public accountants of the Parking System, in each case in a manner and containing information consistent with then current practices applicable to public parking systems.

(c) *Operating Budget & Capital Budget.* Prior to the beginning of each Operating Year, the Transferee shall deliver or cause to be delivered to the Transferor an annual operating budget (the "Annual Operating Budget") and annual capital budget (the "Annual Capital Budget") prepared by the Asset Manager with input from the Advisory Committee, for adoption by the Transferee. The Annual Operating Budget shall, after taking into account the projected Revenues and obligations arising under the Indenture, set forth an annual operating budget for the operation and management of the Parking System for the forthcoming Operating Year. The Annual Operating Budget shall project compliance with the Rate Covenant and satisfy any other requirements under the Indenture. The Annual Operating Budget shall project Surplus Revenues and if Surplus Revenues are not sufficient to cover scheduled payments due on the Authority Notes for such Operating Year, shall explain in reasonable detail why the operations of the Parking System are not expected to cover scheduled payments on the Authority Notes. The Annual Capital Budget shall show in reasonable detail: (i) planned Capital Improvements and budgeted capital expenditures; (ii) the Capital Reserve Fund balance and projected deposits from projected Surplus Revenues; (iii) a comparison to the Long Term Capital Plan. The Annual Capital Budget shall comply with the Long Term Capital Plan and satisfy any other requirements of the Indenture. If the Annual Capital Budget does not project compliance with the Capital Reserve Requirement, it shall explain in reasonable detail why the operations of the Parking System are not expected to comply with the Capital Reserve Requirement and shall include a plan for bringing the operations into compliance with the Capital Reserve Requirement.

## **Section 7.2. Information.**

(a) *Furnish Information.* The Transferee will cause the Asset Manager to provide to the Qualified Designee, the Transferor, the City, and the Advisory Committee, annual reports in addition to the reports required under Section 7.1, covering operating metrics, system utilization, customer service, such other reports as may be required under the Indenture and Asset Management Agreement, and such reports as are typically required from time to time by best practices to be provided to owners of parking systems.

(b) *Website.* The Asset Manager or the Operator may post all of the audited financial statements and such other reports and information as it deems appropriate, that is provided pursuant to Sections 7.1(b), (c), and (d) and Section 7.2(a), on a publicly available website for the Parking System. Such posted reports and information may provide less detail than the full reports and information provided that the full reports and information are made publicly available by the City, the Asset Manager or the Operator, and the website so notes.

(c) *Record Keeping.* The Transferee shall require that the Asset Manager and the Operator each maintain at its principal place of business or such other place as agreed to by the Parties, a complete and accurate set of files, books and records of all business activities and operations conducted in connection with their respective performance under the Asset Management Agreement and the Operating Agreement. Such records and accounts shall reflect all items of revenue and expense allocable to the management, operation, maintenance, and

disposition of the Assets, as well as information regarding the status of each the Assets. Such records and accounts shall be maintained for not less than the longer of (i) seven (7) years following the end of the Operating Year to which they relate, and (ii) such period as may be required by the Indenture or applicable Treasury Regulations.

**Section 7.3. Inspection; Audit and Review Rights of the Transferor**

(a) *Audit Right.* The Transferor may, at the Transferor's expense, at all reasonable times during normal business hours, upon ten (10) Business Days' prior notice but not more than once per year unless the Transferor has a good faith basis to request an Audit and Review, cause a Representative designated by it to carry out an Audit and Review of the Parking System Operations and the Information required to be maintained or delivered by the Transferee under this Agreement in connection with the performance of the Parking System Operations for the purpose of verifying the information contained therein and shall be entitled to make copies thereof and to take extracts therefrom, but, in any event, subject to Section 7.3(b). The Transferee shall, at reasonable times, make available or cause to be made available to the Transferor or its designated Representative such information and material, in the Transferee's possession or control or as available to it under the Parking Services Agreement, the Parking Management Enforcement Agreement, or the Asset Management Agreement and as may reasonably be required by the Transferor or its designated Representative for its purposes and otherwise provide such cooperation as may be reasonably required by the Transferor in connection with the same.

(b) *Inspection Right.* The Transferor, the City and their Representatives shall, at all reasonable times during normal business hours and upon reasonable prior notice, have access to the Parking System and every part thereof and the Transferee shall cause to be provided every reasonable assistance for inspecting the Parking System and the Parking System Operations for the purpose of auditing the Information or ascertaining compliance with this Agreement, the Lease, and applicable Law subject to reasonable restrictions on access to confidential and proprietary information as determined by the Transferee.

(c) *No Undue Interference.* In the course of performing its inspections, reviews, tests and audits hereunder, the Transferor and the City shall minimize the effect and duration of any disruption to or impairment of the Parking System Operations or the Transferee's rights or responsibilities under this Agreement, having regard to the nature of the inspections, reviews, tests and Audits being performed.

**ARTICLE 8**

**REPRESENTATIONS AND WARRANTIES**

**Section 8.1. Representations and Warranties of the Transferor.** The Transferor makes the following representations and warranties to the Transferee:

(a) *Organization.* The Transferor is a Pennsylvania parking authority, a body corporate and politic, organized and existing under Chapter 55 of Title 53 of the Consolidated Statutes of Pennsylvania.

(b) *Power and Authority.* The Transferor has (i) duly authorized and approved the execution and delivery of this Agreement and (ii) duly authorized and approved the performance by the Transferor of its obligations contained in this Agreement. The Transferor has the power and authority to enter into this Agreement and to do all acts and things and execute and deliver all other documents as are required hereunder to be done, observed or performed by it in accordance with the terms hereof. The Transferor has further caused to be taken or will cause to be taken prior to the Time of Closing all other action required to execute, deliver and perform its obligations under this Agreement.

(c) *Enforceability.* This Agreement constitutes a valid and legally binding obligation of the Transferor, enforceable against the Transferor in accordance with the terms hereof, subject only to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity.

(d) *Title.* At the Time of Closing, the Transferor will have good and marketable title to the Off-Street Parking System, and, will be able to transfer or grant such interests to the Transferee as provided in this Agreement. Subject to any and all Permitted Transferor Encumbrances, there are no unrecorded restrictions, exceptions, easements, rights of way reservations, limitations, interests and other matters that materially adversely affect title to the Parking System.

(e) *No Conflicts.* The execution and delivery of this Agreement by the Transferor, the consummation of the transactions contemplated hereby (including the operation of the Parking System in accordance with the terms of this Agreement) and the performance by the Transferor of the terms, conditions and provisions hereof has not and will not contravene or violate or result in a breach of (with or without the giving of notice or lapse of time, or both) or acceleration of any material obligations of the Transferor under (i) any applicable Law or (ii) to the best of the Transferor's knowledge, any material agreement, instrument or document to which the Transferor is a party or by which it is bound.

(f) *Consents.* No Consent is required to be obtained by the Transferor from, and no notice or filing is required to be given by the Transferor to or made by the Transferor with, any Person (including any Governmental Authority) in connection with the execution, delivery and performance by the Transferor of this Agreement or the consummation of the transactions contemplated hereby, except for those Consents which have been obtained or will be obtained and notices and filings which have been given or made or will be given or made, on or before Closing.

(g) *Compliance with Law; Litigation; Environmental Matters.*

(i) The Transferor has operated and is operating the Parking System in compliance, in all material respects, with all applicable Laws and the Transferor is not in breach of any applicable Law that could have a Material Adverse Effect on the operations of the Parking System. The Transferor is in compliance, in all material respects, with the terms and conditions of all Authorizations from Governmental Authorities. No claim has been made by any Governmental Authority to the effect that an Authorization that the Transferor has not obtained is necessary in respect to the operation of the Parking

System. No additional Authorizations from any Governmental Authority are necessary for the operation of the Parking System as currently operated.

(ii) There is no action, suit or proceeding, at law or in equity, or before or by any Governmental Authority, pending nor, to the best of the Transferor's knowledge, threatened against the Transferor or the City prior to or at the Time of Closing, which could have a material adverse effect on the operations of the Parking System. There is no action, suit or proceeding, at Law or in equity, or before or by any Governmental Authority, pending nor, to the best of the Transferor's knowledge, threatened against the Transferor or the City which could materially affect the validity or enforceability of this Agreement or the Transferor's ability to perform its obligations hereunder.

(iii) To the best of Transferor's knowledge, except as disclosed in the environmental site assessment reports delivered to Transferee, there has been no release (including the migration of any release from other properties) of a Hazardous Substance at, on or under the Parking Facilities or the breach of any Environmental Laws that could have a Material Adverse Effect on the Parking System and the operation thereof, or the Transferee or its ability to comply with the Operating Standards, or could adversely affect the Revenues or which would require any expenditure of funds.

(h) *Financial Information.* The financial information of the Transferor relating to the Parking System described in Schedule 8, fairly presents (in accordance with accounting principles generally accepted in the United States, subject to any qualifications noted in such financial information and the audit opinions thereon) the revenues, operating expenses and net revenues of the Parking System as of the dates and for the periods stated in such financial information; provided that such financial information does not include any enforcement revenues or expenses. Except for the Parking System Contracts, the Assumed Liabilities, the Excluded Liabilities, and as set forth in such information referred to in Schedule 8, there are no other material liabilities of the Transferor with respect to the Parking System.

(i) *Parking System Contracts.* The Assumed Contracts identified on Schedule 1(A-3), and the Parking System Contracts identified as Excluded Liabilities on Schedule 6 represent, to the best of the Transferor's knowledge, all contracts and obligations relating to the Parking System, and are either capable of being assigned to the Transferee and are in full force and effect or will be terminated with respect to the Parking System. Except as disclosed on Schedule 9, the Transferor is not in material breach of its obligations under any Parking System Contract, and no act or event has occurred which, with notice or lapse of time, or both, would constitute a material breach thereof, to the best of Transferor's knowledge, no other party to any Parking System Contract is in material breach of its obligations under any Parking System Contract, and to the best of Transferor's knowledge, no act or event has occurred with respect to any such party, which with notice or lapse of time, or both, would be or is reasonably expected to constitute a material breach thereof. To the extent the Transferor determines after Closing that there are other contracts which relate to the Parking System but are not included on Schedule 1(A-3), the Transferor will give the Transferee notice of such contracts and, at the option of the Transferee, the Transferor will either (i) assign the contracts to the Transferee or (ii) terminate the contracts with respect to the Parking System at the Transferor's cost and expense.



(j) *Absence of Changes.* Since December 31, 2012, there has not been any transaction or occurrence that has resulted or is reasonably likely to result in a Material Adverse Effect. Since December 31, 2012, the Transferor, has operated, or has caused to be operated, the Parking System in the ordinary course of business.

(k) *Brokers.* There is no investment banker, broker, finder or other intermediary which has been retained by or is authorized to act on behalf of the Transferor who might be entitled to any fee or commission from the Transferor in connection with the transactions contemplated by this Agreement.

(l) *Material Assets and Liabilities.* The Assets, including the Excluded Assets, and the Assumed Liabilities and Excluded Liabilities constitute all of the material assets and liabilities of the Parking System.

(m) *Accuracy of Information.* The information regarding the Parking System that the Transferor provided to or caused to be provided to Transferee, its Qualified Designee, the Underwriter, the Initial Asset Manager, Initial On-Street Operator and the Initial Off-Street Operator included in the Official Statement for the Parking Bonds (other than projections, pro formas and other forward-looking information) was true and correct in all material respects and did not fail to include information which would make the information untrue or incorrect in any material respect.

(n) *Agreement Not Executory.* This Agreement is not an executory contract obligation of Transferor under the U.S. Bankruptcy Code and Transferor covenants and agrees not to assert that this Agreement is an executory contract under the U.S. Bankruptcy Code or any successor law.

Whenever a representation or warranty made by Transferor is qualified as being "to the best of Transferor's knowledge" or "to Transferor's knowledge," knowledge means the current actual knowledge of Richard D. Kotz, Executive Director of Transferor, Nancy Keim, Deputy Director of Transferor, and the members of Transferor's Board of Directors.

**Section 8.2. Representations and Warranties of the City.** The City makes the following representations and warranties to the Transferee:

(a) *Organization.* The City is a third class city incorporated under the Laws of the Commonwealth of Pennsylvania.

(b) *Power and Authority.* The City has (i) duly authorized and approved the execution and delivery of this Agreement and (ii) duly authorized and approved the performance by the City of its obligations contained in this Agreement. The City has the power and authority to enter into this Agreement and to do all acts and things and execute and deliver all other documents as are required hereunder to be done, observed or performed by it in accordance with the terms hereof. The City has further caused to be taken or will cause to be taken prior to the Time of Closing all other action required to execute, deliver and perform its obligations under this Agreement. The City Ordinances have been duly adopted by the City and are final and in full force and effect, and are not subject to appeal.

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

(d) *No Conflicts.* The execution and delivery of this Agreement by the City, the consummation of the transactions contemplated hereby (including the operation of the Parking System in accordance with the terms of this Agreement) and the performance by the City of the terms, conditions and provisions hereof has not and will not contravene or violate or result in a breach of (with or without the giving of notice or lapse of time, or both) or acceleration of any material obligations of the City under (i) any applicable Law or (ii) to the best of the City's knowledge, any material agreement, instrument or document to which the City is a party or by which it is bound.

(e) *Consents.* No Consent is required to be obtained by the City from, and no notice or filing is required to be given by the City to or made by the City with, any Person (including any Governmental Authority) in connection with the execution, delivery and performance by the City of this Agreement or the consummation of the transactions contemplated hereby, except for those Consents which have been obtained or will be obtained and notices and filings which have been given or made or will be given or made, on or before Closing.

(f) *Litigation.* There is no action, suit or proceeding, at law or in equity, or before or by any Governmental Authority, pending nor, to the best of the City's knowledge, threatened against the Transferor or the City prior to or at the Time of Closing, which could have a material adverse effect on the operations of the Parking System. There is no action, suit or proceeding, at Law or in equity, or before or by any Governmental Authority, pending nor, to the best of the City's knowledge, threatened against the Transferor or the City which could materially affect the validity or enforceability of this Agreement or the City's ability to perform its obligations hereunder.

(g) *Absence of Changes.* Since December 31, 2012, there has not been any transaction or occurrence that has resulted or is reasonably likely to result in a Material Adverse Effect.

(h) *Brokers.* There is no investment banker, broker, finder or other intermediary which has been retained by or is authorized to act on behalf of the City who might be entitled to any fee or commission from the City in connection with the transactions contemplated by this Agreement.

(i) *Agreement Not Executory.* This Agreement is not an executory contract obligation of the City under the U.S. Bankruptcy Code and the City covenants and agrees not to assert that this Agreement is an executory contract under the U.S. Bankruptcy Code or any successor law.

Whenever a representation or warranty made by City is qualified as being "to the best of City's knowledge" or "to City's knowledge," knowledge means the current actual knowledge of the Mayor and the City Solicitor of the City.

**Section 8.3. Representations and Warranties of the Transferee.** The Transferee makes the following representations and warranties to the Transferor and the City:

(a) *Organization.* The Transferee is a public body corporate and politic, organized and existing under the Pennsylvania Economic Development Financing Law.

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

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

(d) *No Conflicts.* The execution and delivery of this Agreement by the Transferee, the consummation of the transactions contemplated hereby and the performance by the Transferee of the terms, conditions and provisions hereof do not contravene or violate or result in a material breach of (with or without the giving of notice or lapse of time, or both) or acceleration of any material obligations of the Transferee under (i) any applicable Law, (ii) to the best of the Transferee's knowledge, any material agreement, instrument or document to which the Transferee is a party or by which it is bound or (iii) the articles, bylaws or governing documents of the Transferee.

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

(f) *Compliance with Law; Litigation.* The Transferee is not in breach of any applicable Law that could have a material adverse effect on the Transferee's ability to perform its obligations under this Agreement. There is no action, suit or proceeding, at law or in equity, or before or by any Governmental Authority, pending nor, to the best of the Transferee's knowledge, threatened against the Transferee prior to or at the Time of Closing, which will have a material adverse effect on (i) the Transferee's ability to perform its obligations under this Agreement or (ii) as to the Transferee, the validity or enforceability of this Agreement.

(g) *Brokers.* Other than the Underwriter, there is no investment banker, broker, finder or other intermediary which has been retained by or is authorized to act on behalf of the Transferee who might be entitled to any fee or commission in connection with the transactions contemplated by this Agreement.

**Section 8.4. Non-Waiver.** No investigations made by or on behalf of any Party at any time shall have the effect of waiving, diminishing the scope of or otherwise affecting any representation or warranty made by the other Party in this Agreement or pursuant to this

Agreement. No waiver by a Party of any condition, in whole or in part, shall operate as a waiver of any other condition.

**Section 8.5. Survival.**

(a) *Transferor's and City's Representations and Warranties.* The representations and warranties of the Transferor contained in Section 8.1 and of the City contained in Section 8.2 shall survive and continue in full force and effect for the benefit of the Transferee for the Term of this Agreement.

(b) *Transferee's Representations and Warranties.* The representations and warranties of the Transferee contained in Section 8.3 shall survive and continue in full force and effect for the benefit of the Transferor and the City for the Term of this Agreement.

**ARTICLE 9**

**FINANCE OBLIGATIONS**

**Section 9.1. Transferee's Obligations.** The Transferee shall issue the Parking Bonds to make the payment of the Closing Consideration.

**Section 9.2. Transferor's Obligations.** The Transferor shall, to the extent consistent with applicable Law and at the sole cost and expense of the Transferee (solely from Revenues), cooperate with the Transferee with respect to documentation reasonably necessary to obtain, maintain and replace financing for the performance of the obligations of the Transferee hereunder. The Transferor's cooperation may include reviewing, approval and executing documents which substantiate the terms of this Agreement and making information and material available to the entities providing the financing to facilitate financing to the extent permitted by applicable Law and contractual obligations with third parties and to the extent reasonable in the circumstances. If requested to do so by the Transferee, the Transferor shall use its reasonable efforts to cause the Transferor's independent public accountants to consent to the preparation, use and inclusion of certain financial information regarding the Parking System in connection with the Transferee's public or private offering of securities, as the case may be.

**Section 9.3. City's Obligations.** The City shall provide the Transferee with its approved Recovery Plan and any reports, notices or other information delivered pursuant thereto to the Commonwealth Court or other parties that is relevant to the operation of the Parking System.

**ARTICLE 10**

**COMPLIANCE WITH LAWS**

**Section 10.1. Compliance with Laws.** The Transferee shall at all times observe and comply, in all material respects, and cause the Operator and the Asset Manager to observe and comply, in all material respects, with all applicable Laws now existing or later in effect that may in any manner apply with respect to the performance of the Transferee's obligations under this Agreement. The foregoing shall not limit the Transferee's rights to indemnity under Section

12.1. The Transferee shall notify the Transferor within seven (7) days after receiving notice from a Governmental Authority that the Transferee may have violated any Laws or be in material non-compliance with any Laws.

**Section 10.1. Right-to-Know Law.** In connection with this Agreement the Parties acknowledge they are subject to the Pennsylvania Right-to Know Law 65 P.S. §§ 67.101-3104 and agree to comply with the provisions set forth in Schedule 10. References in Schedule 10 to the "Contract" refer to this Agreement, to "the Commonwealth" refer to Transferee, and to the "Contractor" refer to the Transferor and the City.

## ARTICLE 11

### INSURANCE

**Section 11.1. Insurance Coverage Required.** The Transferee shall cause to be provided and maintained at the Transferee's expense (solely from Revenues), or cause to be maintained, during the Term, the insurance coverages and requirements specified in the Lease and in the Indenture, insuring the Parking System and all Parking System Operations (the "Required Coverages"). The Transferor and the City are to be included on all Required Coverages as additional insureds on a primary, non-contributory basis for any liability arising under or in connection with this Agreement and the Lease. The Transferor shall be named on all property and casualty policies under the Required Coverages as an additional insured and, subject to the rights of the Trustee under the Indenture and the Leasehold Mortgagee under the Leasehold Mortgage, as loss payee.

