
PITTSBURGH METERED PARKING SYSTEM
CONCESSION AND SERVICES AGREEMENT

dated as of

_____, 2010

by and among

PUBLIC PARKING AUTHORITY OF PITTSBURGH

CITY OF PITTSBURGH

and

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THIS PITTSBURGH METERED PARKING SYSTEM CONCESSION AND SERVICES AGREEMENT (this “Agreement”) is made and entered into as of this _____ day of _____, 2010 by and among the Public Parking Authority of Pittsburgh, a public body corporate and politic and a parking authority of the Commonwealth of Pennsylvania duly established and existing under Chapter 55 of Title 53 of the Pennsylvania Consolidated Statutes (the “Authority”); the City of Pittsburgh, a municipality and a city of the second class of the Commonwealth of Pennsylvania duly organized and existing under the Constitution and laws of said Commonwealth and the City of Pittsburgh Home Rule Charter (the “City”), and _____, (the “Concessionaire”).

RECITALS

WHEREAS, pursuant to the Motor Vehicle Code, 75 Pa. C.S. §6109(a), and the City of Pittsburgh Home Rule Charter, the City has established a Metered Parking System (as defined herein); and

WHEREAS, pursuant to the Motor Vehicle Code, 75 Pa. C.S. §6109(h)(1), Section 5505(d)(21) of the Parking Authority Law, 53 Pa. C.S. §5505(d)(21), and the Cooperation Agreement (as hereafter defined), the Authority is authorized and required to enforce and administer the Metered Parking System on behalf of the City; and

WHEREAS, pursuant to the City of Pittsburgh Home Rule Charter and that certain ordinance adopted by the City Council of the City on _____, 2010 and attached hereto as Exhibit A (the “Metered Parking System Ordinance”), the City is authorized to enter into the Transaction (as defined herein); and

WHEREAS, pursuant to the Parking Authority Law and that certain resolution adopted by the Board of Directors of the Authority on _____, 2010 and attached hereto as Exhibit B (the “Metered Parking System Resolution”), the Authority is authorized to enter into the Transaction (as herein defined); and

WHEREAS, the City and the Authority desire to engage the Concessionaire to provide the Metered Parking Services, including the operation, maintenance and improvement of the Metered Parking System as described herein; and

WHEREAS, the Concessionaire desires to provide the Metered Parking Services, and to be compensated for provision of the Metered Parking Services and the associated operation of the Concession Metered Parking Spaces (as herein defined) and Reserve Metered Parking Spaces (as herein defined), all as hereinafter provided; and

WHEREAS, the Concessionaire agrees to provide the Metered Parking Services and to operate, maintain and improve the Metered Parking System in accordance with the provisions of this Agreement including the “Operating Standards” (as herein defined); and

WHEREAS, pursuant to the Parking Authority Law, and that certain ordinance adopted by the City Council of the City on _____, 2010 and attached hereto

as Exhibit C (the “Parking Authority Term Ordinance”), the term of the Authority has been extended for a period of fifty (50) years from the date of such Ordinance; and

WHEREAS, the Authority and City have determined that terms and conditions of this Agreement assure that the Metered Parking System will continue to be operated, and the Metered Parking Services will be provided, in a manner that benefits the public and fulfills the public purposes of the Metered Parking System, and that such public benefits and public purposes will be preserved by, among others, (1) requirements that the Metered Parking System be maintained, and the Metered Parking Services be performed, in accordance with the Operating Standards; and (2) reservation by the Authority and City of the Reserved Powers, including the City’s powers to establish and fix the Schedule of Metered Parking Rates as provided in Article 7;

WHEREAS, the rights granted to the Concessionaire pursuant to this Agreement are subject to the reserved police powers and regulatory powers of the City and the Authority with respect to the Metered Parking System;

NOW THEREFORE, for and in consideration of the premises, the mutual covenants, representations, warranties and agreements contained herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the City, the Authority and the Concessionaire covenant and 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:

“AAA” means the American Arbitration Association.

“AAA Rules” means the Commercial Arbitration Rules of the AAA.

“AA-Compensation” has the meaning ascribed thereto in Section 14.1(b).

“AA-Dispute Notice” has the meaning ascribed thereto in Section 14.1(c).

“AA-Notice” has the meaning ascribed thereto in Section 14.1(c).

“AA-Preliminary Notice” has the meaning ascribed thereto in Section 14.1(c).

“Acquisition Cost Limitation” means, for any Reporting Year, an amount of money equal to \$5,000,000, Adjusted for Inflation from the Closing Date to the last Day of the Reporting Year.

“Actual Operating Revenue” means, with respect to a Concession Metered Parking Space and for each Reporting Year or other period of time, the Metered Parking Revenue derived from such Concession Metered Parking Space for that Reporting Year.

“Actual System Operating Revenue” means, for each Reporting Year, the Metered Parking Revenue derived from the Concession Metered Parking Spaces for such Reporting Year.

“Additional Coverages” has the meaning ascribed thereto in Section 13.2(1).

“Adjusted for Inflation” means adjusted by the percentage increase, if any, or decrease, if any, in the Index during the applicable adjustment period.

“Adverse Action” has the meaning ascribed thereto in Section 14.1(a).

“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 10% or more voting or economic interest in such specified Person or controls, is controlled by or is under common control with such specified Person (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), 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).

“Aggregate Revenue Value” means, as of any time, the sum of the Revenue Values of all Concession Metered Parking Spaces and the sum of the Revenue Value Adjustments of all Concession Metered Parking Spaces.

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

“Annual Percentage Adjustment” means (a) for the Reporting Year ending in the year 2011, zero percent (0%); (b) for the Reporting Year ending in 2012, _____ percent (_____%); (c) for the Reporting Year ending in 2013, _____ percent (_____%); (d) for the Reporting Year ending in 2014, _____ percent (_____%); (e) for the Reporting Year ending in 2015, _____ percent (_____%); and (f) for each Reporting Year ending in the year 2016 or any subsequent year, the annual percentage change in the Index for the annual period ending _____ of the preceding Reporting Year.

“Approval”, “Approved” and “Approves” and similar expressions mean approved or consented to by the appropriate Government Party in accordance with the provisions of Section 1.15.

“Arbitration Act” means the Pennsylvania Judicial Code, 42 Pa.C.S. §§ 7301-7320.

“Assignment and Assumption Agreement” has the meaning ascribed thereto in Section 18.9.

“Assumed Liabilities” has the meaning ascribed thereto in Section 3.2(c).

“Audit” and similar expressions mean, with respect to any matter or thing relating to the Metered Parking System, the Metered Parking System Operations or this Agreement, the performance by or on behalf of the City of such reviews, investigations, inspections and audits relating to such matter or thing as the City 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.

“Authority” has the meaning ascribed thereto in the preamble to this Agreement.

“Authority Default” has the meaning ascribed thereto in Section 16.2(a).

“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 Metered Parking System or is reasonably required from time to time for the Metered Parking System Operations.

“Bank Rate” means the 3-Month London Interbank Offered Rate (LIBOR) (or any successor rate thereto) as reported in *The Wall Street Journal* (or any successor thereof).

“Bid Date” means _____, 2010.

“Board” means the Board of Directors of the Authority.

“Business Day” means any day that is neither a Saturday, a Sunday nor a day observed as a holiday by the City, the Commonwealth of Pennsylvania or the United States government nor a day on which banking institutions in the city where the principal corporate trust office of the Fiduciary is located are authorized or required by Law or executive order to close.

“Cash Deposit” has the meaning ascribed thereto in Section 2.3(a).

“Casualty Cost” has the meaning ascribed thereto in Section 13.3(a).

“CE-Dispute Notice” has the meaning ascribed thereto in Section 15.3(c).

“CE-Notice” has the meaning ascribed thereto in Section 15.3(a).

“CE-Preliminary Notice” has the meaning ascribed thereto in Section 15.3(a).

“Chair” means the Chair of the Board of the Authority, or other Authority official to whom the Board shall have delegated authority with respect to this Agreement.