**Section 11.2. Additional Requirements.**

(a) *Obligations of Transferee.* The Transferee shall deliver or cause to be delivered to the Transferor, and any such City department designated in writing by the Transferor, original standard ACORD form Certificates of Insurance, or equivalent documentation reasonably acceptable to the Transferor, evidencing the Required Coverages on or before the Closing Date, and shall provide or cause to be provided, promptly following renewal and not more than five (5) Business Days following renewal of the then current coverages (or such other period as is agreed to by the Transferor), Renewal Certificates of Insurance, or such similar evidence, if such coverages have an expiration or renewal date occurring during the Term. The receipt of any certificate does not constitute agreement by the Transferor that the insurance requirements in this Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all requirements of this Agreement. The failure of the Transferor to obtain certificates or other insurance evidence from the Transferee shall not be deemed to be a waiver by the Transferor. Except as otherwise expressly set forth herein, each Required Coverage may be reviewed by the Transferor for compliance with the terms of this Agreement. All Required Coverages shall be placed with insurers licensed to do business in the Commonwealth; provided that all such insurers, at a minimum, shall have a rating of A-(VII) or better by A.M. Best Company (unless the Transferor consents to waive this requirement). At the request of the Transferor or the City, the Transferee shall cause the City to be provided with certified copies of policies and all policy endorsements, except that with respect to blanket policies, copies of any schedules or endorsements and other proprietary information relating to other properties and

operations may be redacted or other limited copies satisfactory to the Transferor and the City may be provided.

(b) *Notice of Cancellation or Violation.* The Transferee shall endeavor to cause to be provided at least ten (10) Days) prior written notice to the Transferor in the event coverage is canceled or non-renewed. The Transferor shall be permitted (but not obligated) to pay any delinquent premiums before the cancellation date specified by the insurer in any notice of cancellation for non-payment of premium in order to maintain such coverage in full force and effect and the Transferee shall reimburse the Transferor for any delinquent premiums paid by the Transferor on demand.

(c) *Five Year Adjustment.* The amounts of coverage required by Section 11.1 shall be reasonably adjusted every five (5) years (subject to Section 11.2(h)) to ensure that the Required Coverages continue to provide adequate coverage of the Parking System and Parking System Operations in accordance with the Indenture. The recommendations of any insurance consultant utilized by the Trustee pursuant to the Indenture shall be used for these adjustments if available and undertaken pursuant to the Indenture.

(d) *Waiver of Subrogation by Insurers.* Each of the Required Coverages provided by the Transferee shall, where legally permitted and customarily available at standard rates, include a waiver by the insurer of its Claims and rights of subrogation against the Transferor and the City, their respective employees, agents and Representatives.

(e) *Transferor's Right to Insure.* If the Transferee fails to obtain and maintain or cause to be obtained and maintained the insurance required by this Article 11, the Transferor and the City shall have the right (without any obligation to do so), upon ten (10) Business Days notice to the Transferee in a non-emergency situation or forthwith in an emergency situation and without assuming any obligation in connection therewith, to effect such insurance and all costs and expenses of the Transferor and the City in connection therewith shall be payable by the Transferee (solely from Revenues) to the Transferor and the City on demand. Such insurance taken out by the Transferor or the City shall not relieve the Transferee of its obligations to insure hereunder and the Transferor and the City shall not be liable for any loss or damage suffered by the Transferee in connection therewith.

(f) *Insurance Requirements of Contractors.* The Transferor with respect to the Off-Street Parking System, and the City with respect to the On-Street Parking System, may require in each contract with any Contractor performing work in and for the Parking System that such Contractor obtain coverages comparable to the Required Coverages that are reasonably appropriate in their limits and other terms and conditions to the nature of the contract with the Contractor. Such coverages shall insure the interests of the Transferor, its employees, agents and Representatives, the Transferee, the City, the Trustee, the Qualified Designee, the Asset Manager, the Operator, and any other Contractors in respect of the applicable work being performed and shall be subject to the same (or comparable) coverage and administrative requirements as are imposed on the Transferee pursuant to this Agreement. When requested to do so by the Transferor, the Transferee shall provide or cause to be provided to the Transferor and the City Certificates of Insurance with respect to such insurance coverages or such other evidence of insurance, as may be reasonably acceptable in form and content to the City.

(g) *Other Insurance Obtained by the Transferee.* If the Transferee or its Contractors obtain any property, liability or other insurance coverages in addition to the Required Coverages (“Additional Coverages”), then the Transferee or its Contractors shall (i) notify the Transferor as to such Additional Coverages, (ii) provide the Transferor with any documentation relating to the Additional Coverages, including Certificates of Insurance, that the Transferor reasonably requests and (iii) at the Transferor’s election, acting reasonably, cause the Transferor and the City, their respective employees, agents and Representatives to be named as additional insureds and cause the Transferor to be named as loss payee, as applicable, under such Additional Coverages, if that is normally allowed in accordance with good industry practice and subject to the provisions of the Indenture and Leasehold Mortgage.

(h) *Commercial Availability.* To the extent any of the Required Coverages or additional requirements hereunder are not available on a commercially reasonable basis, the Transferee shall obtain insurance that is available on a commercially reasonable basis that best approximates the Required Coverages or additional requirements hereunder, but said substitute coverage shall, at the Transferor’s request, be subject to review of an independent insurance consultant, and such independent insurance consultant shall have delivered to the Transferor and the City its opinion to the effect that the substitute coverages meet the above-stated criteria.

**Section 11.3. Insurance and Condemnation Proceeds.** The Transferee will comply with the requirements of the Indenture and any Leasehold Mortgage with respect to the application of insurance and condemnation proceeds.

## ARTICLE 12

### HOLD HARMLESS

**Section 12.1. By Transferor.** From and after the Closing Date, Transferor shall indemnify, defend and hold harmless Transferee, and its officers, board members, employees, agents and representatives, including but not limited to any Qualified Designee, the Parking Operator and the Asset Manager (individually, a “Transferee Indemnitee” and collectively, the “Transferee Indemnitees”) from and against, and to the extent of, any and all Losses incurred or suffered by any Transferee Indemnitee arising from:

(a) any breach of any representation or warranty made by Transferor or the City in this Agreement or in any certificate, document, writing or instrument delivered by Transferor or the City pursuant to this Agreement;

(b) any Excluded Assets;

(c) any Excluded Liabilities; and

(d) any liability arising out of the ownership, management, or operation of the Parking System which arose prior to or relates to periods up to and including the Closing Date, except to the extent such liability was assumed by Transferee as an Assumed Liability or was covered by Closing proration.

The Qualified Designee, the Parking Operator and the Asset Manager are third party beneficiaries of this Article 12. The Transferee shall have setoff rights against amounts due the Transferor with respect to Losses under this Section 12.1 as to which it is entitled to indemnification.

**Section 12.2. Notice; Payment of Losses; Defense of Claims.**

(a) If any Transferee Indemnitee (an "Indemnified Party") is entitled to indemnification under this Article 12 and shall incur or suffer any Losses in respect of which indemnification may be sought under this Article 12 against the Transferor, the Transferee Indemnitee shall assert a claim for indemnification by providing a written notice (the "Notice of Loss") to the Transferor stating the nature and basis of such claim in the Notice of Loss. The Notice of Loss shall be provided to the Transferor as soon as practicable after the Transferee Indemnitee becomes aware that it has incurred or suffered a Loss. Notwithstanding the foregoing, any failure to provide the Transferor with a Notice of Loss, or any failure to provide a Notice of Loss in a timely manner as aforesaid, shall not relieve the Transferor from any Liability that it may have to the Transferee Indemnitee under Section 12.1, except to the extent that the ability of the Transferor to defend such claim is materially prejudiced by the Transferee Indemnitee's failure to give such Notice of Loss, and except that the Transferor shall be entitled to a claim to the extent the cost to the Transferor to defend such claim is materially increased. If the Notice of Loss relates to a Third Party Claim, the procedures set forth in Section 12.2(b) shall be applicable. If the Notice of Loss does not relate to a Third Party Claim, the Transferor and Transferee Indemnitee shall use their reasonable efforts to settle (without an obligation to settle) such claim for indemnification. If the Transferor and Transferee Indemnitee do not settle such dispute within thirty (30) days after the Transferee Indemnitee's receipt of the Transferor's notice of objection, the Transferor and Transferee Indemnitee shall be entitled to seek enforcement of their respective rights under this Article 12.

(b) Promptly after receipt by an Transferee Indemnitee of notice of the assertion of any claim or the commencement of any action, suit or proceeding by a third Person (a "Third Party Claim") in respect of which the Transferee Indemnitee shall seek indemnification hereunder, the Transferee Indemnitee shall so notify the Transferor in writing, but any failure to so notify the Transferor shall not relieve the Transferor from any Liability that it may have to the Transferee Indemnitee under this Section 12.2, except to the extent that the ability of the Transferor to defend the Third Party Claim is materially prejudiced by the Transferee Indemnitee's failure to give such notice. In no event shall the Transferee Indemnitee admit any liability with respect to such Third Party Claim or settle, compromise, pay or discharge such Third Party Claim without the prior written consent of the Transferor. The Transferor shall have the right to assume the defense (at the expense of the Transferor) of any such claim through counsel chosen by the Transferor by notifying the applicable Transferee Indemnitee within thirty (30) days after the receipt by the Transferor of such notice from the Transferee Indemnitee. If the Transferor assumes such defense, the Transferee Indemnitee shall have the right to participate in the defense thereof and to employ counsel, at the Transferee Indemnitee's own expense (payable from Revenues), separate from the counsel employed by the Transferor. The Transferor may not settle or otherwise dispose of any Third Party Claim without the prior written consent of the Transferee Indemnitee, unless such settlement includes only the payment of monetary damages (which are fully paid by the Transferor), does not impose any injunctive or equitable relief upon



the Transferee Indemnitee and does not require any admission or acknowledgment of liability or fault of the Transferee Indemnitee in respect of such claim.

(c) After written notice by the Transferee Indemnitee to Transferor of the election by the Transferor to assume control of the defense of any such Third Party Claim, the Transferor shall not be liable to such Transferee Indemnitee hereunder for any costs or fees subsequently incurred by such Transferee Indemnitee in connection with the defense thereof. If the Transferor does not assume control of the defense of such Third Party Claim within thirty (30) days after the receipt by the Transferor of the notice required pursuant to Section 12.2(b), the Transferee Indemnitee shall have the right to defend such claim in such manner as it may deem appropriate at the reasonable cost and expense of the Transferor.

(d) To the extent that a Transferee Indemnitee is entitled to a payment from Transferor pursuant to this Article 12, such Transferee Indemnitee shall, in addition to all of the rights and remedies set forth in this Agreement or otherwise available to Transferee Indemnitee, have the right to set off against payments on the Authority Notes next becoming due and payable.

## ARTICLE 13

### ADVERSE ACTIONS

#### Section 13.1. Non-Compete Covenant.

(a) The Transferor and the City hereby each covenants and agrees (the "Non-Compete Covenant") that it shall not take any action or omit to take any action that would constitute or would result in a Competing Parking Action. "Competing Parking Action" means any action or omission to act by the Transferor or the City that results or would result in:

(i) the construction, acquisition or operation of a Public Parking Lot or Public Parking Structure by or on behalf of the Transferor or City within the Competing Parking Area;

(ii) the development or operation of a Commercial Parking Lot or Commercial Parking Structure by any Person within the Competing Parking Area that was not in operation as of the date of this Agreement, except where such Commercial Parking Lot or Commercial Parking Structure:

(1) is permitted by right under the Zoning Ordinance;

(2) is permitted by conditional use under the Zoning Ordinance and such conditional use has been granted by City Council (or appellate court of competent jurisdiction) pursuant to (y) a finding that all necessary criteria for such conditional use has been established and (z) all other applicable provisions of the Zoning Ordinance and the MPC;

(3) is permitted by special exception under the Zoning Ordinance and such special exception has been granted by the Zoning Hearing Board (or

appellate court of competent jurisdiction) pursuant to (y) a finding that all necessary criteria for such special exception has been established and (z) all other applicable provisions of the Zoning Ordinance and the MPC; or

(4) is permitted by variance granted by the Zoning Hearing Board (or appellate court of competent jurisdiction) pursuant to (y) a finding that all necessary criteria for such variance has been established and (z) all other applicable provisions of the Zoning Ordinance and the MPC; or

(iii) in the event that City Council duly adopts an ordinance amending or repealing the Zoning Ordinance, the development or operation of a Commercial Parking Lot or Commercial Parking Structure by any Person within the Competing Parking Area that was not approved or in operation as of the date of this Agreement and would not have been permitted under the Zoning Ordinance, except to the extent each created parking space is offset by a corresponding increase in residential or business occupancy in the Competing Parking Area.

(b) Notwithstanding Section 13.1(a), none of the following constitutes a Competing Parking Action:

(i) the development, redevelopment, construction, maintenance, modification or change in the operation of any existing or new transportation facility (including a road, street or highway), or park or recreation facility (including harbor, marina, athletic field or any existing or new stadium), that does not materially increase the number of available parking spaces for an existing facility other than for increased usage arising from the changes to an existing facility or create parking spaces for a new facility other than for the uses generated by that new facility;

(ii) the maintenance, modification or change in the operation of any existing or new parking facility or mode of parking or metered parking spaces, provided there shall be no increase in the number of on-street or off-street parking spaces;

(iii) parking related to new or renovated facilities to the extent each newly created parking space is offset by a corresponding increase in residential or business occupancy in the Competing Parking Area related to the new or renovated facility; or

(iv) the maintenance, operation, renovation, modification or change in Excluded Assets, provided there shall be no increase in the number of on-street or off-street parking spaces with respect to the Excluded Assets.

(c) The Transferor and the City agree to give advance notice to the Transferee, the Asset Manager and the Advisory Committee of any actions that might constitute a Competing Parking Action in order to review the same and attempt to resolve any issue as to whether such action may constitute a Competing Parking Action.

### **Section 13.2. Non-Impair Covenant.**

(a) The Transferee and the City each hereby covenants and agrees (the "Non-Impair Covenant") that it shall not:

(i) allow street closures that exceed the agreed-upon level of historical street closures set forth in Schedule 17;

(ii) remove Metered Parking Spaces except in compliance with Section 6.3;

(iii) take any action or actions at any time during the Term (including enacting any Law or imposing any new tax, fee, or charge), the effect of such action or actions, individually or in the aggregate is reasonably expected (i) to be principally borne by the Parking System or users of the Parking System, and (ii) to have a Material Adverse Effect on the Parking System (whether as a result of decreased revenues, increased expenses or both), except where (x) such action is in response to any act or omission on the part of the Transferee that is illegal (other than an act or omission rendered illegal by virtue of a breach of the Non-Compete Covenant or the Non-Impair Covenant by the Transferor or the City), or (y) such action is otherwise permitted under this Agreement including any remedy available hereunder; *provided, however*, that requirements generally applicable to public parking licenses or permits within the City are not prohibited actions;

(iv) increase the parking tax rate to more than 20%;

(v) exercise its condemnation rights with respect to the Parking System, except for condemnation actions that do not materially decrease the number of parking spaces in any individual Parking Facility or in the On-Street Parking System or materially impair the operation of any Parking Facility or of any material portion of the On-Street Parking System; or

(vi) take any action under 53 Pa.C.S. 5501, *et seq.*, or the governing statute of any successor entity to Transferor that materially impairs the Parking System.

(b) With respect to the issuance of conditional use permits for Commercial Parking Structures and Commercial Parking Lots, the City shall endeavor to continue existing practices.

(c) The Transferor and the City agree to give advance notice to the Transferee, the Asset Manager and the Advisory Committee of any actions that might constitute a breach of the Non-Impair Covenant in order to review the same and attempt to resolve any issue as to whether such action may constitute a breach of the Non-Impair Covenant. In addition, the City covenants to give notice to the Credit Facility Providers (via regular mail at the addresses for notice provided for such parties in the Indenture, including copies at additional addresses for such parties but without any requirement for copies to other parties) of all applications for conditional uses for Commercial Parking Lots or Commercial Parking Structures in the Competing Parking Area within 15 days of the filing of any such application with the City.

### **Section 13.3. Relief for Violation of Covenants.**

(a) The Parties agree that any breach of the covenants set forth in this Article 13 shall entitle the Transferee to relief by way of mandamus, injunction or other specific performance, it

being agreed and acknowledged by the Transferor and the City that any breach of these covenants will cause immediate and irreparable harm to the Transferee and the Parking System and it being further acknowledged that damages are an inadequate remedy for such breaches.

(b) In addition to the rights pursuant to Section 13.3(a) and subject to following the procedures in Sections 13.4, 13.5, and 13.6, the Transferee will be entitled to the following remedies for breach of the Non-Compete Covenant and the Non-Impair Covenant:

- (i) for breach of Section 13.1(a)(i), monetary damages and setoff against City Payments, Rent and the Authority Notes;
- (ii) for breach of Section 13.1(a)(ii), setoff against the Authority Notes;
- (iii) for breach of Section 13.1(a)(iii), setoff against the Authority Notes;
- (iv) for breach of Section 13.2(a)(i), setoff against the Authority Notes;
- (v) for breach of Section 13.2(a)(iii), setoff against the Authority Notes;
- (vi) for breach of Section 13.2(a)(iv), monetary damages and setoff against City Payments, Rent and the Authority Notes; and
- (vii) for breach of Section 13.2(a)(v), setoff against the Authority Note.

The rights to setoff against the Authority Notes are limited to an aggregate setoff of principal in the amount of \$75,000,000. Any setoff rights are exercisable only against the Authority Note 3.

**Section 13.4. Covenant Notice.** In the event of the occurrence of a breach of any covenant set forth in this Article 13 which affects or may affect the Transferee's compliance with the Rate Covenant or the Prospective Rate Covenant, Transferee shall give the Transferor, the City, the Trustee, and the Credit Facility Providers notice (a "Covenant Notice") of the breach and its calculation of the effect on compliance. Upon the giving of a Covenant Notice, in accordance with the Indenture, any amounts which would otherwise be deposited into the Surplus Fund with respect to the Authority Note which would be subject to setoff will instead be retained in the Holdback Account in accordance with the Indenture. Such notice shall be given not later than sixty (60) days following the later of: (i) the occurrence of the breach; (ii) knowledge by the Transferee of the breach; or (iii) one hundred twenty (120) days following the last day of the first Operating Year in which such breach has materially adversely impacted compliance with the Rate Covenant and the Rate Covenant has not been met.

**Section 13.5. Covenant Dispute.** If the City or Transferor wishes to dispute the occurrence of any alleged violation of the Non-Compete Covenant or the Non-Impair Covenant or the amount of damage or Loss set forth in the Covenant Notice, then the City or Transferor shall give a notice of dispute (the "Covenant Dispute Notice") to the Transferee within ninety (90) days following the date of receipt of the Covenant Notice stating the grounds for such dispute. Notwithstanding the foregoing, the Trustee, in accordance with the Indenture, will not transfer any funds into the Surplus Fund to make any payments due under the Authority Notes or

make payments of Rent or the City Payments, if applicable, to the extent of any asserted setoff right pending the resolution of any dispute and any amounts which would otherwise be deposited into the Surplus Fund or used to pay Rent or City Payments, if applicable, will instead be deposited into the Holdback Account. If the Covenant Notice has not been withdrawn within thirty (30) days following the date of receipt by the Transferee of the Covenant Dispute Notice, the matter shall be submitted to the dispute resolution procedure set forth in Section 14.2(c). This Section 13.5 shall not prohibit any Party from seeking injunctive relief in accordance with this Agreement.

**Section 13.6. Remedies for Violation of Covenants.** After giving the Transferor and the City the Covenant Notice under Section 13.4, the Transferee or the Trustee, in addition to exercising any remedies available to it under Section 13.3 and/or under Section 14.2 upon the occurrence of a Transferor Default, and without waiving or forfeiting its right also to exercise any such remedies, immediately and without any required additional notice or the elapsing of any cure period, except for a cure period of three (3) Business Days during which the Transferor or City may institute curative action acceptable to the Transferee and the Trustee, may seek injunctive or other equitable relief to enjoin the Transferor or the City from taking or from omitting to take the actions or to reverse or rescind any previous actions or omissions that caused the Material Adverse Effect specified in the Covenant Notice. If any curative action proposed by the Transferor or the City requires approval by the Transferee, at the Transferor's or City's request the Transferee will, if required to so approve, convene an emergency meeting of its board of directors as soon as reasonably possible and will not seek injunctive or other equitable relief prior to convening such meeting. If any curative actions of the Transferor or City acceptable to Trustee require City Council approval, Trustee shall wait up to fourteen (14) days to file for injunctive or equitable relief in order to provide the City an opportunity to obtain the approval of City Council. Notwithstanding the foregoing cure and approval periods, the Transferee or Trustee may seek immediate relief if the Material Adverse Effect will be caused by a closure of all or part of the Parking System that is scheduled to occur prior to the expiration of the cure period. The Transferor or City may cause a Material Adverse Effect and the related violation of the Non-Compete Covenant or Non-Impair Covenant to be cured or deemed cured by: (i) reversing or rescinding the previous actions that caused the Material Adverse Effect specified in the Covenant Notice; or (ii) taking other actions that result in compliance with the Rate Covenant and the Prospective Rate Covenant subject to the reasonable approval of the Transferee, with such actions potentially including (A) reducing the amount of Parking Bonds outstanding, (B) pledging additional revenues to the Parking Bonds, (C) extending the Term in connection with a refinancing of the Parking Bonds and taking all actions necessary to cooperate in the refinancing of the Parking Bonds, or (D) other means; or (iii) some combination of the actions specified in clauses (i) and (ii), provided that the agreement described in clause (ii) shall be required even if the curative actions described in clause (i) are taken if and to the extent that those curative actions do not fully reverse or cure the specified damage or reduction in debt service coverage suffered prior to the curative actions specified in clause (i). No cure shall relieve the Transferor or the City of any liability for any damages accrued prior to any cure.

## ARTICLE 14

### DEFAULTS

#### Section 14.1. Default by the Transferee.

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

(i) If the Transferee materially fails to comply with, perform or observe any material obligation, covenant, agreement, term or condition in this Agreement, and such failure continues unremedied for a period of ninety (90) days following notice thereof (giving particulars of the failure in reasonable detail) from the Transferor to the Transferee or for such longer period as may be reasonably necessary to cure such failure, provided, in the latter case, that the Transferee has demonstrated to the reasonable satisfaction of the Transferor, that (A) it is proceeding, and will proceed, with all due diligence to cure or cause to be cured such failure, (B) its actions can be reasonably expected to cure or cause to be cured such failure within a reasonable period of time acceptable to the Transferee, and (C) such failure is in fact cured within such period of time;

(ii) if this Agreement or all or any portion of the Transferee Interest is Transferred in contravention of Article 15 and such Transfer or action continues unremedied for a period of ten (10) Business Days following notice thereof from the Transferor to the Transferee;

(iii) if the Transferee with respect to the Parking System (A) admits, in writing, that it is unable to pay its debts as such become due, (B) makes an assignment for the benefit of creditors, (C) files a voluntary petition under Title 9 of the U.S. Code, or if such petition is filed against it and an order for relief is entered, or if the Transferee files any petition or answer seeking, consenting to or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future U.S. Bankruptcy Code or any other present or future applicable Law, or shall seek or consent to or acquiesce in or suffer the appointment of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of the Transferee, or of all or any substantial part of its properties (in each case, to the extent applicable to a political subdivision), or (D) takes any action in furtherance of any action described in this Section 14.2(a)(iii); or if within ninety (90) days after the commencement of any proceeding against the Transferee seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future U.S. Bankruptcy Code or any other present or future applicable Law, such proceeding has not been dismissed, or if, within ninety (90) days after the appointment, without the consent or acquiescence of the Transferee, of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of the Transferee or of all or any substantial part of its properties (in each case, to the extent applicable to a political subdivision), such appointment has not been vacated or stayed on

appeal or otherwise, or if, within ninety (90) days after the expiration of any such stay, such appointment has not been vacated;

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

(v) the Transferee repudiates in writing any of its material obligations under this Agreement; or

(vi) the Transferee fails to cause the Operator or Asset Manager to cure and correct any material deficiencies in compliance with the Operating Standards within sixty (60) days of written notice thereof by the Transferor.

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

(b) *Remedies of the Transferor Upon Transferee Default.* Upon the occurrence, and during the continuance, of a Transferee Default, the Transferor may, by notice to the Transferee and Trustee, declare the Transferee to be in default and may, subject to the provisions of Article 16, do any or all of the following as the Transferor, in its discretion, shall determine:

(i) The Transferor may, upon notice to Transferee and without terminating this Agreement, cure any such default and to the extent Revenues are available (subject to the priorities in the Indenture), the Transferee shall reimburse the Transferor (solely from Revenues) any and all costs related to such cure and/or correction; provided that any right of the Transferor to cure a Transferee Default shall be subject to the prior right to cure of the Trustee, the Credit Facility Providers and the Leasehold Mortgagee as provided in the Indenture or the Leasehold Mortgage;

(ii) The Transferor may terminate this Agreement by giving thirty (30) days' prior notice to the Transferee provided that while the Parking Bonds and the Authority Notes are outstanding such right to terminate shall only be the extent permitted pursuant to the Indenture and provided further, that Transferor shall pay to the Trustee on behalf of the holders of the Parking Bonds and the Authority Notes, in connection with such termination, an amount equal to the principal amount of the Parking Bonds and interest thereon to the earliest date on which the Parking Bonds can be optionally redeemed, and the outstanding principal amount of that portion of the Authority Notes which is not owned by Transferor or the City;

(iii) if the Transferee Default is by reason of the failure to pay any monies to another Person, the Transferor may (without obligation to do so), upon five (5) days notice to the Transferee, make payment on behalf of the Transferee of such monies, and

any amount so paid by the Transferor shall be payable by the Transferee to the Transferor (solely from Revenues) within five (5) Business Days after demand therefor;

(iv) the Transferor may cure the Transferee Default (but this shall not obligate the Transferor to cure or attempt to cure any other Transferee Default or, after having commenced to cure or attempted to cure a Transferee Default, to continue to do so), and all costs and expenses reasonably incurred by the Transferor in curing or attempting to cure the Transferee Default, shall be payable by the Transferee (solely from Revenues or proceeds of the Parking Bonds) to the Transferor within five (5) Business Days after written demand therefor; provided, however, that (A) the Transferor shall not incur any liability to the Transferee for any act or omission of the Transferor or any other Person in the course of remedying or attempting to remedy any Transferee Default and (B) the Transferor's cure of any Transferee Default shall not affect the Transferor's rights against the Transferee by reason of the Transferee Default; the Transferor may seek specific performance, injunction or other equitable remedies, it being acknowledged that damages are an inadequate remedy for a Transferee Default; and

(v) the Transferor may seek to recover its Losses arising from such Transferee Default and any amounts due and payable under this Agreement (solely from Revenues or proceeds of the Parking Bonds); provided that any such recovery is subordinate to payment of the Indenture Obligations except to the extent any such amount is entitled to a specific priority of payment in Article 5 of the Indenture, in which case the Indenture shall control;

provided that if an Event of Default has been declared under the Indenture and so long as remedies are being exercised thereunder, Transferor shall not exercise any remedies hereunder other than under subsections (i) or (iv) above.

#### **Section 14.2. Defaults by the Transferor.**

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

(i) if the Transferor materially fails to comply with or observe any material obligation, covenant, agreement, term or condition in this Agreement and such failure continues unremedied for a period of thirty (30) days following notice thereof (giving particulars of the failure in reasonable detail) from the Transferee to the Transferor or for such longer period as may be reasonably necessary to cure such failure, provided, in the latter case, that the Transferor has demonstrated to the reasonable satisfaction of the Transferee, that (A) it is proceeding with all due diligence to cure or cause to be cured such failure, and (B) its actions can be reasonably expected to cure or cause to be cured such failure within a reasonable period of time acceptable to the Transferee, and (C) such failure is in fact cured within such period of time;

(ii) Subject to the provisions of the Indenture, if a levy under execution or attachment has been made against all or any part of the Parking System or the Transferee Interest as a result of any Encumbrance (other than a Permitted Transferor Encumbrance)



created, incurred, assumed or suffered to exist by the Transferor or any Person claiming through it, and such execution or attachment has not been vacated, removed or stayed by court order, bonding or otherwise within a period of sixty (60) days, unless such levy resulted from actions or omissions of the Transferee or its Representatives or if all or a material part of the Parking System shall be subject to a condemnation or similar taking by the City or any agency thereof; and

(iii) Subject to the provisions of the Indenture, the Transferor takes any direct action that causes the interest on the Tax Exempt Parking Bonds to be included in gross income for federal income tax purposes.

(b) *Remedies of Transferee Upon Transferor Default.* Upon the occurrence, and during the continuance, of a Transferor Default, the Transferee may by notice to the Transferor declare the Transferor to be in default and may, subject to the provisions of Article 16, do any or all of the following as the Transferee, in its discretion, shall determine:

(i) Subject to the provisions of the Indenture for so long as Parking Bonds and the Authority Notes are outstanding, the Transferee may terminate this Agreement by giving ninety (90) days prior notice to the Transferor; provided, however, that the Transferor shall be entitled to cure a Transferor Default pursuant to Section 14.2(a)(i) by agreeing within such ninety (90)-day period to pay any Losses sustained by the Transferee as a result of such Transferor Default;

(ii) the Transferee may seek specific performance, injunction, or exercise any of its other rights and remedies provided for hereunder or at law or equity, it being acknowledged that damages are an inadequate remedy for a Transferor Default;

(iii) except as otherwise provided in this Agreement, the Transferee may seek to recover its Losses and any amounts due and payable under this Agreement and, in connection therewith, exercise any recourse available to any Person who is owed damages or a debt; and

(iv) Subject to the provisions of the Indenture and Section 16.5, the Transferee may return the Parking System to the Transferor upon payment by the Transferor of a sum sufficient to pay or defease, on the earliest permitted date, all outstanding Parking Bonds and the outstanding principal amount of that portion of the Authority Notes which is not owned by Transferor or the City, and any reasonable expenses of the Transferee.

(c) *Non-Binding Arbitration.* Any controversy or claim arising out of or relating to Sections 13.1 and 13.2 or the breach thereof, shall first be submitted to non-binding arbitration administered by the American Arbitration Association (AAA) under its Non-Binding Arbitration Rules before the Parties may initiate litigation or some other type of dispute resolution process; provided that if the arbitration shall be completed within sixty (60) days of its commencement and if it is not completed within that time frame, the Parties may at any time thereafter initiate litigation or other types of dispute resolution.

**Section 14.3. Consequences of Termination or Expiration of the Term.** Upon the termination or expiration of the Term, and subject to Section 16.5, the following provisions, as applicable, shall apply:

(a) the Transferee shall, without action whatsoever being necessary on the part of the Transferor, transfer to the Transferor (or the City if the Transferor is no longer in existence) the Off-Street Parking System (including all improvements to the Off-Street Parking System) and all tangible and intangible personal property of the Transferee (including inventories) that is included in the Parking System and used in connection with the Parking System Operations, free and clear of all Encumbrances other than (w) Encumbrances set forth in clause (iv) of the definition of Permitted Transferee Encumbrance, (x) Permitted Transferor Encumbrances, (y) those created by or suffered to exist or consented to (excluding any Permitted Transferee Encumbrance) by the Transferor or any Person claiming through it, and (z) with respect to any property added to the Parking System after the Time of Closing, Encumbrances and title defects affecting such property in existence on the date such property is added to the Parking System;

(b) the Transferee agrees that no notice from Transferor is required with respect to transfer of the Parking System on the Reversion Date;

(c) the Transferor shall, as of the Reversion Date, assume full responsibility for the Parking System Operations, and as of such date, the Transferee shall have no liability or responsibility for Parking System Operations occurring after the Reversion Date;

(d) the Transferee shall be responsible for all costs, expenses and other amounts incurred up to but not including the Reversion Date, and the Transferor shall be responsible for all costs, expenses and amounts incurred in connection with the Parking System Operations on and after the Reversion Date;

(e) the Transferor shall have the option by providing notice to the Transferee that the Transferor requires that the Transferee assign, without warranty or recourse to the Transferee, to the fullest extent permitted by Authorizations and applicable Law, all of its right, title and interest in, to and under (in each of the following cases, to the extent assignable) all or any of the Asset Management Agreement and the Operating Agreement then in effect and all Authorizations to the Transferor or its nominee for the remainder of their respective terms; provided, however, that if the Transferor exercises such option, the right, title and interest of the Transferee in, to and under the Asset Management Agreement and the Operating Agreement (to the extent Transferee has any direct right, title or interest in the Operating Agreement) and Authorizations shall be assigned to the Transferor or its nominee as of the Reversion Date and the Transferee shall surrender the Parking System to the Transferor and shall cause all Persons claiming under or through the Transferee to do likewise, and the Transferor shall assume in writing, pursuant to an assumption agreement satisfactory to the Transferee and the Asset Manager, the Transferee's obligations under the assigned Asset Management Agreement and the assigned Operating Agreement that arise in respect of, or relate to, any period of time falling on and after the Reversion Date; provided further that if the Transferor does not exercise such option with respect to any Asset Management Agreement or Operating Agreement, the Transferee shall terminate the Asset Management Agreement and require the Asset Manager to terminate the Operating Agreement;

(f) the Transferee, at its sole cost and expense (solely from Revenues), shall promptly deliver to the Transferor copies of all records and other documents relating to the Revenues that are in the possession of the Transferee or its Representatives and all other then existing records and information relating to the Parking System as the Transferor, acting reasonably, may request;

(g) the Transferee shall execute and deliver to the Transferor a transfer of title documents and other instruments reasonably required by the Transferor to evidence such termination;

(h) the Transferee shall assist the Transferor in such manner as the Transferor may require to ensure the orderly transition of control, operation, management, maintenance and rehabilitation of the Parking System, and shall, if appropriate and if requested by the Transferor, take all steps as may be necessary to enforce the provisions of the Asset Management Agreement and cause the Asset Manager to enforce the Operating Agreement pertaining to the surrender of the Parking System;

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

(j) the Transferee shall, in accordance with the Indenture, and without action whatsoever being necessary on the part of the Transferor, transfer or cause to be immediately wired or otherwise delivered to the Transferor, any and all amounts on deposit (subject to any offset for obligations of the Transferor or the City hereunder) in the Capital Reserve Fund, exclusive of the PEDFA Account of the Capital Reserve Fund, to the extent such amounts are free and clear of any pledge to, or lien for the benefit of, the bondholders; and

(k) all plans, drawings, specifications and models prepared in connection with construction at the Parking System and in the Transferee's possession and all "as-built" drawings shall become the sole and absolute property of the Transferor, and the Transferee shall promptly deliver to the Transferor all such plans, drawings, specifications and models and all such as-built drawings (but may keep copies of those plans, drawings, specifications and models that were developed by the Transferee or its Representatives).

This Section 14.3 shall survive the expiration or any earlier termination of this Agreement.

## ARTICLE 15

### RESTRICTIONS ON TRANSFERS

#### Section 15.1. Transfers by the Transferee.

(a) Except as provided pursuant to the Indenture and subject to receipt of an opinion of bond counsel that the proposed Transfer will not adversely impact the exemption of interest on the Tax Exempt Parking Bonds from federal income tax and satisfaction of any other conditions and requirements under the Indenture, the Transferee shall not Transfer, or otherwise permit the Transfer of, any or all of the Transferee Interest to or in favor of a new Transferee (other than to the Trustee in accordance with the Indenture), unless (i) the proposed new Transferee enters into an agreement with the Transferor and the City in form and substance satisfactory to the Transferor wherein the new Transferee acquires the rights and assumes the obligations of the Transferee and agrees to perform and observe all of the obligations and covenants of the Transferee under this Agreement; or (ii) the new Transferee is a Leasehold Mortgagee. Any Transfer not permitted under this Agreement shall be void.

(b) No Transfer of all or any of the Transferee Interest (except a Transfer to the Trustee, or its designee, in accordance with the Indenture or any Leasehold Mortgage) shall be made or have any force or effect if, at the time of such Transfer there has occurred a Transferee Default that has not been remedied or an event that with the lapse of time, the giving of notice, or otherwise would constitute a Transferee Default.

**Section 15.2. Assignment by the Transferor.** The Transferor shall have the right to Transfer all or any portion of the Authority Notes, but any such assignment shall not affect the Transferor's obligations under this Agreement. This Agreement may be transferred by the Transferor to the City in connection with a dissolution or winding up of the Transferor and upon such Transfer, the City shall be obligated for all of Transferor's obligations hereunder, whether by operation of law, or otherwise. Any Transfer not permitted by this Agreement shall be void.

**Section 15.3. Assignment by Transferee.** The Transferee shall have the right to assign its rights hereunder to the Trustee as part of the source of payment and security for the Parking Bonds and the Authority Notes.

## ARTICLE 16

### LENDERS

#### Section 16.1. Leasehold Mortgages.

(a) The Transferee may, from time to time, grant (i) to the Trustee under the Indenture, or (ii) to any other entity (or entity which serves as a trustee for such entity) providing financing for or refinancing of the Parking Facilities, a Leasehold Mortgage encumbering Transferee's Interest or Transferee's interest in the Lease, together with an assignment of Revenues and a security interest in any personal property owned by Transferee, in order to secure the obligations of the Transferee under the Indenture (including the Authority Notes), and the performance of all of the terms, covenants and agreements on the Transferee's part to be

performed or observed under all agreements securing the Transferee's obligations under the Indenture. No such Leasehold Mortgage, lien or security interest shall attach to Transferor's interest in this Agreement or Transferor's fee interest in the Parking System Land and Parking Facilities or to any personal property owned by Transferor. Transferee may have one or more Leasehold Mortgages at any time.

(b) No Person other than the Trustee under the Indenture (or the Credit Facility Providers and the holders of the Authority Notes to the extent provided under the Indenture) or another entity described in Section 16.1(a) shall be entitled to the benefits and protections accorded to a Leasehold Mortgagee in this Agreement or under a Leasehold Mortgage;

(c) Each Leasehold Mortgage must contain provisions substantially similar to the following terms and conditions:

(i) the Leasehold Mortgage may not cover any property of, or secure any debt issued by, or obligation of, any Person other than the Transferee, but may cover any cash reserves or deposits held in the name of the Transferee;

(ii) no Leasehold Mortgage or other instrument purporting to mortgage, pledge, encumber, or create a lien, charge or security interest on or against any or all of the Transferee's Interest or the Transferee's interest in the Lease shall extend to or encumber the fee simple interest in the Parking System Land or the Parking Facilities, the Transferor's or the City's interest under this Agreement or the Transferor's and the City's reversionary interests and estates pursuant to Sections 3.12 and 3.13;

(iii) Neither the Transferor nor the City shall have any liability whatsoever for payment of the principal sum secured by any Leasehold Mortgage, or any interest accrued thereon or any other sum secured thereby or accruing thereunder or the performance of any obligations secured by the Leasehold Mortgage; provided that the foregoing will not limit any remedies against the Transferor or the City permitted hereunder, under the Indenture or the Authority Notes;

(iv) each Leasehold Mortgage shall provide that if the Transferee is in default under the Leasehold Mortgage and the Leasehold Mortgagee gives notice of such default to Transferee, then the Leasehold Mortgagee shall give notice of such default to Transferor and the City;

(v) subject to the terms of this Agreement, all rights acquired by a Leasehold Mortgagee under any Leasehold Mortgage shall be subject to the provisions of the Indenture and to all of the rights of Transferor and the City hereunder; and

(vi) a Leasehold Mortgagee shall not, by virtue of its Leasehold Mortgage, acquire any greater rights or interest in the Parking System Land, the Parking Facilities, the Lease, or the Revenues than Transferee has at any applicable time under this Agreement.

**Section 16.2. Notices to Leasehold Mortgagees.**

(a) The Transferee shall give the Transferor and the City prompt notice of each Leasehold Mortgage, together with contact information for notices to the Leasehold Mortgagee (such notice and/or any notice given by a Leasehold Mortgagee to Transferor of its contact information, collectively, the "Leasehold Mortgagee's Notice"). Transferee promptly shall furnish Transferor with a complete copy of each Leasehold Mortgage (including all documents and instruments comprising the Leasehold Mortgage) and all amendments, extensions, modifications and consolidations thereof, certified as such by Transferee.

(b) After receipt of a Leasehold Mortgage Notice, the Transferor and the City shall each give such Leasehold Mortgagee, in the manner provided by the notice provisions of this Agreement, a copy of each notice of default given by the Transferor or the City, as applicable, to the Transferee, at the same time that the Transferor or the City gives such notice of default to the Transferee. No such notice of default given by the Transferor or the City to the Transferee shall be effective unless and until a copy of such notice shall have been so given to each such Leasehold Mortgagee at the last address furnished to the Transferor and the City by notice. Notice to a Leasehold Mortgagee shall be deemed given on the date received by the Leasehold Mortgagee. The Leasehold Mortgagee shall have the right, but not the obligation, to cure such default or to cause such default to be cured, within the time periods set out in Sections 14.1 and 16.3, whichever is longer.