“Change in Control” means, with respect to any Person, whether accomplished through a single transaction or a series of related or unrelated transactions and whether accomplished directly or indirectly, either (i) a change in ownership so that 50% or more of the direct or indirect voting or economic interests in such Person is transferred to a Person or group of Persons acting in concert, (ii) the power directly or indirectly to direct or cause the direction of management and policy of such Person, whether through ownership of voting securities, by contract, management agreement, or common directors, officers or trustees or otherwise, is transferred to a Person or group of Persons acting in concert or (iii) the merger, consolidation, amalgamation, business combination or sale of substantially all of the assets of such Person to the extent that, as a result of such merger, consolidation, amalgamation, business combination or sale, the circumstances described in either clause (i) or (ii) above are satisfied; *provided however*, that notwithstanding anything to the contrary set forth in this definition, (A) clauses (i) and (ii) above shall apply to transactions in shares of a publicly traded company or other transactions involving a publicly traded company only if they cause such company to no longer be a publicly traded company, (B) Transfers of direct or indirect ownership interests in the Concessionaire or the Operator (as applicable) between or among Persons that are Affiliates (including funds or similar entities managed by such Persons) shall not constitute a “Change in Control” for the purposes of this Agreement, (C) Transfers of shares of the Concessionaire or its direct or indirect parent pursuant to an initial public offering on the New York Stock Exchange, NASDAQ, London Stock Exchange or comparable securities exchange shall not constitute a “Change in Control,” (D) Transfers of direct or indirect ownership interest in the Concessionaire by any Equity Participant or its beneficial owner(s) to any Person shall not constitute a “Change in Control” so long as the Equity Participants or their beneficial owner(s) having, in the aggregate, more than 50% direct or indirect ownership interest in the Concessionaire as of the date of this Agreement retain, in the aggregate, more than 50% of the rights to elect directors, officers and managers of the Concessionaire.

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

“City Default” has the meaning ascribed thereto in Section 16.2(b).

“City Directive” means a written order or directive prepared by or on behalf of the City directing the Concessionaire, to the extent permitted hereby, to add or perform work in respect of the Metered Parking System in addition to that provided for in this Agreement; *provided, however*, that no such order or directive may in any event order or direct the Concessionaire to do any act that could reasonably be expected to violate any applicable Law or cause the Concessionaire to fail to be in compliance with this Agreement.

“City’s Option” has the meaning ascribed thereto in Section 18.8(a).

“Claim” means any demand, action, cause of action, suit, proceeding, arbitration, claim, judgment or settlement or compromise relating thereto which may give rise to a right to indemnification under Section 12.1 or 12.2.

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

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

“Closing LOC” has the meaning ascribed thereto in Section 2.3(a).

“Collateral Assignee” means the holder or beneficiary of a Collateral Assignment.

“Collateral Assignee Notice Requirements” means the delivery by a holder of a Collateral Assignment to the City, no later than 10 Business Days after the execution and delivery of such Collateral Assignment by the Concessionaire, of a true and complete copy of the executed original of such Collateral Assignment, together with a notice containing the name and post office address of the holder of such Collateral Assignment.

“Collateral Assignee’s Notice” has the meaning ascribed thereto in Section 18.8(a).

“Collateral Assignment” means any collateral assignment or other security agreement or arrangement (including any agreement or arrangement relating to Metered Parking Revenues) encumbering any or all of the Concessionaire Interest or the shares or equity interests in the capital of the Concessionaire and any cash reserves or deposits held in the name of the Concessionaire, in each case that satisfies all of the conditions in Section 18.1.