**Section 16.3. Leasehold Mortgagee's Right to Cure.** Each Leasehold Mortgagee shall have the right to cure or cause to be cured any Transferee default within a period of sixty (60) days after written notice from Transferor thereof, provided further that if a Leasehold Mortgagee's right to cure a Transferee default has not expired, and the Leasehold Mortgagee is acting diligently to cure such Transferee default, then Transferor shall not exercise any remedies against Transferee by reason of such Transferee default. Transferor shall accept any such performance by a Leasehold Mortgagee as though the same had been done or performed by Transferee. Any payment to be made or action to be taken by a Leasehold Mortgagee hereunder shall be deemed properly to have been made or taken by the Leasehold Mortgagee if such payment is made or action is taken by a nominee, agent or assignee of the rights of such Leasehold Mortgagee. Any amounts expended by the Leasehold Mortgagee to cure any Transferee Default may be reimbursed from Revenues pursuant to the terms of the Indenture.

**Section 16.4. Rights of the Leasehold Mortgagee.** No Leasehold Mortgagee shall become liable under the provisions of this Agreement, or the Lease, unless and until such time as it becomes, and then only for as long as it remains, the Transferee under this Agreement or the lessee under the Lease. No Leasehold Mortgagee or designated Affiliate of a Leasehold Mortgagee shall have any personal liability under this Agreement or under the Lease even if it becomes Transferee or assumes the obligations of Transferee under this Agreement, and its liability shall be limited to its interest in this Agreement, the Transferee's Interest, and its interest in the Lease.

**Section 16.5. Termination of this Agreement; New Agreement.**

(a) If this Agreement is terminated for any reason, or if this Agreement is rejected or disaffirmed pursuant to any bankruptcy, insolvency or other law affecting creditors' rights, Transferor or the City shall give prompt notice thereof to the Trustee and each of the then

Leasehold Mortgagees whose contact information the Transferor and the City have received in a Leasehold Mortgagee's Notice, in the manner provided by the notice provisions of this Agreement. Transferor and the City, upon written request of the Trustee or any such Leasehold Mortgagee (or if more than one Leasehold Mortgagee makes such request, the Leasehold Mortgagee whose Leasehold Mortgage has the most senior lien), made any time within thirty (30) days after the giving of such notice by Transferor or the City, shall promptly execute and deliver to the Trustee, or if no notice is received from the Trustee, such Leasehold Mortgagee, a new agreement (the "New Agreement"), naming the Trustee or such Leasehold Mortgagee or its designee as the Transferee under this Agreement, for the remainder of the Term upon all of the terms, covenants, and conditions of this Agreement, except for such provisions that must be modified to reflect such termination, rejection or disaffirmance and the passage of time, if the Trustee or such Leasehold Mortgagee shall pay to Transferor, but only out of Revenues in accordance with the Indenture, concurrently with the execution and delivery of such New Agreement, all unpaid City Payments then due under this Agreement (subject to the terms of the Indenture that may cause such payments not to be then due) up to and including the date of the commencement of the term of such New Agreement. The Trustee or such Leasehold Mortgagee or its designee shall execute and deliver to Transferor and the City such New Agreement within thirty (30) days after delivery of such New Agreement by Transferor and the City to the Trustee or such Leasehold Mortgagee. Upon execution and delivery of such New Agreement, the Trustee or such Leasehold Mortgagee shall cure or cause to be cured, but only out of Revenues and subject to the provisions of the Indenture, all defaults existing under this Agreement which are capable of being cured by the Trustee or such Leasehold Mortgagee or its designee promptly and with diligence after the delivery of such New Agreement.

(b) The New Agreement and the interests thereby created shall, subject to the terms and conditions of this Agreement, have the same priority as this Agreement with respect to any Encumbrance, including any fee mortgage or other lien, charge or encumbrance on Transferor's fee estate in the Parking System Land and the Parking Facilities and/or Transferor's and the City's interest in this Agreement, whether or not the same shall then be in existence.

(c) Concurrently with such Leasehold Mortgagee and the Transferor and the City entering into a New Agreement pursuant to this Section 16.5, the Transferor and such Leasehold Mortgagee shall enter into a "New Lease" as defined and provided in the Lease.

(d) The Transferor's and the City's agreement to enter into a New Agreement with the Trustee or a Leasehold Mortgagee shall be unaffected by the rejection of this Agreement in any bankruptcy proceeding by any of the Transferor, the City, or the Transferee. The provisions of this Article 16 shall survive the termination, rejection or disaffirmance of this Agreement and shall continue in full force and effect thereafter to the same extent as if this Article 16 were a separate and independent contract made by the Transferor, the City, the Transferee and the Leasehold Mortgagees. The provisions of this Article 16 are for the benefit of Leasehold Mortgagees and may be relied upon and shall be enforceable by Leasehold Mortgagees as if the Leasehold Mortgagees were a party to this Agreement.

(e) Nothing contained in this Section 16.5 shall be deemed to limit or affect the Transferor's and the City's interests in and to such Parking System upon the expiration of the Term of the New Agreement.

(f) If the circumstances described in Section 16.5(a) occur, and the Transferor or the City determines, based on the written legal advice of counsel, that termination of this Agreement and the entry into a New Agreement by and among the Transferor, the City and the Leasehold Mortgagee could violate applicable provisions of the Laws of the Commonwealth governing procurement by the Transferor or City or otherwise, then, in lieu of entering in a New Agreement and in satisfaction of its obligations under this Section 16.5, the Transferor agrees to enter into an Assignment and Assumption Agreement pursuant to Section 16.7.

**Section 16.6. Transferor's Right to Purchase Leasehold Mortgage.**

(a) If any default by the Transferee has occurred under a Leasehold Mortgage and has not been cured within applicable cure periods, or any act, condition or event has occurred which would permit a Leasehold Mortgagee to declare all or part of the indebtedness secured by a Leasehold Mortgage to be immediately due and payable (or, in the case of a Leasehold Mortgage that is a lease, to terminate the lease), then the Transferor shall have thirty (30) days after the date on which such Leasehold Mortgagee shall serve notice upon the Transferor in writing ("Leasehold Mortgagee's Notice") that such Leasehold Mortgagee intends to commence proceedings to foreclose the Leasehold Mortgage or, in the case of a Leasehold Mortgagee that is a Lessor, to terminate the lease (stating the calculation of the purchase price pursuant to Section 16.7(c)), during which thirty (30) day period the Transferor shall have the right and option (the "Transferor's Option") to purchase from all Leasehold Mortgagees their Leasehold Mortgages, upon the terms and subject to the conditions contained in this Section 16.6.

(b) The Transferor's Option shall be exercised by notice served upon the Transferee and all Leasehold Mortgagees within such thirty (30) day period. Time shall be of the essence as to the exercise of the Transferor's Option. If the Transferor's Option is duly and timely exercised, the Transferor shall purchase and all Leasehold Mortgagees shall assign their Leasehold Mortgages to the Transferor (or its designee) on the date which is sixty (60) days after the date on which a Leasehold Mortgagee's Notice is served upon the Transferor. The closing shall take place at a mutually convenient time and place.

(c) The purchase price payable by the Transferor shall be equal to the aggregate amounts secured by such Leasehold Mortgages (including principal, interest, fees, and premiums, all other costs, expenses (including attorneys' fees) and any other amounts secured thereby, including all Indenture Obligations) as of the closing date of the purchase. The purchase price shall be paid in full in cash at closing by wire transfer or other immediately available funds.

(d) At the closing and upon payment in full of the purchase price each Leasehold Mortgagee shall assign its Leasehold Mortgage to the Transferor, together with any security interest held by it in the Transferee Interest, without recourse, representations, covenants or warranties of any kind, provided that such Leasehold Mortgages and security interests shall be deemed modified to secure the amount of the aggregate purchase price paid by the Transferor to all Leasehold Mortgagees (rather than the indebtedness theretofore secured thereby) payable on demand, with interest and upon the other items referred to in this Section 16.6(d). Each such assignment shall be in form for recordation or filing, as the case may be. The Transferor shall be responsible for paying any Taxes payable to any Governmental Authority upon such assignment.



Such assignment shall be made subject to such state of title of the Parking System as shall exist at the date of exercise of the Transferor's Option.

(e) Any Leasehold Mortgage shall contain an agreement of the Leasehold Mortgagee to be bound by the provisions of this Section 16.6, and the Transferor and the City shall have the right to receive all notices of default under any Leasehold Mortgage.

**Section 16.7. Assignment and Assumption Agreement.**

(a) The provisions of this Section 16.7 shall be in effect whenever either (i) the Transferor has made the determination contemplated by Section 16.5(c) or (ii) the Leasehold Mortgagee has determined to proceed under this Section 16.7 in lieu of under Section 16.5.

(b) Without prejudice to the rights of a Leasehold Mortgagee under Section 16.3, if either (i) the Transferor and the City have given a notice of termination of this Agreement due to Transferee Default pursuant to Section 16.1(b), or (ii) this Agreement is rejected or disaffirmed pursuant to any bankruptcy Law or proceeding or other similar Law or proceedings affecting creditors' right generally with respect to a bankruptcy proceeding relating to the Transferee or otherwise, the Transferor and the City agree to cooperate with a Leasehold Mortgagee in order to effectuate such Leasehold Mortgagee's rights under the Leasehold Mortgage and the Indenture to step-in, assume or assign this Agreement, in accordance with the procedures, terms and conditions of this Section 16.7.

(c) Upon notification and satisfaction of all of the conditions and requirements in Section 16.7(d), the Transferor and the City agree that this Agreement shall not be deemed terminated, but may be assumed by a Leasehold Mortgagee or by a designee or nominee of such Leasehold Mortgagee which is controlled by the Leasehold Mortgagee (or by the holders of the Leasehold Mortgage Debt), for the remainder of the original stated Term of this Agreement, and as evidence of such assignment and assumption the Transferor agrees to execute an amended and restated long term lease for the Parking System with such Leasehold Mortgagee as provided in the Lease (the "Assignment and Assumption Agreement").

(d) This Agreement may be so assigned and assumed pursuant to an Assignment and Assumption Agreement upon and subject to satisfaction of all of the following requirements and conditions:

(i) Such Leasehold Mortgagee must commit in writing to the Transferor and the City, in a notice delivered to the Transferor and the City within the later of sixty (60) days after the Transferor and the City deliver the termination notice to Leasehold Mortgagee or upon the termination of any cure period granted to such Leasehold Mortgagee pursuant to Section 16.3, or within sixty (60) days after the effective date of any rejection or disaffirmance of this Agreement in a bankruptcy proceeding, as the case may be, that such Leasehold Mortgagee (or its designee or nominee) will assume this Agreement and enter into the Assignment and Assumption Agreement, which notice is accompanied by a copy of such Assignment and Assumption Agreement duly executed and acknowledged by such Leasehold Mortgagee (or its designee or nominee).

(ii) Such Leasehold Mortgagee (or its designee or nominee) shall pay or cause to be paid to the Transferor, or makes provision for payment over the remaining Term, but only from Revenues and subject to the provisions of the Indenture, at the time that the Assignment and Assumption Agreement is fully executed, all amounts which, at the time of the execution and delivery thereof, would have been past-due or due and payable in accordance with the provisions of this Agreement.

(iii) Such Leasehold Mortgagee (or its designee or nominee) shall pay or cause to be paid to the Transferor and the City, or makes provision for payment, but only from Revenues and subject to the provisions of the Indenture, all reasonable costs and expenses (including legal fees), Taxes, fees, charges and disbursements paid or incurred by the Transferor or the City in connection with such defaults and notice of termination, the recovery of possession from the Transferee, and in connection with the preparation, execution and delivery of the Assignment and Assumption Agreement and related agreements and documents. The Transferor and the City shall provide an invoice to such Leasehold Mortgagee of such costs.

(v) Such Leasehold Mortgagee (or its designee or nominee), at the time of the notice provided under Section 16.7(d)(i), shall cure all other defaults, or makes provision for cure of all other defaults, but only from Revenues and subject to the provisions of the Indenture, under this Agreement (including all such defaults curable by the payment of money) existing immediately prior to the notice of termination issued pursuant to Section 16.5(a), or, if such defaults cannot be cured by the payment of money, such Leasehold Mortgagee (or its designee or nominee) shall commit to the Transferor and the City in the Assignment and Assumption Agreement to proceed both promptly and diligently (subject to the availability of Revenues), upon the execution of the Assignment and Assumption Agreement, to cure all such other defaults to the extent such defaults are capable of cure by a Person other than the original Transferee and, if possession is necessary in order to cure such other Transferee Defaults, to proceed both promptly and diligently (subject to the availability of Revenues) to obtain the possession required to cure any such other defaults (and such obligation to cure shall be a covenant in the Assignment and Assumption Agreement).

(iv) All consents required under the Indenture are obtained and consents of the Credit Facility Providers are obtained.

(e) If a Leasehold Mortgagee gives the Transferor and the City a notice as provided in Section 16.7(d)(i), the Transferor and Leasehold Mortgagee agree to cooperate with respect to taking any appropriate actions required to regain and transfer possession of the Parking System, including (i) seeking surrender of possession in any bankruptcy proceedings; (ii) seeking relief from any automatic stay in bankruptcy provisions and pursuit of state law remedies to obtain possession and to foreclose on the Leasehold Mortgage interest and assume the Transferee's position as provided in Section 16.4 of this Agreement; provided that any costs incurred by the Transferor and the City under this provision shall be reimbursed but only from Revenues and subject to the provisions of the Indenture.

ARTICLE 17

[RESERVED]

ARTICLE 18

MISCELLANEOUS

**Section 18.1. Notice.** All notices, other communications and approvals required or permitted by this Agreement shall be in writing, shall state specifically that they are being given pursuant to this Agreement and shall be hand delivered, delivered by a nationally-recognized overnight courier, certified or registered mail (return receipt requested and postage prepaid), or e-mail, addressed as follows:

- (a) in the case of the Transferor:

Harrisburg Parking Authority  
(for USPS)  
P.O. Box 1142  
Harrisburg, Pa  
17108-1142  
Attn: Richard D. Kotz, Executive Director  
(for other than USPS)  
123 Walnut St, Suite 317  
Harrisburg, Pa 17101  
E-mail: rkotz@harrisburgparking.org

With a copy to:

Pepper Hamilton LLP  
100 Market Street, Suite 200  
Harrisburg, Pa 17108-1181  
Attn: Timothy B. Anderson  
E-mail: andersont@pepperlaw.com

- (b) in the case of the Transferee:

Pennsylvania Economic Development Financing Authority  
c/o Department of Community and Economic Development  
Commonwealth Keystone Building  
400 North Street, 4th Floor  
Harrisburg, Pa 17120  
Attn: Executive Director  
E-mail: sdrizos@pa.gov

With a copy to:

Office of Chief Counsel  
Department of Community and Economic Development  
Commonwealth Keystone Building  
400 North Street, 4<sup>th</sup> Floor  
Harrisburg, Pa 17120

(And with copies to the Qualified Designee, the Asset Manager, the Operator, AGM, and the County, which copies do not constitute notice to the Transferee, nor will the failure to provide such copies make notice to the Transferee defective or invalid)

(c) in the case of the City:

Mayor, City of Harrisburg  
Office of the Mayor  
10 North Second Street, Suite 202  
Harrisburg, PA 17101

and to:

President, Harrisburg City Council  
Office of the City Clerk/City Council  
10 North Second Street, Suite 1  
Harrisburg, PA 17101

With a copy to:

Harrisburg City Solicitor  
Law Bureau  
10 North Second Street, Suite 402  
Harrisburg, PA 17101  
E-mail: [jhess@cityofhbg.com](mailto:jhess@cityofhbg.com)

And a copy to:

Neil Grover, Esq.  
2201 North Second Street  
Harrisburg, PA 17110  
E-mail: [neilgroveresq@gmail.com](mailto:neilgroveresq@gmail.com)

And a copy to:

Ahmad, Zaffarese & Smyler, LLC  
One South Broad Street, Suite 1810  
Philadelphia, PA 19107  
Attn: Gerard Farrell and Denise Smyler  
E-mail: [gfarrell@azands.com](mailto:gfarrell@azands.com) and [djsmyler@azands.com](mailto:djsmyler@azands.com)

or such other persons or addresses as either Party may from time to time designate by notice to the other. Any notice, report or other submission to the Advisory Committee shall be given to the Asset Manager. A notice, other communication or approval shall be deemed to have been sent and received (i) on the Day it is delivered, or if such Day is not a Business Day or if the notice is received after ordinary office hours (time of place of receipt), the notice, other overnight delivery, communication or approval shall be deemed to have been sent and received on the next Business Day, or (ii) on the date evidenced by receipt of U.S. registered or certified mail.

**Section 18.2. Entire Agreement.** This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior agreements, negotiations, discussions and understandings, written or oral, between the Parties. There are no representations, warranties, conditions or other agreements, whether direct or collateral, or express or implied, that form part of or affect this Agreement, or that induced any Party to enter into this Agreement or on which reliance is placed by any Party, except as specifically set forth in this Agreement. The Parties acknowledge and agree that (i) each has substantial business experience and is fully acquainted with the provisions of this Agreement, (ii) the provisions and language of this Agreement have been fully negotiated and (iii) no provision of this Agreement shall be construed in favor of any Party or against any Party by reason of such provision of this Agreement having been drafted on behalf of one Party rather than the other.

**Section 18.3. Amendment.** This Agreement may be amended, changed or supplemented only by a written agreement signed by the Parties and consented to by the Credit Facility Providers (provided that no Credit Facility Provider (i) that is in default under its Credit Facility, or (ii) whose Credit Facility has terminated with no obligations with respect thereto outstanding, will have a right to consent) to the extent that any such amendment may adversely affect the rights or interests of the Credit Facility Providers, and consented to by the holders of any outstanding Authority Notes to the extent any such amendment may adversely affect the rights or interests of the holders of the Authority Notes.

**Section 18.4. Waiver of Rights.** Any waiver of, or consent to depart from, the requirements of any provision of this Agreement shall be effective only if it is in writing and signed by the Party giving it, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of any Party to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver of such right. No single or partial exercise of any such right shall preclude any other or further exercise of such right or the exercise of any other right.

**Section 18.5. Severability.** Each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by applicable Law. The invalidity of any one or more phrases, sentences, clauses or sections contained in this Agreement shall not affect the remaining portions of this Agreement or any part thereof. If any provision of this Agreement or the application thereof to any Person or circumstance is held or deemed to be or determined to be invalid, inoperative or unenforceable in any particular case in any particular jurisdiction or jurisdictions because it conflicts with any other provision or provisions hereof or of any applicable Law, or public policy, or for any other reason, (i) such circumstance shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or

circumstance, or rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever, and (ii) the Parties shall negotiate in good faith to amend this Agreement to implement the provisions set forth herein.

**Section 18.6. Governing Law.** This Agreement shall be governed by, and interpreted and enforced in accordance with, the laws of the Commonwealth of Pennsylvania (excluding any conflict of laws rule or principle which might refer such interpretation to the laws of another jurisdiction).

**Section 18.7. Submission to Jurisdiction.** Any action or proceeding against the Transferee, the Transferor or the City relating in any way to this Agreement may be brought and enforced in state courts in the Commonwealth of Pennsylvania located in Dauphin County, or the United States District Court for the Middle District of Pennsylvania, and each of the Transferee, the Transferor, and the City hereby irrevocably submits to the jurisdiction of such courts with regard to any such action or proceeding, and irrevocably waives, to the fullest extent permitted by applicable Law, any objection it may have now or hereafter have to the laying of venue of any such action or proceeding in such courts and any claim that any such action or proceeding brought in any such court has been brought in an inconvenient forum. Service of process may be made, either by registered or certified mail addressed as provided for in Section 18.1.

**Section 18.8. Further Acts.** The Parties shall do or cause to be done all such further acts and things as may be reasonably necessary or desirable to give full effect to this Agreement. Without limiting the foregoing, each Party will, at any time and from time to time, execute and deliver or cause to be executed and delivered such further instruments and assurances and take such further actions as may be reasonably requested by the other Party in order to cure any defect in the execution and/or delivery of this Agreement.

**Section 18.9. Expiration of the Indenture.** Upon the expiration or earlier termination of the Indenture, the Parties agree that any provision herein which refers to a definition or other provisions in the Indenture shall continue to refer to such definitions and provisions as if the Indenture was still in effect, unless and until otherwise agreed in writing by the Parties.

**Section 18.10. [Reserved]**

**Section 18.11. Inurement and Binding Effect.** This Agreement shall inure to the benefit of the Parties and their respective permitted successors and assigns, and be binding upon the Parties and their respective successors and assigns.

**Section 18.12. No Partnership or Third Party Beneficiaries.** Except as expressly provided herein to the contrary, nothing contained in this Agreement shall constitute or be deemed to create a partnership, joint venture or principal and agent relationship between the Transferor and the City and the Transferee, nor shall any term or provision hereof be construed in any way to grant, convey or create any rights or interests to any Person not a party to this Agreement, provided that (i) the Trustee shall have the right to enforce the provisions of this Agreement as an assignee of the Transferee pursuant to and in accordance with the Indenture, (ii) the Underwriter shall have the benefit of Sections 8.1 and 8.2, (iii) the Credit Facility Providers shall have the right to enforce any rights provided herein to the Credit Facility Providers, (iv) the

Qualified Designee, the Asset Manager, and the Parking Operator shall have the benefit of Article 12.

**Section 18.13. No General Obligations.** Notwithstanding anything herein or in any other Transaction Document to the contrary, the obligations, covenants, and agreements of the Transferee pursuant to this Agreement and all of the other Transaction Documents shall be limited non-recourse obligations of the Transferee, payable solely from the proceeds of the Parking Bonds and the Revenues of the Parking System, shall not constitute a pledge of the faith and credit of the Transferee or of any assets of the Transferee other than Transferee's right, title and interest in and to the Parking System, and neither the Transferor nor the City shall have any claim against the Transferee for the performance of any obligation or for payment of any amount due pursuant to this Agreement or any other Transaction Document from any assets or revenues of the Transferee, other than the proceeds of the Parking Bonds and Revenues.

THE OBLIGATIONS OF THE TRANSFEREE UNDER THIS AGREEMENT AND ALL OTHER TRANSACTION DOCUMENTS ARE LIMITED OBLIGATIONS PAYABLE SOLELY FROM THE PROCEEDS OF THE PARKING BONDS AND REVENUES AND SUCH OBLIGATIONS SHALL NOT BE DEEMED AN OBLIGATION OF THE COMMONWEALTH OR ANY POLITICAL SUBDIVISION THEREOF. NEITHER THE COMMONWEALTH NOR ANY POLITICAL SUBDIVISION IS OR SHALL BE OBLIGATED TO MAKE ANY PAYMENTS UNDER THIS AGREEMENT OR ANY OTHER TRANSACTION DOCUMENTS. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE COMMONWEALTH OR ANY POLITICAL SUBDIVISION THEREOF IS PLEDGED TO ANY PAYMENT HEREUNDER. THE TRANSFEREE IS NOT A POLITICAL SUBDIVISION OF THE COMMONWEALTH AND HAS NO TAXING POWER.

**Section 18.14. Cumulative Remedies.** The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by Law.

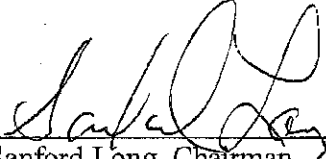
**Section 18.15. Counterparts; Electronic Execution.** This Agreement may be executed in any number of counterparts which, taken together, shall constitute one and the same agreement. This Agreement shall be effective when it has been executed by each Party and delivered to both Parties. To evidence the fact that it has executed this Agreement, a Party may send a copy of its executed counterpart to the other Party by electronic transmission. Such Party shall be deemed to have executed and delivered this Agreement on the date it sent such electronic transmission. In such event, such Party shall forthwith deliver to the other Party an original counterpart of this Agreement executed by such Party.

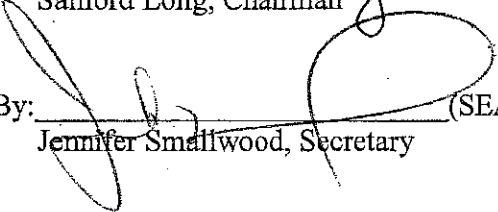
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IN WITNESS WHEREOF, the Transferor has caused this Agreement to be duly executed on its behalf by its Executive Director and its Secretary (or Assistant Secretary), the City has caused this Agreement to be duly executed on its behalf by its Mayor and Controller, and the Transferee has caused this Agreement to be duly executed by its Chairman or Executive Director and attested by its Secretary or Assistant Secretary, all pursuant to due authorizations, as of the day and year first above-written.

TRANSFEROR

HARRISBURG PARKING AUTHORITY

By:  (SEAL)  
Sanford Long, Chairman

By:  (SEAL)  
Jennifer Smallwood, Secretary

CITY

CITY OF HARRISBURG

By: \_\_\_\_\_  
Mayor

By: \_\_\_\_\_  
City Controller



IN WITNESS WHEREOF, the Transferor has caused this Agreement to be duly executed on its behalf by its Executive Director and its Secretary (or Assistant Secretary), the City has caused this Agreement to be duly executed on its behalf by its Mayor and Controller, and the Transferee has caused this Agreement to be duly executed by its Chairman or Executive Director and attested by its Secretary or Assistant Secretary, all pursuant to due authorizations, as of the day and year first above-written.

TRANSFEROR

Approved as to form:  
Pepper Hamilton LLP  
Counsel to Transferor

HARRISBURG PARKING AUTHORITY

By: \_\_\_\_\_

By: \_\_\_\_\_ (SEAL)  
Richard D. Kotz, Executive Director

By: \_\_\_\_\_ (SEAL)  
Name:  
~~(Assistant)~~ Secretary

CITY

CITY OF HARRISBURG

Wanda R. Williams  
COUNCIL PRESIDENT

By: [Signature]  
Mayor

By: William B. Inel  
City Controller **RECEIVER**

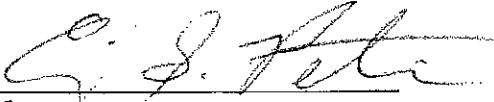
Approved as to form and legality:

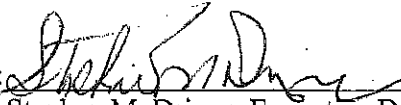
[Signature]  
City Solicitor

TRANSFEREE

ATTEST:

PENNSYLVANIA ECONOMIC  
DEVELOPMENT FINANCING  
AUTHORITY

  
Name: \_\_\_\_\_  
(Assistant) Secretary

By:   
Stephen M. Drizos, Executive Director

## SCHEDULE 1

### Assets and Assumed liabilities

#### A-1 Assets

1. **Facility Name:** Walnut Street Garage  
**Address:** 215 Walnut Street, Harrisburg, PA  
**Space Count:** 1,032
2. **Facility Name:** Chestnut Street Garage  
**Address:** 322-326 Chestnut Street, Harrisburg, PA  
**Space Count:** 1,088
3. **Facility Name:** Fifth Street Garage  
**Address:** 6-14 North Fifth Street, Harrisburg, PA  
**Space Count:** 856
4. **Facility Name:** Locust Street Garage  
**Address:** 214 Locust Street, Harrisburg, PA  
**Space Count:** 628
5. **Facility Name:** Market Square Garage  
**Address:** 34 South 2nd Street, Harrisburg, PA  
**Space Count:** 577
6. **Facility Name:** River Street Garage  
**Address:** 218 North 2nd Street, Harrisburg, PA  
**Space Count:** 850
7. **Facility Name:** Seventh Street Garage & Surface Lot  
**Address:** 801-813 North 7th Street, Harrisburg, PA  
**Space Count:** 1,182 (garage), 152 (parking lot)
8. **Facility Name:** Mulberry Street Parking Lot  
**Address:** 3rd & Mulberry Streets, Harrisburg, PA  
**Space Count:** 85
9. **Facility Name:** 10th & Mulberry Parking Lot  
**Address:** 10th & Mulberry Streets, Harrisburg, PA  
**Space Count:** 128
10. **Facility Name:** South Street Garage  
**Address:** 220 South Street, Harrisburg, PA  
**Space Count:** 736

11. **Facility Name:** Harrisburg University Garage  
**Address:** 326 Market Street, Harrisburg, PA  
**Space Count:** 380
12. **On-Street Metered Parking Spaces**  
**Space Count:** 1,260
13. **City Island Option**
14. **Cash in the sum of \$1,000,000 and all tangible and intangible personal property (excluding accounts receivable and any cash other than the \$1,000,000) owned and used by the Transferor in the operation of the Parking System, but not including any Excluded Assets**

## A-2 ASSUMED LIABILITIES

1. Assumed Contracts only
2. Monthly parking passes prorated at closing and other matters prorated at closing

### A-3 ASSUMED CONTRACTS

Document Title	Date (version)	Parties	Parking Facility
1 Agreement With Respect to Parking Facilities	10/14/1975	Harristown Development Corporation and The Commonwealth of Pennsylvania	
2 Contract	5/13/2008	The Harrisburg Parking Authority and Café Fresco and Level 2	
3 Letter Agreement re June 27, 1984 Lease and Operating Agreement - amending monthly rate	3/2/1992	Harristown Development Corporation and Parking Authority (re Zion Lutheran Church)	Chestnut Street Garage
4 [Intentionally Deleted]			
5 [Intentionally Deleted]			
6 [Intentionally Deleted]			
7 [Intentionally Deleted]			
8 Harrisburg Parking Authority Agreement (Ad Placement)	3/15/2002	Harrisburg Parking Authority and CSS	
9 Amendment #2 (to ATM Agreement)	11/00/11	Harrisburg Parking Authority and Pennsylvania State Employees Credit Union	Fifth Street Parking Garage ATM Services
10 Lease Addendum	4/16/2008	Harrisburg Parking Authority and Pennsylvania House of Representatives	Locust Street Garage (note 5 year term ended April 30, 2013)
11 Letter re amended and restated Market Square Hotel Project Parking Agreement (June 30, 1995)	7/27/2011	Harrisburg Parking Authority and Harrisburg Hotel Associates	Market Square
12 Letter re amended and restated Market Square Hotel Project Parking Agreement (June 30, 1995)	1/26/2012	Harrisburg Parking Authority and Harrisburg Hotel Associates	Market Square
13 Acknowledgment and Estoppel	6/26/2012	Harrisburg Parking Authority, Harrisburg Hotel Associates, L.P. and Harrisburg Investment LLC	Market Square
14 Amended and Restated Market Square Hotel Project Parking Agreement	6/30/1995	The City of Harrisburg, Redevelopment Authority of the City of Harrisburg, Harristown Development Corporation, Harrisburg Parking Authority, Richfield Hospitality Services, Inc. and Harrisburg Hotel Associates L.P.	Market Square

15 Market Square Hotel Project Parking Agreement	9/29/1988	The City of Harrisburg, Redevelopment Authority of the City of Harrisburg, Harristown Development Corporation, MHM, Inc., Harrisburg Parking Authority, and Harrisburg Hotel Associates L.P.	Market Square
16 Dauphin County Juror Parking Agreement	10/31/2011	Harrisburg Parking Authority and County of Dauphin Board of Commissioners	Market Square
17 Juror Parking Revenue 2010 2011 -			Market Square
18 Letter re DEP/DCNR Market Square Garage Parking Lease Amendment, Lease #91384	2/20/2008	Department of Conservation and Natural Resources and Department of Environmental Protection to Harrisburg Parking Authority	Market Square
19 Addendum to Parking Lease	7/1/2011	Harrisburg Parking Authority and Pinnacle Health System	Market Square (note term expires June 30, 2013)
20 Easement	9/18/2003	Harrisburg Parking Authority and Market Square Plaza LLC	Market Square
21 Letter amendment to agreement for parking at Market Square Garage	9/5/2008	Harrisburg Parking Authority and Market Square Presbyterian Church	Market Square
22 Addendum to the Parking Lease Agreement (partially executed)	11/1/2002	Harrisburg Parking Authority and Select Specialty Hospital - Central Pennsylvania, L.P.	Market Square
23 [Intentionally Deleted]			
24 [Intentionally Deleted]			
25 Resolution No. 50 (approving the extension of the Conditional Use Permit of spaces)	12/13/2011	Council of the City of Harrisburg	Penn National Garage (note term expires December 31, 2012)
26 Letter Agreement	7/26/2011	The Harrisburg Parking Authority and Penn National Insurance	Penn National Garage
27 Acceptance of Bid re window cleaning	2/25/2011	Harrisburg Parking Authority and Performance Services, Inc.	
28 Amendment #2 (to ATM Agreement)	11/3/2011	Harrisburg Parking Authority and Pennsylvania State Employees Credit Union	Chestnut Parking Garage and River Street Garage
29 Acceptance of Bid re elevator maintenance	12/12/2011	Harrisburg Parking Authority and Reading Elevator Service, Inc.	Seventh Street Garage
30 Agreement Between Owner and Contractor	10/5/2011	Harrisburg Parking Authority and Restoration East, LLC	Walnut Street
31 Settlement Agreement	8/25/1999	Harrisburg Parking Authority and Pennsylvania State Education Association	River Street
32 Letter re acceptance of bid re elevator preventative maintenance contract	2/24/2010	Harrisburg Parking Authority and Schindler Elevator Corporation	Walnut Street
33 Rent Payment Schedule (relating to Advanced Digital Advertising)			Seventh Street Garage
34 Billboard Lease Agreement	1/1/2011	Harrisburg Parking Authority and Advanced Digital Advertising	Seventh Street Garage
35 Parking Agreement (and letter dated August 4, 2005 to Public Realty Capital regarding	10/1/2002	Harrisburg Parking Authority and The Redevelopment Authority of the City of Harrisburg	Seventh Street Garage

assignment)

36 Long Term Parking Lease Exchange Parking Spaces	3/27/2006	Harrisburg Parking Authority and Belco Community Credit Union	South Street
37 Agreement for Sale, Purchase and Leasing	2/25/2005	Harrisburg Parking Authority and Belco Community Credit Union	South Street
38 Lease Addendum	4/16/2008	Harrisburg Parking Authority and Pennsylvania House of Representatives	South Street (note: expires April 30, 2013)
39 Letter re parking agreement	10/16/2007	Harrisburg Parking Authority and Pine Street Presbyterian Church	South Street
40 Long Term Parking Lease Exchange Parking Spaces	3/27/2006	Harrisburg Parking Authority and Pennsylvania State Education Association	South Street
41 Long Term Parking Lease Option Parking Spaces	1/18/2008	Harrisburg Parking Authority and Pennsylvania State Education Association	South Street
42 Agreement for Sale, Purchase and Leasing	2/25/2005	Harrisburg Parking Authority and Pennsylvania State Education Association	South Street
43 Assignment of Partial Assignment and Assumption of Lease	10/31/2007	WCI Hotel Partners, LP and 44 Harrisburg Hotel, LLC	South Street
44 First Amendment to Lease	12/___/2009	Harrisburg Parking Authority and Central Pennsylvania Blood Bank	Walnut Street
45 Second Amendment to Lease	12/11/2012	Harrisburg Parking Authority and Pennsylvania Blood Bank	Walnut Street
46 Amendment to Lease	5/1/1994	Harrisburg Parking Authority and Central Pennsylvania Blood Bank	Walnut Street
47 Lease, First Amendment to Lease, and Second Amendment to Lease	05/___/2005, 01/22/2009 and 04/28/2011	Harrisburg Parking Authority and Harrisburg Hotel Associates	Walnut Street
48 Parking Garage Lease and First Amendment to Parking Agreement	1/27/1992	Parking Authority of the City of Harrisburg and John O. Vartan t/d/b/a Independent American Investments	Walnut Street
49 Parking Agreement	7/12/1989	Parking Authority of the City of Harrisburg and John O. Vartan t/d/b/a Independent American Investments	Walnut Street
50 Memorandum of Parking Garage Lease Agreement	1/27/1992	Parking Authority of the City of Harrisburg and Walnut & Third, Inc.	Walnut Street
51 First Amendment to Lease	11/8/2012	Harrisburg Parking Authority and Open State of Harrisburg	Walnut Street
52 Lease	12/30/2011	Harrisburg Parking Authority and PA Utility Contractors Assn.	Walnut Street
53 Second Amendment to Lease	4/28/2011	Harrisburg Parking Authority and Harrisburg Hotel Associates	Walnut Street
54 Letter re evening parking rate for Temple students	12/7/2009	Harrisburg Parking Authority and Temple University	Walnut Street
55 Lease Agreement	12/20/2010	Harrisburg Parking Authority and Patrick G. Wentz, Jr. and Judith A. Wentz, Husband and Wife, DBA Thrifty Shopper	Walnut Street



56 Commercial Lease	9/6/2011	Harrisburg Parking Authority and City of Harrisburg	Walnut Street
57 Easement	9/19/2003	Harrisburg Parking Authority and Market Square Plaza, LLC	Walnut Street
58 Memorandum of Understanding	10/12/2005	Harrisburg Parking Authority and Market Square Plaza LLC	Walnut Street
59 Validation Stamp Agreement	8/26/2009	Harrisburg Parking Authority and C.A.S.A. (Capital Area School for the Arts)	All except River Street, Seventh Street and Harrisburg University Garages
60 Letter re parking services	10/16/2007	Harrisburg Parking Authority and The Cathedral Parish of Saint Patrick	
61 Letter re parking services	10/16/2007	Harrisburg Parking Authority and Grace United Methodist Church	

## **SCHEDULE 2**

### **Operating Standards**

#### **REQUIREMENTS FOR OPERATING STANDARDS**

##### **OFF-STREET OPERATING STANDARDS**

###### **I GENERAL:**

The Operating Standards will provide for the maintenance and operation of the Off-Street Parking System in a manner to provide a clean, safe and efficient parking system to the public, users who are renting or leasing parking spaces, and public parking for governmental agencies, businesses, and other groups with offices, establishments and venues located in the area served by the Off-Street Parking System. The Operating Standards will ensure that the Parking Garages, Parking Lots, other improvements and equipment are maintained and repaired in a manner to preserve and extend the useful lives of the structures, facilities and equipment.

The Operating Standards will provide for the following: Maintenance; Inspection and Response Protocol and Procedures; Major Repairs, Facility Rehabilitation and/or Replacement; and Future Changes in Law and Operational Changes; as set forth below.

###### **II. SPECIFIC Provisions:**

###### **A. Routine Maintenance**

Routine maintenance will include preventive, cyclical and incidental maintenance, as well as the provision of a maintenance response capability in the event of a minor emergency, etc. The Operator and Asset Manager will develop and implement schedule and tracking procedures for routine maintenance that will be available for quarterly review by the Transferor and Advisory Committee. The schedule and tracking procedures will generally conform with the provisions of Appendix A – Maintenance Schedule of the National Parking Association - Parking Consultants Council (NPA-PCC) maintenance manual. This responsibility will include a regular visual check on conditions and function. In general, those inspection functions which are identified in Appendix A of the NPA-PCC manual as being necessary on a quarterly or less frequent basis will be addressed under the provisions of the General and/or Priority inspections or in response to “Condition Alerts” as described in the Inspection section of these Standards.

###### **B. Maintenance Plan**

The Operating Standards will include a plan for routine maintenance. Maintenance responsibilities extend throughout each facility and include the site, extending to the perimeter roadway curb. The maintenance policy will be based on a proactive approach and on appropriate

response to maintenance issues that are observed. Cyclical replacement of components of mechanical or other systems, such as filters, etc., will be undertaken in a proactive manner as per the manufacturer's recommendations. Periodic replacement of minor fixtures such as hand towel dispensers, smoke detectors, etc., will be addressed as the need may arise.