“Collateral Assignment Debt” means any bona fide debt (including principal, accrued interest and customary lender or financial insurer, agent and trustee fees, costs, premiums, expenses and reimbursement obligations with respect thereto, and including all payment obligations under interest rate hedging agreements with respect thereto and reimbursement obligations with respect thereto to any financial insurer) or an assignment in connection with a securitization transaction relating to the Metered Parking System and granted to a Person pursuant to an agreement entered into prior to the occurrence of any Adverse Action, Authority Default or City Default or any event of termination, cancellation, rescinding or voiding referred to in Section 16.5 giving rise to the payment of amounts for or in respect of termination under this Agreement. For the purposes of determining Metered Parking System Concession Value, Collateral Assignment Debt shall not include (i) debt from an Affiliate of the Concessionaire or the Operator, unless such debt is on terms consistent with terms that would reasonably be expected from a non-Affiliate lender acting in good faith; (ii) any increase in debt to the extent such increase is the result of an agreement or other arrangement entered into after the Concessionaire was aware (or should have been aware, using reasonable due diligence) of the prospective occurrence of an event giving rise to the payment of the Metered Parking System Concession Value; or (iii) any debt with respect to which the Collateral

Assignee did not provide the City with notice of its Collateral Assignment in accordance in all material respects with the Collateral Assignee Notice Requirements. Notwithstanding anything to the contrary set forth in this definition, except with respect to debt incurred or committed on or prior to the first anniversary of the Closing Date, all of which incurred or committed debt shall be deemed to be Collateral Assignment Debt, Collateral Assignment Debt shall not include any new debt incurred or committed following the first anniversary of the Closing Date (it being understood and agreed by the Parties that any capitalization of interest or accretion of principal or other committed increases on any debt incurred or committed on or prior to the Closing Date shall not constitute new debt) unless (A) the Concessionaire has provided the City with a written appraisal (at the Concessionaire's expense and by an independent third party appraiser described under "Metered Parking System Concession Value") of the fair market value of the Concessionaire Interest at the time of the incurrence or commitment of such new debt, and (B) such appraisal confirms the aggregate amount of Collateral Assignment Debt after giving effect to the incurrence or commitment of any such new debt is not in excess of 80% of the fair market value of the Concessionaire Interest set forth in such appraisal at the time of incurrence or commitment of such new debt *provided* that any capitalization of interest or accretion of principal or other committed increases on any debt set forth in such appraisal shall constitute Collateral Assignment Debt to the extent such debt constitutes Collateral Assignment Debt on the date such appraisal is given; and *provided further* that the Parties agree that notwithstanding the requirements of the foregoing sub-clauses (A) and (B), the amount of Consideration paid at Closing shall be deemed to constitute the fair market value of the Concessionaire Interest for a period of one year after the Closing Date and, as such, no appraisal shall be required within such one year period. The appraisal requirement in the preceding sentence shall not apply to any protective advances made by any Collateral Assignee or advances made by any Collateral Assignee to cure Concessionaire defaults under the Collateral Assignment (regardless of whether entered into on or after the Closing Date) or other financing documents of such Collateral Assignee.

"Compensation Event" means the Concessionaire's compliance with or the implementation of any City Directive or any modified or changed Operating Standard subject to Section 6.3(b), the occurrence of an Adverse Action or the occurrence of any other event that under the terms of this Agreement explicitly requires the payment of Concession Compensation, including under Section 3.12(c), Section 6.3(b), Section 7.1 and Section 7.6.

"Competing Public Parking Facility" has the meaning ascribed thereto in Section 3.12(a).

"Concession Compensation" means compensation payable to the Concessionaire in order to restore the Concessionaire to the same economic position the Concessionaire would have enjoyed if the applicable Compensation Event had not occurred, which compensation shall be equal to the sum of (i) all Losses (including increased operating, financing, capital and maintenance costs but excluding any costs and expenses that the Concessionaire would otherwise expend or incur in order to comply with this Agreement or in the ordinary course of the performance of the Metered Parking System Operations or the carrying on of business in the ordinary course) that are reasonably attributable to