### C. Maintenance Schedules

1. Routine Maintenance will include:
  - a. Routine maintenance conducted on a scheduled basis based on the NPA/PCC Parking Garage Maintenance Manual will include:
    - i. Floors, curbs, stairs
    - ii. Oil & grease drippings in driving areas, exits & entrances
    - iii. Glass surfaces & walls
    - iv. Empty trash receptacles, etc.
    - v. Overhead beams
  - b. Doors and Hardware
    - i. Proper operation (sweeps, latches, panic hardware, tracks, hinges)
    - ii. Mechanized, Overhead door controls and auto function
  - c. Electrical Systems (function and condition, typical)
    - i. Wiring, conduits & junction boxes, panel boards
    - ii. Electrical lighting system
  - d. Lighting & Photo Cells
    - i. Check fixture, lamps, lens, wiring, photo cells, replace as necessary
  - e. HVAC
    - i. Check mechanical units, ventilation fans, etc. for function and condition
    - ii. Cooling towers
    - iii. Pumps

- iv. Zone controls
- v. Motor controls
- vi. Pneumatic controls
- f. Fire Protection Systems Equipment and Facilities
  - i. Visual check on detectors, sprinkler systems, piping, alarms, fire pumps, emergency generators
  - ii. Fire alarm panels
- g. Parking Access & Revenue Control Equipment and Systems
  - i. Maintain Service Agreements – equipment provider, manuals, personnel with knowledge of equipment to address routine problems
- h. Plumbing Systems
  - i. Offices and workshops (or restrooms) where applicable, storm water collection systems, drains and drainage piping
  - ii. Water pump systems at Locust and Seventh Street Garages
- i. Signs (Graphics)
- j. Snow & Ice Control
  - i. Maintain snow removal & ice melting equipment. Establish and enforce safe practices and use only designated safe (structurally) locations for stock-piling snow and removing snow only with equipment determined to be safe in terms of axle loads and gross vehicle loads for use on parking decks. Establish and observe safe limitations for stockpiling snow, and for dealing with snow melt runoff, etc.
- k. Handicap Access
  - i. Maintain ADA compliance, designated spaces, signage
  - ii. Conduct adequate enforcement to ensure availability of handicap spaces for patrons displaying valid handicap access stickers
- l. Architectural Finishes (Panels, coatings)
- m. Landscaping (Grass, sidewalks, Trees & bush, planters)

- n. Painting of non-structural features, stair walls, colors by "Level", etc.
- o. Elevators for general appearance and function - smoothness of operation, sound, and lighting

2. Preventive and Cyclical Maintenance

- a. Preventive and Cyclical Maintenance (Minor repairs and regular renewal or replacement of coatings, materials, fixtures and/or other minor equipment)
- b. Preventive maintenance shall be performed on all parking garage elevators
- c. Provision of a basic response capability for minor emergencies, etc. - Operator will maintain a basic response capability to respond to minor emergencies, etc. Such emergencies might include: 911 calls for help, spills, discovery of human waste or other bio hazards on the premises, accumulations of ice or snow, vermin or other pests, tripping or falling hazards, loss of illumination, etc. This capability will be maintained during all hours that the facilities are open to the public.

**D. Inspection/Response Protocol and Procedures:**

1. Inspection Types:

- a. General Inspections (comprehensive) by an Engineering Firm engaged by the Asset Manager (three year cycle; structural, safety, mechanical systems, lighting, ADA compliance, etc.). The purpose of these inspections will be to identify, quantify and provide cost estimates related to any observed deficiencies related to structure, safety or function of the facilities. The inspectors will also be expected to identify any further studies or testing that are considered necessary to determine the extent or exact nature of potential deficiencies that have been observed. The previous annual inspections that have been provided to the Asset Manager and Operator will serve as a guide with respect to the level of detail, etc. Recommendations for capital expenditure may also include preventive measures or planned improvements intended to restore or improve the level of service of the facilities. The primary goals of this general inspection are to: 1) monitor and help insure the continued safe operation of the facilities and to preserve them in a serviceable condition; 2) to provide the benefit of a

professional assessment; and to 3) assist in the development of the Annual Capital Budget for the following year.

- b. Annual Priority Inspections (focused on deterioration and recommended repairs, etc. identified in the previous annual inspection report and or by or through the Condition Alert process (see below))
  - c. Random, cursory or walk-through inspections
  - d. Emergency response inspections
2. Inspection Authority and Response Responsibility
- a. General and Annual Priority inspections to be conducted by an Engineering Firm engaged by the Asset Manager, acting with the full cooperation of the Operator
  - b. Random, cursory or walk-through inspections to be conducted by: representatives of the Asset Manager, engineers acting on behalf of the Asset Manager, other agencies or departments, for instance Fire or Police Departments, or elevator inspectors as mandated by law.
  - c. The Asset Manager and the Operator will assist and accommodate any such inspections, and will provide a timely response with respect to any actions that may have been taken or that are planned to be taken with respect to the findings or recommendations of each of these inspections.

#### **E. Condition Alert**

The Condition Alert is both a process for notification of a potentially serious condition and the form and format for transmitting as well as tracking that notification, the response to it and its resolution.

- 1. Types and sources of Condition Alerts (structural, safety, security, access related).
  - a. In general, condition alerts would be issued when any structural or safety issue is considered to require action within the next annual inspection cycle. It might be issued during a General Inspection, an Annual Priority inspection, or in response to an emergency situation or if the concern is brought to the attention of the Asset Manager or the Operator by a third party.
  - b. A structural Condition Alert would be issued: during the course of a facility inspection where structural deterioration, damage or an

obvious structural insufficiency threatens a partial failure of the structural component.

- c. A safety, security or access related Condition Alert would be issued in the event of a condition composing a present or imminent public danger.

Prompt Interim Action (PIA) requirement: Prompt Interim Action (PIA) required will be indicated in a prominent place on the Condition Alert form in the event that, in the opinion of the issuer, action must be taken within the next twenty four (24) hours.

- 2. Notification and reporting requirements: The names and contact information for two persons with responsible charge at the Operator will be provided. Written notice of the Condition Alert (including a copy) will be provided to them. Copies will be provided to two designated persons at the Authority, in addition to the issuer. Upon agreement, this notice can be provided by email, with confirmation of verbal communication with the Asset Manager. A record of the verbal contact, with time and date will be noted on the Condition Alert form.
- 3. Required Response Time/Tracking: A log of all Condition Alerts and their status will be kept. A qualified representative of the Operator must visit the site of the designated "Condition", conduct a visual inspection and confirm the general nature and character of the Condition with 24 hours of receipt of notification. An initial response to a non-PIA Condition Alert will be developed within five (5) business days. This response must include a Work Plan that describes the steps to be taken to resolve or correct the problem. The Work Plan can include immediate or short-term safety measures and longer term final repairs, replacements, etc., as may be appropriate. In the event of a PIA Condition Alert, the initial response will be developed and initiated within 24 hours. A record will be maintained of when the temporary and/or final measures have been taken and the danger or potential threat has been effectively addressed.

#### **F. Major Repair, Rehabilitation Or Demolition And Potential Replacement**

- 1. **Recommendations of the Professional Engineer**
  - a. Open discussion to be conducted between the Asset Manager, the Operator, and the Engineering Firm before and after the periodic general inspection
  - b. Engineering Firm to make recommendations for updating long term expectations for major rehabilitations or replacement; and to

provide cost estimates and schedule recommendations for shorter term needs (up to 3 years).

- c. The Asset Manager to provide intended modifications/improvements along with cost estimates for the following year.
  - d. Engineering Firm to summarize the projected capital cost estimates for the following years in the periodic physical assessment report. As may be required, engineer to develop capital cost projections for the "off years," following the Annual Priority Inspection
  - e. Notice to and discussion with Advisory Committee.
2. **Decision making authority.** With respect to required/planned capital expenditures, final decision making rests with Transferee in accordance with approved Annual Capital Budget and Long Term Capital Plan.

#### **G. Changes In Laws And/Or For Operational Changes**

The Operating Standards anticipate there will be some future changes in operating circumstances and/or in the laws that regulate the operations of parking facilities, for instance in terms of minimum access requirements (ADA, etc.), facility provisions for safety, elevator operation and inspection, etc. Appropriate changes in these instances will be made to the Operating Standards from time to time in accordance with the Asset Transfer Agreement, the Lease and the Indenture.

### **ON-STREET OPERATING STANDARDS**

#### **III. General:**

The Operating Standards will provide for maintenance and operation of the On-Street Parking System in a manner to provide a clean, safe and efficient parking system to the public. The Operating Standards will ensure that the Metering Devices are maintained and repaired in a manner to preserve and extend the useful lives of the equipment. Each component of the On-Street Parking System will be capable of being operated and maintained at the expiration of the Term.

The Operating Standards will be developed with the understanding that Asset Manager and Operator will be replacing the existing single unit meters with new single and multi-space meters. For the purpose of this Schedule, on street parking meters refers to a single or multi space device that collects a parking fee and assigns a time limit to the parked vehicle.

The Operating Standards will provide for the following: meter locations, parking meter systems operations plan, meter maintenance and repairs, coordination, enforcement, customer service, signs and markings, meter installation standards and guidelines, parking meter system



records, removal of meter spaces for traffic safety and operation, and other topics, as set forth below.

Subject to available funds and commercial reasonableness, each component of the On-Street Parking System will be capable of being operated and maintained in a First Class Manner at the expiration of the Term.

#### **IV. SPECIFIC PROVISIONS:**

##### **A. Meter Locations**

The Operating Standards will depict the location of parking meters to be operated by Asset Manager and Operator.

##### **B. Parking Meter System Operations Plan**

The Operating Standards will include an on street parking meter system operations plan that describes operations and maintenance. The plan should include:

- Maintenance schedule
- Collection schedule
- Meter records
- Customer Service

##### **C. Meter Maintenance and Repairs**

Routine maintenance will include preventive, cyclical and incidental maintenance, as well as the provision of a maintenance response capability in the event of a minor emergency, etc. The Operating Standards will include a schedule and tracking procedures for routine maintenance which will exhibit a normal standard of care for parking meters. This responsibility will include a regular visual check on conditions and functions as well as a test to assure that the meters are working properly.

The On-Street Operating Standards will include a plan for routine maintenance. The maintenance plan will be one based on a proactive approach and on appropriate response to notices of parking meter maintenance issues that has been observed by staff, the public, or the City. It will include the following:

- Conduct routine inspections of the meter device inventory
- Maintain the meters to the manufacturers' specifications
- Repair broken and malfunctioning meters by the end of the second business day
- Establish the schedule and execute routine preventative maintenance

- Maintain written and electronic maintenance records
- Have a reasonable response time to repair malfunctioning meters
- Provide an annual meter condition report to Transferor

**D. Coordination**

The Operating Standards will provide for coordination between Asset Manager and Operator, Transferor, and the City. On-street metered parking spaces are in the public right of way, which is maintained by the City of Harrisburg Office of City Engineering, Traffic Engineering Department or Commonwealth of Pennsylvania. It is expected that maintenance on the streets and sidewalks containing parking meters will be required from time to time. The Operating Standards will provide for coordination with the maintenance crews and provide access to areas around their parking meters.

**E. Customer Service**

The On-Street Operating Standards will include a section on customer service. Key elements of customer service shall include:

- A system must be developed for handling complaints, questions, and inquiries.
- Providing customers with access to the parking operator via three options:
  - On line via the internet
  - By phone with the option to talk with a customer services representative
  - At the parking operator's office to talk with a customer service representative in person.
- Customer complaints and issues must be logged and records kept of them.
- Employees must be appropriately trained to provide exceptional customer service.
- Each parking meter device shall have an operator name and phone number that customers can call for complaints, questions, or concerns.
- All parking tickets must have the parking operator web site and telephone number
- Customer complaints and concerns will be addressed by the close of the next business day after receiving the complaint.

**F. Signs and Markings**

All regulatory parking and no parking signs and pavement markings associated with the parking meter system will be the sole responsibility of the City of Harrisburg Office of City Engineering, Traffic Engineering Department. The City of Harrisburg Office of City

Engineering, in cooperation with the Commonwealth of Pennsylvania Department of Transportation, is solely responsible for all regulatory, warning, and guide signs on their streets. Asset Manager and Operator shall not change the traffic signs and markings along the City of Harrisburg and/or Commonwealth of Pennsylvania public right of way. If Asset Manager and Operator wish to make a change, it must be coordinated with the City of Harrisburg and Commonwealth of Pennsylvania.

The Operating Standards will provide for installing and maintaining all signs and placards related to the on street parking meters. Examples of such signs might include paid parking hours and signs indicating the location of the meter device. Asset Manager and Operator shall coordinate the meter system signs that are not installed on the meter devices with the City of Harrisburg Office of City Engineering, Traffic Engineering Department.

#### **G. Meter Installation Standards and Guidelines**

On street parking meters installed by Asset Manager and Operator should be coordinated with the City of Harrisburg Office of City Engineering. The following standards will be followed in connection with installation of parking meter devices:

- Single space meter devices shall be located at the front of the parking stall or where the front of the vehicle should be located
- Multi-space meter devices should be installed as near as possible to the center of the parking spaces it will serve
- Multi-space meter devices shall be installed on the same side of the street as the parking stalls
- Adequate signs should be installed to direct parkers to the multi-space meter device
- Multi-space meter devices will operate a maximum of eight (8) spaces; exceptions may be granted by the Transferor
- All parking meter poles will be installed between 0.5 and 1.0 feet from the curb or edge of pavement if no curb exist
- All parking meter poles will comply with ADA laws with regard to height of the device and money/credit card device
- For parking spaces that are striped, the spaces shall be 22 to 26 feet long, except at the ends where they can be 20 feet long

#### **H. Parking Meter System Records**

Asset Manager and Operator shall maintain good records and a database of the on street parking meter system to include:

- Location of the meter device including street, side of street, and city block
- Type of meter device
- Number of spaces per meter device
- Meter device number
- Meter rates (cost per time period and maximum time period allowed)
- Maintenance performed (what was performed and when it was performed)
- Age of meter device and installation date
- Days and hours of operation
- Collection route and schedule

This information will be readily available to the Advisory Committee. An annual report will be provided to the Advisory Committee describing the meter inventory and maintenance that occurred during the previous year. Additionally, Asset Manager and Operator shall provide Transferor quarterly reports on parking meter usage in the areas with advanced technology and/or multi-space devices.

#### **I. Removal of Meter Spaces for Traffic Safety and Operation**

The City of Harrisburg's Office of City Engineering, Traffic Engineering Department has the right to remove metered on street parking spaces for traffic operations, safety, or to reassign the space for other uses like loading zones or bus stops in accordance with Section 6.3 of the Asset Transfer Agreement. Traffic operation issues could include adding turn lanes, creating a pedestrian crosswalk, or creating better sight distance at an intersection or driveway. If the City deems it necessary to remove on street metered parking spaces, it will coordinate the removal with Asset Manager and Operator.

#### **J. Other Topics**

The Operating Standards will cover the following additional topics:

- Bagging Meters for Special Events
- Compliance with Applicable Laws
- Residential Parking Permits
- Emergency Plan
- Equipment Plan
- Safety Plan

- Customer Payments
- Recycling
- Vehicle Use
- Handicap Parking
- Motorcycle Parking
- Staffing
- Parking Meter System Database Requirements
- Hours of Operation
- Incident Reporting Protocol
- Personnel (organizational and staffing chart for meter operations and maintenance)
- Meter Collection Route and Schedule

## **SCHEDULE 3**

### **Enforcement Policies and Procedures**

Enforcement policies and procedures may be modified from time to time to incorporate best practices and emerging technology. The Enforcement Operator's enforcement efforts have the goal of reducing unpaid meters and illegal parking through deterrence within the On-Street Parking System. The Enforcement Operator will implement enforcement activities to ensure compliance within residential permit parking areas.

The Enforcement Operator may utilize handheld technology, including photographic evidence, and license plate recognition technology to support ticket issuance.

#### **Ticket Requirements**

On each infraction, the Enforcement Operator shall indicate the time of the violation, the amount of the overtime parking charge, the place and manner in which such charge shall be paid, and vehicle identification information. The Enforcement Operator may adopt alternative forms of parking tickets based on new technology, such as electronic tickets, to the extent feasible.

#### **Periods Of Stay**

The Enforcement Operator may only issue one ticket for each consecutive separate segment of legal parking time, which time shall be the maximum amount of time allowable for parking in a particular metered zone to a vehicle that has parked in excess of the allowed limit. The Enforcement Operator may increase or decrease the period of stay for all or a portion of the Metered Parking Spaces upon the delivery of written notice of the change to the City.

#### **Infraction Payment Procedure**

The Enforcement Operator and the Asset Manager may create an online payment platform that is fully integrated with the other proposed parking payment systems, including cashless alternatives. The Enforcement Operator and the Asset Manager shall endeavor to provide parking patrons with a commercially reasonable range of payment options.

#### **Enforcement Vehicles**

All enforcement vehicles should be clearly marked and drivers must adhere to all established vehicle traffic safety and parking regulations.

#### **On-Street Parking Enforcement Procedure**

The Enforcement Operator may implement a booting program. The Enforcement Operator may place a boot on a vehicle after not less than three (3) unpaid citations have been incurred. The Enforcement Operator may continue the City's practice of using contractors to tow vehicles, the owners of which fail to make payments or secure administrative adjudication

necessary to have a boot removed from the vehicle within 48 hours of booting. Impound fees collected for vehicles impounded will be collected by the Enforcement Operator. The Enforcement Operator will require payment of all parking infractions for an impounded vehicle prior to its release.

### **Infraction Appeal Adjudication Procedure**

To ensure the consistency of the on-street parking experience for the patrons of the City of Harrisburg's parking system, the Enforcement Operator and the Asset Manager shall rely on the adjudication policies and procedures of the City of Harrisburg program for appeals of citations and related infractions.

### **Broken Meter Appeals**

The Asset Manager and the On-Street Parking Operator shall endeavor to ensure meters are fully operable to a commercially reasonable extent. The Enforcement Operator will handle all complaints related to parking infractions and adjudication where an infraction has been issued on a malfunctioning meter. The Enforcement Operator may adopt the practice of placing a "hold" on disputed infractions accompanied by a written appeal. Pursuant to such practice, while the hold is in place and an investigation of the claim is in process, a disputed infraction will not incur additional penalty. The Enforcement Operator and the Asset Manager will establish a procedure for testing meters and handling appeals.

### **Other Infraction Appeals**

In instances other than a dispute over the operation of a parking meter, such as where there is an allegation that an infraction is in error or it contains erroneous information, a party may contact the Enforcement Operator or its representative online, by phone, or by written means. A representative should review the complaint and advise the appealing party in writing of the decision. If grounds exist for a dismissal of the infraction, the representative may have the power to dismiss the infraction and notify the appealing party. If no resolution is made to the satisfaction of the appealing party, the appealing party may request adjudication.

### **Applicable State Law**

Notwithstanding anything to the contrary, enforcement shall be conducted in accordance with applicable laws of the Commonwealth and these enforcement policies and procedures shall be deemed modified as necessary to comply with such applicable state laws. No approvals are required for such modifications; however, the Enforcement Operator shall promptly provide notice of any such changes to the City and the Advisory Committee.

## **SCHEDULE 4**

### **Competing Parking Area and Metered Parking Spaces**

Maps showing (i) the Competing Parking Area and the existing locations of Metered Parking Spaces, and (ii) the additional proposed Metered Parking Spaces pursuant to Section 6.6 are attached.



# PARKING LOTS, PARKING GARAGES, METERED PARKING SPACES AND COMPETING PARKING AREA





**PROPOSED NEW PARKING METERS**  
 Harrisburg, Pennsylvania

**LEGEND**  
 Proposed Parking Meter Location

## SCHEDULE 5

### Parking Rates and Rate Setting

#### PARKING RATE SCHEDULE

##### Monthly Unreserved Rates by Garage

	Locust	Market Sq	River	Chestnut	City Island Garage and Lot	Fifth	H Univ	Seventh Street Garage and Lot	South	Walnut
Category	High	Medium	Medium	High	City Island	High	Medium	High	South	High
HPA Rate	\$155	\$155	\$155	\$155	\$75	\$155	\$155	\$155	\$155	\$155
1/1/14 Rate	175	170	165	175	100	170	170	170	170	175
1/1/15 Rate	185	180	170	185	105	180	180	180	180	185
1/1/16 Rate	195	190	185	195	115	190	190	190	190	195
1/1/17 Rate	200	195	190	200	120	195	195	195	195	200

##### Monthly Reserved Rates by Garage

	Locust	Market Sq	River	Chestnut	City Island Garage and Lot	Fifth	H Univ	Seventh Street Garage and Lot	South	Walnut
Category	High	Medium	Medium	High	City Island	High	Medium	High	South	High
HPA Rate	\$200	\$200	\$200	\$200	\$200	\$200	\$200	\$200	\$200	\$200

Monthly reserved rates will be 135% of the corresponding unreserved monthly rate, rounded to the nearest \$5/month.

##### Monthly Unreserved Rates by Lot

	Mulberry/Dewberry	10 <sup>th</sup> Street	Mulberry
HPA Rate	NA	\$85	\$95
1/1/14 Rate	NA	100	100
1/1/15 Rate	NA	105	105
1/1/16 Rate	NA	115	115
1/1/17 Rate	NA	120	120

##### Transient Rate Categories by Garage

	Locust	Market	River	Chestnut	City	Fifth	H Univ	Seventh	South	Walnut
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		Sq			Island					
Category	High	Medium	Medium	High	City Island	High	Medium	High	South	High

**Transient Rates**

Hours	HPA		1/1/14 Rates				1/1/15 Rates			
	All	City Island	High	Medium	South	City Island	High	Medium	South	City Island
0.50			\$3.00	\$3.00	\$3.00		\$3.00	\$3.00	\$3.00	
2.00	\$5.00		7.00	7.00	5.00		8.00	8.00	6.00	
3.00	7.00		9.00	9.00	7.00		10.00	10.00	8.00	
4.00	8.00		11.00	11.00	8.00	\$5.00	12.00	12.00	9.00	6.00
5.00	9.00									
10.0			18.00	16.00	16.00		20.00	18.00	18.00	
11.0	16.00									
24.0	20.00	\$5.00	25.00	20.00	20.00	10.00	25.00	20.00	20.00	12.00

**Transient Rates by Lot**

The HPA does not currently charge transient rates at lots. PEDFA will have the right to charge transient rates at lots that do not exceed the transient rates for Medium category garages.

**Meter Rates**

Minutes	HPA		1/1/14 Rates	
	CBD	Other	CBD	Other
10	\$0.25			
15		\$0.25	\$0.75	
30				\$0.75
60	1.50	1.00	3.00	1.50

Current Hours: Rates are in effect Monday – Friday, 8:00 am to 5:00 pm.

New Hours: Meter operation may be expanded up to 11 hours each weekday and Saturday (meters will not be operated on Sundays and Holidays) for the first five years from the date of Closing. Thereafter, the hours and days of operation will not be restricted.

**Meter Enforcement**

	Meter Violation	Late Payment
City Rate	\$14	\$11
Initial Rate	\$30	\$20

Violation and late payment rates are subject to applicable state law, such as 75 Pa.C.S. §3353(a).

Permitted Escalation of Parking Rates

For periods after those specified above, parking rates may be increased in each rate category (e.g. monthly unreserved) up to the greater of 3% or the Index per annum (the "Annual Cap"). Allowable rate increases are cumulative, whether or not the full inflation-related allowance is taken in any year. PEDFA is permitted to establish other reasonable charges for services not identified in this Schedule 5.

PEDFA will be allowed to operate under a dynamic framework that provides for the ability to adjust rates at different garages at different intervals, allows for the creation, changing and collapsing of rate categories, and allows for price differentiation between transient and monthly (reserved, for example) categories.

The Annual Cap applies on an average system-wide basis. For monthly garage rates, average rate means the arithmetic average of monthly rates at all garages. For transient garage rates, average rate means the arithmetic average of the transient all rates at all garages, provided that PEDFA is allowed to expand or collapse rate subcategories (e.g., deleting the 3-4 hour rate, or adding an 8-10 hour rate) so long as the average rate is within the Annual Cap. For meter rates, average rate in a given area (e.g., CBD, non-CBD) means the arithmetic average of the highest per hour charges in the area.

Monthly rates will be rounded to the nearest \$5 per month. Transient rates will be rounded to the nearest \$1.00 per period. Meter rates will be rounded to the nearest \$0.25 per period.

The Parking Enforcement Delegation Agency will have the right to raise future citation rates for meter violations so that citation rates for meter violations at all times equal or exceed 10 times the corresponding 60-minute rate at CBD meters. Citation rates will be rounded to the nearest \$5.

Note: the above rate schedules (and related averages) do not apply to any individual negotiated parking arrangements or contracts, such as the Parking Lease or valet parking.

All limitations and rate restrictions in this Schedule 5 may be exceeded to the extent necessary to achieve compliance with the Rate Covenant and the Prospective Rate Covenant.

## SCHEDULE 6

### Excluded Assets and Excluded Liabilities

#### Excluded Assets

1. **Facility Name:** Mulberry/Dewberry Lot  
**Address:** Mulberry and Dewberry Streets, Harrisburg, PA  
**Space Count:** 30
2. **Facility Name:** City Island Garage and Lots  
**Address:** City Island, Harrisburg, PA  
**Space Count:** 1,395
3. Accounts receivable and all cash in excess of \$1,000,000
4. Chevrolet Tahoe vehicle
5. Reservoir Park Parking Facilities Operating Agreement dated as of October 15, 2000
6. Contents of HPA's Administrative Offices, except coin counting machine, meter-servicing carts, and Dell laptop computer

#### EXCLUDED LIABILITIES

1. Existing HPA debt with associated liens on the Acquired Assets (the "Existing Debt"). The liens on the Acquired Assets associated with the Existing Debt will be satisfied or removed as a condition precedent to the Purchase Agreement so that the Acquired Assets are conveyed free and clear of liens, pledges of parking revenues, covenants, encumbrances and other similar restrictions, other than permitted exceptions agreed to by PEDFA.
2. Pre-existing environmental conditions, Claims, losses, liabilities, fines, costs and expenses of investigation, remediation, or mitigation, including but not limited to the existence of, or prior events associated with, Hazardous Substances and underground conditions, regardless of when discovered, and any release of any Hazardous Substance or breach of Environmental Law with respect to the Parking System to the extent caused by the acts or omissions of the Transferor or the City after the Closing.
3. Any existing payroll-related liabilities, including severance payment, accrued vacation, sick time, pension and other post-employment benefits ("OPEB").
4. Third party obligations unrelated to the Parking Assets, including Civil War Museum parking lot maintenance obligations (Reservoir Park Parking Facilities Operating Agreement).
5. Pending claims and litigation and other HPA liabilities not specifically assumed.

6. Existing labor agreements.
7. Contracted work, change orders and other construction repairs, escrow or completed.
8. Contracts associated with the Mulberry/Dewberry Lot.
9. Stadium Park Permit for City Island (except to any extent subsequently assumed pursuant to the City Island Option).
10. Sixth Amendment to Cooperation Agreement for Downtown Coordinated Parking System (6/1/2000)
11. [Add contracts deleted from Assumed Contracts list]

## SCHEDULE 7

### Available Positions

#### HARRISBURG PARKING AUTHORITY EMPLOYEES

Classification	HPA Hourly Rate	Weekly Hours	Full Time / Part Time	90% of current rate for same or similar position and for employees hired prior to 9/1/2003	Medical insurance coverage
Administrative Assistant	*	37.5	Full Time	*	Yes
Bookkeeper	*	37.5	Full Time	*	Yes
Customer Service	*	37.5	Full Time	*	Yes
Maintenance and Electronics	*	37.5	Full Time	*	Yes
Maintenance and Meters	*	37.5	Full Time	*	Yes

\* Wage rate based on employee hired

*Cashier, security guard/customer service rep, custodian and meter revenue collection positions - the positions will be for the same number of hours but may have different names*

Cashier	\$14.50	40	Full Time	\$13.05	Yes
Cashier	\$14.83	40	Full Time	\$13.35	Yes
Cashier	\$14.21	30	Part Time	\$12.79	None
Cashier	\$14.21	40	Full Time	\$12.79	Yes
Cashier	\$14.83	40.5	Full Time	\$13.35	Yes
Cashier	\$13.89	30	Part Time	\$12.50	None
Cashier	\$13.89	30	Part Time	\$12.50	None
Cashier	\$13.89	30	Part Time	\$12.50	None
Cashier	\$14.50	40.25	Full Time	\$13.05	Yes
Cashier	\$13.89	30	Part Time	\$12.50	None
Cashier	\$13.89	25	Part Time	\$12.50	None
Cashier	\$14.50	32.5	Part Time	\$13.05	None
Cashier	\$14.21	24	Part Time	\$12.79	None
Cashier	\$13.62	30	Part Time	\$12.26	None
Cashier	\$13.62	31.75	Part Time	\$12.26	None
Cashier	\$13.62	20	Part Time	\$12.26	None
Cashier	\$13.62	30	Part Time	\$12.26	None
Cashier	\$12.85	30	Part Time	\$11.57	None
Cashier	\$12.85	17	Part Time	\$11.57	None
Cashier	\$13.43	24	Part Time	\$12.09	None
Cashier	\$12.85	30	Part Time	\$11.57	None
Cashier	\$12.85	0	Part Time	\$11.57	None
Cashier	\$13.70	37.5	Full Time	\$12.33	Yes
Cashier	\$12.87	37.5	Full Time	\$11.58	Yes



Cashier	\$12.87	37.5	Full Time	\$11.58	Yes
Cashier	\$12.61	30	Part Time	\$11.35	None
Cashier	\$11.88	30	Part Time	\$10.69	None
Cashier	\$11.88	37.5	Full Time	\$10.69	Yes
Cashier	\$11.88	30	Part Time	\$10.69	None
Cashier	\$12.85	30	Part Time	\$11.57	None
Cashier	\$11.88	15	Part Time	\$10.69	None
Porter	\$16.57	37.5	Full Time	\$14.91	Yes
Porter	\$16.26	37.5	Full Time	\$14.63	Yes
Porter	\$16.26	37.5	Full Time	\$14.63	Yes
Porter	\$16.26	37.5	Full Time	\$14.63	Yes
Porter	\$16.26	37.5	Full Time	\$14.63	Yes
Porter	\$15.85	20	Part Time	\$14.27	None
Porter	\$15.85	37.5	Full Time	\$14.27	Yes
Porter	\$15.85	37.5	Full Time	\$14.27	Yes
Porter	\$15.64	37.5	Full Time	\$14.08	Yes
Porter	\$15.64	15	Part Time	\$14.08	None
Meter Collection Attendant	\$15.04	15	Part Time	\$13.54	None
Meter Collection Attendant	\$14.34	15	Part Time	\$12.91	None

**CITY OF HARRISBURG PARKING  
ENFORCEMENT EMPLOYEES  
Classification**

	City Hourly Rate	Weekly Hours	Full Part Time	90% of current rate for same or similar position and for employees hired prior to 9/1/2003	
Parking Enforcement On-Street Supervisor	\$17.89	40	Full Time	\$16.10	Yes
Parking Enforcement	\$17.89	40	Full Time	\$16.10	Yes
Parking Enforcement	\$17.89	40	Full Time	\$16.10	Yes
Parking Enforcement	\$17.39	40	Full Time	\$15.65	Yes
Parking Enforcement	\$17.39	40	Full Time	\$15.65	Yes
Parking Enforcement	\$17.39	40	Full Time	\$15.65	Yes
Meter Revenue Collection Spec.	\$13.98	40	Full Time	\$12.58	Yes

**AVAILABLE SUPERVISORY  
POSITIONS  
HARRISBURG PARKING AUTHORITY  
EMPLOYEES**

Facilities Manager	*	37.5	Full Time	*	Yes
Night Manager	*	37.5	Full Time	*	Yes

\* Wage rate based on employee hired

## **SCHEDULE 8**

### **Financial Information**

Harrisburg Parking Authority Fiscal Year Annual Reports, as prepared by CDM Smith, (formerly Wilbur Smith), 2003-2013

Harrisburg Parking Authority, 2012 Approved Budget

Harrisburg Parking Authority, Monthly Treasurer's Reports, December 2010 through June 30, 2013

Coordinated Parking Fund, Audited Financial Statements, 2007-2012

Harrisburg Parking Authority, Audited Financial Statements, 2007-2012

Harrisburg Parking Authority, Memorandum dated September 2012, as prepared by CDM Smith

Harrisburg Parking Authority Monthly Billing Sheets, January 2011 through March 2013

Harrisburg Parking Authority Monthly Sale of Monthly Permits, January 2010 through August 2013

Harrisburg Parking Authority, Gross Revenue and Expenses per Parking Space Statistics, 2010-2012

Harrisburg Parking Authority, Five Year Meter Study, by Route, 2007-2011

City of Harrisburg 2008-2010 TracPark Paid Tickets at Meters Statistics

City of Harrisburg, 2009-2012 Parking Ticket Revenue Statistics

City of Harrisburg, 2009-2011 Paid Unpaid Ticket Statistics May 21, 2012

Harrisburg Parking Authority, Meter Run Information, revised March 22, 2013

Harrisburg Parking Authority, Fiscal Year Monthly Usage by Garage HPA Actual, July 2011 to June 2012

Harrisburg Parking Authority, Length of Stay Statistics, 2011-2012

Harrisburg Parking Authority, Revenue History Report Statistics, 2011-2012

Harrisburg Parking Authority, Monthly Customer Validation Charges 2012

## SCHEDULE 9

### Exceptions to Representations

Section 8.1(i) – Both parties have asserted defaults under existing agreements between Transferor and Harrisburg University relating to the Harrisburg University Garage. These defaults will be resolved by a settlement to be executed before Closing.

- historical non-performance under Reservoir Park Parking Facilities  
Operating Agreement

## SCHEDULE 10

### Right-to-Know Law

a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, ("RTKL") applies to this Contract. For the purpose of these provisions, the term "the Commonwealth" shall refer to the contracting Commonwealth agency.

b. If the Commonwealth needs the Contractor's assistance in any matter arising out of the RTKL related to this Contract, it shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior notice to the Commonwealth.

c. Upon written notification from the Commonwealth that it requires the Contractor's assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor's possession, constituting, or alleged to constitute, a public record in accordance with the RTKL ("Requested Information"), the Contractor shall:

1. Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the Contractor's possession arising out of this Contract that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and

2. Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.

d. If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.

e. The Commonwealth will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth's determination.

f. If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth.

g. The Commonwealth will reimburse the Contractor for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.

h. The Contractor may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall indemnify the Commonwealth for any legal expenses incurred by the Commonwealth as a result of such a challenge and shall hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, the Contractor agrees to waive all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL.

i. The Contractor's duties relating to the RTKL are continuing duties that survive the expiration of this Contract and shall continue as long as the Contractor has Requested Information in its possession.

## **SCHEDULE 11**

### **CLOSING AND POST-CLOSING COOPERATION**

The Parties shall cooperate with each other to ensure the orderly transition of control, operation, management, and maintenance of, and the right to collect Revenues in connection with, the Parking System at the Time of Closing. In order to assure such orderly transition and to provide information and documents related to the operations of the Parking System to the Operator, the Transferor and the City will use commercially reasonable efforts to exercise their rights under existing agreements with service providers. Prior to the Closing, the Transferor and the Operator will develop an information action plan to advise the public, lessees, licensees, and service providers concerning the transition of the Parking System from the Transferor to the Transferee, which plan will include contact information for customer services such as customer information telephone numbers and a customer information web site. Within 180 days after the Closing, all Transferor and City logos on Parking System signage and equipment will be replaced with logos of the Operator.

The Parties will continue to cooperate using commercially reasonable efforts post-Closing to provide a smooth transition of operations, including the exercise of Parking Enforcement Powers and the collection of Parking Violation Revenues. The Parties will continue to cooperate throughout the Term to ensure smooth, efficient and effective operations of the Parking System.

## SCHEDULE 12

### City Payments

Period Ending	City Payments	Rent	Total
12/31/2013	\$ 900,000	\$ 1,100,000	\$2,000,000
12/31/2014	\$ 900,000	\$ 1,100,000	2,000,000
12/31/2015	\$ 1,367,000	\$ 1,133,000	2,500,000
12/31/2016	\$ 1,833,010	\$ 1,166,990	3,000,000
12/31/2017	\$ 1,798,000	\$ 1,202,000	3,000,000
12/31/2018	\$ 1,762,331	\$ 1,238,060	3,000,390
12/31/2019	\$ 2,241,682	\$ 1,275,201	3,516,883
12/31/2020	\$ 1,057,258	\$ 1,313,458	2,370,715
12/31/2021	\$ 1,071,587	\$ 1,352,861	2,424,448
12/31/2022	\$ 1,086,345	\$ 1,393,447	2,479,792
12/31/2023	\$ 1,101,546	\$ 1,435,251	2,536,797
12/31/2024	\$ 1,117,204	\$ 1,478,308	2,595,512
12/31/2025	\$ 1,133,331	\$ 1,522,657	2,655,988
12/31/2026	\$ 1,149,941	\$ 1,568,337	2,718,278
12/31/2027	\$ 1,167,050	\$ 1,615,387	2,782,438
12/31/2028	\$ 1,184,673	\$ 1,663,849	2,848,522
12/31/2029	\$ 1,202,824	\$ 1,713,764	2,916,588
12/31/2030	\$ 1,221,520	\$ 1,765,177	2,986,697
12/31/2031	\$ 1,240,776	\$ 1,818,132	3,058,908
12/31/2032	\$ 1,260,610	\$ 1,872,676	3,133,287
12/31/2033	\$ 1,281,039	\$ 1,928,857	3,209,896
12/31/2034	\$ 1,302,081	\$ 1,986,722	3,288,804
12/31/2035	\$ 1,323,755	\$ 2,046,324	3,370,079
12/31/2036	\$ 1,346,078	\$ 2,107,714	3,453,792
12/31/2037	\$ 1,369,072	\$ 2,170,945	3,540,017
12/31/2038	\$ 1,392,755	\$ 2,236,074	3,628,828
12/31/2039	\$ 1,417,148	\$ 2,303,156	3,720,304
12/31/2040	\$ 1,442,274	\$ 2,372,250	3,814,524
12/31/2041	\$ 1,468,153	\$ 2,443,418	3,911,571
12/31/2042	\$ 1,494,808	\$ 2,516,720	4,011,529
12/31/2043	\$ 1,522,263	\$ 2,592,222	4,114,485
12/31/2044	\$ 1,550,542	\$ 2,669,989	4,220,531
12/31/2045	\$ 1,579,669	\$ 2,750,088	4,329,758
12/31/2046	\$ 1,609,670	\$ 2,832,591	4,442,261
12/31/2047	\$ 1,640,571	\$ 2,917,569	4,558,140
12/31/2048	\$ 1,672,399	\$ 3,005,096	4,677,495
12/31/2049	\$ 1,705,182	\$ 3,095,249	4,800,431
12/31/2050	\$ 1,738,948	\$ 3,188,106	4,927,055
12/31/2051	\$ 1,773,728	\$ 3,283,749	5,057,477
12/31/2052	\$ 1,809,550	\$ 3,382,262	5,191,812
12/31/2053	\$ 1,846,448	\$ 3,483,730	5,330,178

**SCHEDULE 13**

**Reserved**



## SCHEDULE 14

### Advisory Committee Governance

#### Advisory Committee Rules of Governance

I. **Creation of Advisory Committee.** The Advisory Committee is established by the Asset Transfer Agreement to provide input to PEDFA, the Qualified Designee, the Asset Manager, and the Operator with respect to certain matters affecting the Parking System in accordance with the terms of the Asset Transfer Agreement. Capitalized terms used in these Rules have the meaning ascribed to them in the Asset Transfer Agreement. The Asset Manager will be responsible for administering the Advisory Committee.

II. **Committee Members.** The Advisory Committee shall be composed of one representative of each of the Qualified Designee, the Asset Manager, the Operator, HPA, the City's Mayor, the City Council, AGM, the County, and DGS, in each case subject to the limitations of the Asset Transfer Agreement. Each Member shall hold his or her seat on the Advisory Committee until a successor is duly appointed and qualified or until the Member's earlier death, resignation, disqualification or removal by the entity they represent.

III. **Resignation or Removal of Members.** Any Member may resign at any time by notice given in writing or by electronic transmission to the Asset Manager and the Qualified Designee. Such resignation shall take effect at the date of receipt of such notice by the Asset Manager or at such later time as is therein specified. Each party represented on the Committee may replace its representative at any time.

IV. **Powers & Responsibilities.** By an affirmative vote of the Members as set forth under Section VI of these Rules of Governance, the written resolutions of the Advisory Committee shall govern all matters which come before the Advisory Committee.

V. **Meetings.** The Advisory Committee shall meet upon the request of PEDFA, Asset Manager, or Mayor but not less than twice per Operating Year. Meetings of the Advisory Committee may be held on not less than ten (10) days notice (unless waived by all Members) and in the City of Harrisburg (unless a different location is approved by a majority of the Members). Initially, meetings are anticipated to be held at least quarterly.

VI. **Voting.** The vote of a majority of the Members shall be required for any recommendation of the Advisory Committee. A "minority" recommendation will be included if approved by at least three (3) members of the Advisory Committee.

VII. **Reasonable Vote.** In discharging his or her duties on the Committee, the Members shall act in the best interest of the Parking System, Bondholders, and users of the Parking System. In determining what is in the best interest of the Parking System, Bondholders, and users of the Parking System, the Members shall not be required to regard the Party who appointed it as a dominant or controlling interest or factor, but shall give due and reasonable consideration to all factors affecting or related to the Parking System, including, but not limited to: (i) long-term prospects and interests of the Parking

System and its users; (ii) the social, economic, legal, or other effects of any action on the Parking System; (iii) the recommendations, counsel and advice of any Consultant or Engineering Firm appointed in connection with the Asset Transfer Agreement; and (iv) the goal of operating the Parking System to comply with the Rate Covenant and the Prospective Rate Covenant.

VIII. **Scope.** The Advisory Committee shall act in an advisory role to provide input to PEDFA, its Qualified Designee, the Asset Manager, and the Operator in their operation of the Parking System. The Advisory Committee shall review and provide input with respect to the following: (a) any proposed expansion or contraction of the Parking System or its operations; (b) contractual compliance; (c) residential permit parking; (d) parking enforcement; (e) technology and capital improvements; (f) customer service; (g) Operating Standards; (h) other matters specifically mentioned in the Asset Transfer Agreement; and (i) any other matters the Asset Manager desires to discuss with the Advisory Committee.

IX. **Notices.** The Asset Manager shall promptly give notice to all members of the Advisory Committee of all matters to be considered by the Advisory Committee as provided in the Asset Transfer Agreement. The Asset Manager will provide information to Committee members and schedule meetings so the Advisory Committee can timely respond to matters it is to consider. All notices to the Advisory Committee shall be given to the Asset Manager and the Asset Manager shall promptly provide such notices to the members of the Advisory Committee.

**SCHEDULE 15**

**RESERVED**

## SCHEDULE 16

### CITY ISLAND OPTION

The City Island Option will provide for the City Island Garage and an adjacent portion of the City Island Lot to be subdivided via a condominium regime or subdivision and upon exercise, added to the Leased Premises under the Lease. The Stadium Park Permit must be modified to permit the Transferee to assume only those obligations of the City under the Stadium Park Permit that relate to the subdivided portion or condominium units that will be added to the Leased Premises under the Lease and any other obligations the Transferee finds acceptable. The City Island Option will provide for the Transferee to assume such obligations upon exercise of the option. Consideration for the grant of the City Island Option is included in the Acquisition Price. Consideration due to the City and the Transferor upon exercise of the option is the sum of \$100 and the assumption of obligations with respect to the Stadium Park Permit (relating only to the period of time following such assumption). Liability of the Transferee with respect to the assumed obligations must be limited as provided in Sections 2.8 and 18.13 of the Asset Transfer Agreement. The City Island Option will be exercisable beginning January 1, 2015 and not later than December 31, 2020.

## SCHEDULE 17

### HISTORICAL LEVEL OF STREET CLOSURES

#### Parades

##### March:

Saint Patrick's Day Parade - 1 day closure - close Walnut St from Fisher Plaza to N 2nd St; close N 2nd St from Market St to North St; close North St from N 2nd St to Commonwealth  
Meters: both sides complete parade route; no meters from Market St to Walnut St.

##### July:

Pride Parade - 1 day - close North St from Front St to N 2nd St; close N Front St from Forster St to Walnut St (4 hrs).  
Meters: North St from Front St to N 2nd St

##### November:

Holiday Parade - 1 day - close Market St Bridge; close Market St from N Front St to N 2nd St; close N 2nd St from Chestnut St to North St; close North St from 2nd St to Front St; close Front St from Forster St to Market St  
Meters: Market St Front St to N 2nd St  
N 2nd St from Market St to North St (both sides)  
North St from N 2nd St to Front St (both sides)

#### Street Festivals and Fairs

##### May:

Allison Hill Festival - 1 day - close Derry St from 18th to 13th (2hrs); close S 13th St from Derry to Berryhill St (2hrs); close Berryhill St from Crescent St to S 13th St  
No parking Signs: Berryhill St, Cameron St to 13 St

Cinco de Mayo - 1 day - close S 3rd St from Chestnut to Market  
Meters: No Parking - S 3rd St Chestnut to Market

Artsfest - 3-4 days - close N Front St from Forster St to Walnut St  
Meters: Front St from Market St to Chestnut St

Appalachian Brewers - 1 day - close Walnut St from Cameron St to 10th St

##### June:

Brewers Fest - 1 day - close Locust St from N 3rd St to N 2nd St; close N 3rd St from Walnut St to Pine St

Meters: Both sides Locust St 3rd to 2nd  
N 3rd St from Walnut St to Pine St

July:

Bellevue Park Association - 1 day - close Pentwater, Bellevue Rd, Briarcliff Rd, Oakwood Rd, Valley Rd, Northfield Rd, Midland Ln

HBG Jazz Festival - 3-4 days - close N Front St from Forster St to Walnut St  
Meters: All side streets from Walnut St to North St

United Way Trike Race - 1 day - close Market St from Front St to N 2nd St (5hrs)

HBG Mile - 1 day - close N Front St from Maclay St to Forster St

August:

National Night-Out - 1/2 day - close an average of 10 streets every year

Dauphin Co. Parks & Rec - 1 day - close Market St from Front St to N 2nd St  
Meters: Market St from Front St to N 2nd St

Breast Cancer Car Show - 1 day - close N Front St from Forster St to Walnut St; close State St from N Front St to N 2nd St  
Meters: State St from N 2nd St to Front St

September:

Kipona Festival - 3-4 days - close N Front St from Forster St to Walnut St; close State St - 1 day - Front St to N 2nd St (Chili cook-off)  
Meters: All side streets from Locust St to North St

Zembo Car Show - 1 day - close N 3rd St from Division St to Wiconisco St  
Woofstock - 1 day - close N Front St from Forster St to Walnut St

December:

New Year's Eve - 1 day - close N 2nd St from Chestnut St to Walnut  
Meters: both sides Chestnut to Walnut  
Market St from Front St to N 2nd St

Approximately 120-125 Block Parties between May and September; however, Block Parties seldom result in closure of any streets with Metered Parking.

The number and exact nature of parades and street festivals or fairs may change from year-to-year, as well as the particular route of a parade or location of a festival or fair. The agreed upon historical level of parades shall include one additional parade each year in addition to three listed above and shall include a Governor's Inaugural Parade whenever it occurs. The agreed upon level of street festivals/fairs shall include two additional events in addition to the 16 listed above.

Closures for street repairs and repaving are only within the control of the City to some degree and shall only be deemed to exceed the historical level of closures to the extent a particular closure extends beyond physical boundaries reasonably required for such repairs or repaving or extends beyond the period of time reasonably required to effectuate such repairs or repaving.

**SCHEDULE 18**

**FORM OF AUTHORITY NOTE**

**FORM OF PENNSYLVANIA ECONOMIC DEVELOPMENT FINANCING  
AUTHORITY SURPLUS NOTE(S)**

**[\$20,000,000]<sup>2</sup> Surplus Note 1**

**[\$77,000,000]<sup>4</sup> Surplus Note 2**

**[\$100,000,000]<sup>3</sup> Surplus Note 3**

**[\$100,000] Surplus Note 4**

**Issuer:** Pennsylvania Economic Development Financing Authority

**Holder:** Harrisburg Parking Authority

**Effective Date:** \_\_\_\_\_ 1, 2013

**Maturity Date:** December 31, 2053

FOR VALUE RECEIVED, the PENNSYLVANIA ECONOMIC DEVELOPMENT FINANCING AUTHORITY, a public instrumentality of the Commonwealth of Pennsylvania and a public body politic and corporate created and existing under and by virtue of the Constitution and the laws of the Commonwealth of Pennsylvania ("Issuer"), hereby promises to pay to, or upon the order of, the HARRISBURG PARKING AUTHORITY (hereinafter "HPA"), the principal sum of \_\_\_\_\_ (\$ \_\_\_\_\_), as adjusted in accordance with the terms hereof, and reasonable costs of collection of any overdue payment as hereinafter provided.

This Surplus Note (this "Note") is issued under and secured pursuant to that certain Trust Indenture by and between the Issuer and US Bank National Association (the "Trustee"), dated as of December \_\_, 2013 (the "Indenture"). It is expressly understood and agreed that this Note shall be subject to the following terms and conditions:

1. **Purpose.** The principal sum under this Note is to provide payment of a portion of the Acquisition Price (as defined in the Indenture) of the Harrisburg Parking Authority's parking assets.

<sup>2</sup> The Notes 1 and 2 will have an aggregate total principal balance of \$97,000,000 with the split between the two subject to adjustment.

<sup>3</sup> Subject to adjustment as provided in Sections 2.1(a) and (b) of the Asset Transfer Agreement.



2. **Payment of Principal.** Subject to the terms and provisions of the Indenture, the principal sum shall be paid to HPA (or its assignee or transferee pursuant to Section 14 hereof) by the Issuer, beginning on the first business day of November, 2014, and on the first Business Day of each November thereafter, until this Note is paid in full, [FOR NOTES 1 AND 2: from funds available for payment of this Note from the Surplus Fund as provided in Section 5.3(b)(xv) of the Indenture] [FOR NOTE 3: in accordance with Schedule I attached hereto,<sup>4</sup> but subject to the availability of funds for payment of this Note from the Surplus Fund as provided in Section 5.3(b)(xv) of the Indenture][FOR NOTE 4: upon termination of the Lease but subject to the availability of funds for payment of this Note from the Surplus Fund as provided in Section 5.3(b)( ) of the Indenture]. [FOR NOTE 3: Any payments due pursuant to Schedule I but not paid because no or insufficient funds are available in the Surplus Fund under the Indenture shall continue to be payable until funds are available in the Surplus Fund and are paid on this Note]. No interest shall be payable on this Note.
3. **Limitations on Payment of Principal.** In accordance with the Indenture, this Note shall only be payable from amounts available therefore in the Surplus Fund created pursuant to and maintained under the Indenture and to the extent permitted by the Indenture.
4. **Failure to Make a Payment.** To the extent that any scheduled payment under this Note is not made when due because funds are not available in the Surplus Fund under the Indenture, in whole or in part, the amount not paid shall be added to the next year's Principal Payment. Any failure to make a scheduled payment shall not, in and of itself, constitute an Event of Default or default under the Indenture if and to the extent funds are not available to make such payment in accordance with the terms of the Indenture.
5. **Limitations on Issuer.** Until such time as this Note is fully repaid, the Issuer may not sell, assign, or transfer any of the Parking Facilities (as defined in the Indenture) except as permitted under the Indenture and the Lease.
6. **Subordination.** The principal sum of this Note and all other claims under this Note shall be payable solely from amounts deposited into the Surplus Fund created by the Indenture after the payment of amounts due on, and are subordinate to, the: (i) Senior Parking Revenue Bonds (Capitol Region Parking Project), Series A of 2013 (the "Series A Bonds"), consisting of two sub-series, its Senior Parking Revenue Bonds (Capitol Region Parking Project) Sub-Series A-1 of 2013 in the aggregate principal amount of \$ \_\_\_\_\_ (the "Series A-1 Bonds") and its Senior Parking Revenue Bonds (Capitol Region Parking Project) Series A-2 of 2013 (Capital Appreciation Bonds) in the Original Principal Amount (as defined herein) of \$ \_\_\_\_\_ (the "Series A-2 Bonds"), in the aggregate principal amount of \$ \_\_\_\_\_, (ii) its Junior Guaranteed Parking Revenue

<sup>4</sup> Schedule I will be attached to the Surplus Note 3 within 10 days following closing and will be adjusted based upon the final principal balance of the Surplus Note 3 and projected available funds in the Surplus Fund after final determination of debt service on the Parking Bonds.

Bonds (Capitol Region Parking Project) Series B of 2013 (the "Series B Bonds"), consisting of four sub-series; its Junior Guaranteed Parking Revenue Bonds (Capitol Region Parking Project) Sub-Series B-1 of 2013 in the aggregate principal amount of \$ \_\_\_\_\_ (the "Series B-1 Bonds"), its Junior Guaranteed Parking Revenue Bonds (Capitol Region Parking Project) Series B-2 of 2013 (Capital Appreciation Bonds) in the Original Principal Amount of \$ \_\_\_\_\_ (the "Series B-2 Bonds"), its Junior Guaranteed Parking Revenue Bonds (Capitol Region Parking Project) Series B-3 of 2013 (Convertible Capital Appreciation Bonds) in the Original Principal Amount of \$ \_\_\_\_\_ (the "Series B-3 Bonds"), and its Junior Guaranteed Parking Revenue Bonds (Capitol Region Parking Project) Series B-4 of 2013 (Callable Capital Appreciation Bonds) in the Original Principal Amount of \$ \_\_\_\_\_ (the "Series B-4 Bonds"), and (iii) its Junior Insured/Guaranteed Parking Revenue Bonds (Capitol Region Parking Project), Series C of 2013 (the "Series C Bonds"), consisting of three sub-series, its Junior Insured/Guaranteed Parking Revenue Bonds (Capitol Region Parking Project), Series C-1 of 2013 in the aggregate principal amount of \$ \_\_\_\_\_ (the "Series C-1 Bonds"), its Junior Insured/Guaranteed Parking Revenue Bonds (Capitol Region Parking Project), Series C-2 of 2013 (Capital Appreciation Bonds) in the Original Principal Amount of \$ \_\_\_\_\_ (the "Series C-2 Bonds") and its Junior Insured/Guaranteed Parking Revenue Bonds (Capitol Region Parking Project), Series C-3 of 2013 (Convertible Capital Appreciation Bonds) in the Original Principal Amount of \$ \_\_\_\_\_ (the "Series C-3 Bonds"; the Series A Bonds, Series B Bonds and the Series C Bonds, are referred to collectively as the "2013 Bonds"), in accordance with Section 5.3 of the Indenture.

7. **Place, Manner, and Allocation of Payment.** Payments hereunder shall be made to the holder of this Note or a fiscal agent designated in a written direction to the Trustee by such holder. Unless otherwise agreed by the Issuer and HPA, all payments made by the Issuer pursuant to this Note shall be applied first to costs of collection on any amounts past due under this Note, and then to the outstanding balance of this Note.
8. **Principal Repayment.** All payments made by the Issuer on account of the outstanding principal balance hereof shall be contemporaneously noted by the holder of this Note or its designee on Schedule A of this Note. The principal outstanding balance may be prepaid in whole or in part without premium or penalty.

[TO BE INCLUDED IN SURPLUS NOTE 3 ONLY]

9. [Setoff. Issuer shall have the right to setoff against the principal balance of this Note such amounts as permitted under Section 13.3 of the Asset Transfer Agreement.]

[FOR SURPLUS NOTES 1, 2, AND 4]

9. [Reserved]

10. **Miscellaneous Provisions.**

- A. The Issuer waives presentment for payment, demand, notice of nonpayment, notice of dishonor, protest of any dishonor, notice of protest and protest of this Note, and all other notices in connection with the delivery, acceptance, performance, default or enforcement of the payment of this Note, and agrees that

its liability shall not be in any manner affected by any indulgence, extension of time, renewal, waiver or modification granted or consented to by the holder. The Issuer agrees that payment will be made hereunder without setoff [FOR SURPLUS NOTE 3 ONLY: except as provided in Section 9 hereof].]

- B. The principal of this Note constitutes a legal liability of the Issuer payable from amounts deposited into the Surplus Fund to the extent provided in the Indenture.
- C. Until repaid in full, financial statements of the Parking System filed or published by the Issuer shall show as a footnote thereto the amount then unpaid.
- D. Notwithstanding anything herein or in any other Document to the contrary, the obligations, covenants, and agreements of the Issuer pursuant to this Note shall be limited non-recourse obligations of the Issuer, payable solely from the Revenues of the Parking System, shall not constitute a pledge of the faith and credit of the Issuer or of any assets of the Issuer other than Issuer's right, title and interest in and to the Parking System, and HPA shall have no claim against the Issuer for the performance of any obligation or for payment of any amount due pursuant to this Note from any assets or revenues of the Issuer, other than the Revenues.

THE OBLIGATIONS OF THE ISSUER UNDER THIS NOTE ARE LIMITED OBLIGATIONS PAYABLE SOLELY FROM REVENUES AND SUCH OBLIGATIONS SHALL NOT BE DEEMED AN OBLIGATION OF THE COMMONWEALTH OR ANY POLITICAL SUBDIVISION THEREOF. NEITHER THE COMMONWEALTH NOR ANY POLITICAL SUBDIVISION IS NOR SHALL BE OBLIGATED TO MAKE ANY PAYMENTS UNDER THIS NOTE. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE COMMONWEALTH OR ANY POLITICAL SUBDIVISION THEREOF IS PLEDGED TO ANY PAYMENT HEREUNDER. THE ISSUER IS NOT A POLITICAL SUBDIVISION OF THE COMMONWEALTH AND HAS NO TAXING POWER.

- 13. **Entire Agreement.** Except as set forth in the Indenture, This instrument sets forth the entire agreement of the Issuer and HPA with respect to the terms of this Note. This Note may not be amended or modified, unless prior approval is given to such modification or amendment, in writing, by HPA and the Issuer; provided that no such amendment or modification shall have any force or effect until any and all filings and other conditions then required under applicable law have been made or satisfied.
- 14. **Transfer or Assignment.** This Note may be transferred or assigned as permitted by the Indenture and thereafter the assignee or transferee shall have all of the rights of HPA hereunder, including the right to enforce and collect all amounts payable hereunder.
- 15. **Governing Law.** This Note is made and delivered in the Commonwealth of Pennsylvania and shall be governed by and construed and interpreted in accordance with the laws of the Commonwealth of Pennsylvania, including its statutes of limitations but without regard to its conflicts of law rules. This Note shall be binding upon the Issuer, its successors and assigns.

16. **Interpretation.** The Section headings contained in this Note are for reference purposes only and shall not affect in any way the meaning or interpretation of this Note. No provision of this Note shall be construed to require the Issuer, HPA or the Trustee, or any of their respective affiliates or governmental units to take any action which would violate applicable law (whether constitutional, statutory, or common law), rule, or regulation.

IN WITNESS WHEREOF, INTENDING TO BE LEGALLY BOUND HEREBY, the Issuer has caused this Note to be executed by its duly authorized officers and delivered on the Effective Date shown above.

Attest:

PENNSYLVANIA ECONOMIC DEVELOPMENT  
FINANCING AUTHORITY

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_  
Name:  
Title:

**[FOR SURPLUS NOTE 3 ONLY]  
SCHEDULE 1**

**PAYMENT SCHEDULE**

**Amount**

**Due Date**

**SCHEDULE A**

**PENNSYLVANIA ECONOMIC DEVELOPMENT FINANCING AUTHORITY  
SURPLUS NOTE**

**Record of Payment of Principal**

**Payment Obligation:** \$

**Scheduled Maturity  
Date of Loan:** December 31, 2053

<b>Date</b>	<b>Date of Principal Payment</b>	<b>Amount of Principal Paid</b>	<b>Unpaid Principal Balance</b>	<b>Notation Made By</b>



# EXHIBIT "B"



## SCHEDULE 1

### Assets and Assumed liabilities

#### A-1 ASSETS

1. **Facility Name:** Walnut Street Garage  
**Address:** 215 Walnut Street, Harrisburg, PA  
**Space Count:** 1,032
2. **Facility Name:** Chestnut Street Garage  
**Address:** 322-326 Chestnut Street, Harrisburg, PA  
**Space Count:** 1,088
3. **Facility Name:** Fifth Street Garage  
**Address:** 6-14 North Fifth Street, Harrisburg, PA  
**Space Count:** 856
4. **Facility Name:** Locust Street Garage  
**Address:** 214 Locust Street, Harrisburg, PA  
**Space Count:** 628
5. **Facility Name:** Market Square Garage  
**Address:** 34 South 2nd Street, Harrisburg, PA  
**Space Count:** 577
6. **Facility Name:** River Street Garage  
**Address:** 218 North 2nd Street, Harrisburg, PA  
**Space Count:** 850
7. **Facility Name:** Seventh Street Garage & Surface Lot  
**Address:** 801-813 North 7th Street, Harrisburg, PA  
**Space Count:** 1,182 (garage), 152 (parking lot)
8. **Facility Name:** Mulberry Street Parking Lot  
**Address:** 3rd & Mulberry Streets, Harrisburg, PA  
**Space Count:** 85
9. **Facility Name:** 10th & Mulberry Parking Lot  
**Address:** 10th & Mulberry Streets, Harrisburg, PA  
**Space Count:** 128
10. **Facility Name:** South Street Garage  
**Address:** 220 South Street, Harrisburg, PA  
**Space Count:** 736

11. **Facility Name:** Harrisburg University Garage  
**Address:** 326 Market Street, Harrisburg, PA  
**Space Count:** 380
12. **On-Street Metered Parking Spaces**  
**Space Count:** 1,260
13. **City Island Option**
14. **All tangible and intangible owned and used by the Transferor in the operation of the Parking System, but not including any Excluded Assets.**