such Compensation Event plus (ii) the actual and estimated net losses (after giving effect, to the extent applicable, to any increase in revenues, including Metered Parking Revenues that are attributable to such Compensation Event) of the Concessionaire's present and future Metered Parking Revenues that are reasonably attributable to such Compensation Event; *provided, however*, that, unless otherwise specified in this Agreement, any claim for Concession Compensation shall be made within 90 Days of the date that the Concessionaire first became aware of such Compensation Event. Any Concession Compensation payable with respect to Losses or lost Metered Parking Revenues that will occur in the future shall be payable at the time such Compensation Event occurs based on a reasonable determination of the net present value of the impact of such Compensation Event (i) over the period ending on _____, 2016 in the case of the Compensation Event described in Section 7.1 and (ii) over the remainder of the Term in the case of any other Compensation Event. If the Concessionaire is required to provide its own capital (whether in the form of debt, equity or otherwise) with respect to compliance with or implementation of a City Directive or a modified or changed Operating Standard (other than a modified Operating Standard described in Section 6.3(a)) or any other Compensation Event, then the Concession Compensation, shall, in addition to the components described above, take into account the actual cost to the Concessionaire of such capital and include a then applicable market-based rate of return thereon (which market-based rate of return shall be reasonably commensurate with then-prevailing rates of return for similar assets and similar or analogous financings in the parking industry and shall take account of the percentage that any Quarterly Settlement Amounts owing to the Concessionaire bear to the Concessionaire's total revenues in determining the appropriate discount rate to use in calculating such rate of return). For purposes of the preceding sentence, the market-based rate of return shall be initially proposed in writing by the Concessionaire to the City or the Authority. The City or the Authority may, in accordance with the provisions of Article 19, dispute that such market-based rate of return proposed by the Concessionaire is reasonably commensurate with then-prevailing rates of return for similar assets and similar or analogous financings in the parking industry.

“Concession Metered Parking Spaces” means, during any period of time, those Metered Parking Spaces, so designated by the City, and included in the Metered Parking System operated and maintained by the Concessionaire pursuant to this Agreement and, as of the Bid Date, being the Metered Parking Spaces listed in Schedule 7 as revised within 10 Days of the Closing Date pursuant to Section 2.2(c).

“Concession Year” means (i) if the Closing Date occurs on the first day of a calendar month, the 12-month period beginning on the Closing Date or (ii) if the Closing Date does not occur on the first day of a calendar month, the period from the Closing Date through the end of the calendar month in which the Closing Date occurred and the next succeeding 12-month period and, in either case of clause (i) or (ii), each succeeding 12-month period and in any case ending on the End Date.

“Concessionaire” has the meaning ascribed thereto in the preamble to this Agreement.

“Concessionaire Default” has the meaning ascribed thereto in Section 16.1(a).

“Concessionaire-Dispute Notice” has the meaning ascribed thereto Section 3.08(c)(i).

“Concessionaire Interest” means the interest of the Concessionaire in the Metered Parking System created by this Agreement and the rights and obligations of the Concessionaire under this Agreement (including the interest described in Section 2.1(b)(i) and the right to receive Concession Compensation).

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

“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.

“Consideration” has the meaning ascribed thereto in Section 2.1.

“Construction Contract” means any construction contract entered into by the Concessionaire related to the Metered Parking System (or subcontracts thereunder).

“Consultant” means (i) a consulting firm having experience in the operation and management of metered parking systems jointly appointed by the Parties and (ii) with respect to a technical dispute under Section 19.7, any individual having experience in the operation and management of metered parking systems that is selected by such consulting firm to perform the professional services required to be performed by the Consultant under Section 19.7.

“Contractor” means, with respect to a Person, any contractor with whom such Person contracts to perform work or supply materials or labor in relation to the Metered Parking System, including any subcontractor of any tier, supplier or materialman directly or indirectly employed pursuant to a subcontract with a Contractor. For the avoidance of doubt, the Operator (if other than the Concessionaire) shall be a Contractor of the Concessionaire.

“Cooperation Agreement” means the Amended and Restated Parking System Cooperation Agreement dated as of _____, by and between the City and the Authority.

“Day” means a calendar day, beginning at 12:01 a.m. in the eastern time zone of the United States coinciding with the calendar day.

“Defending Party” has the meaning ascribed thereto in Section 12.4(c).

“Delay Event” means (i) an event of Force Majeure, (ii) a failure to obtain, or delay in obtaining, any Authorization from a Governmental Authority (*provided* that such failure or delay could not have been reasonably prevented by technical and scheduling or other reasonable measures of the Concessionaire), (iii) the enactment of a new Law or the modification, amendment or change in enforcement or interpretation of a Law (including a change in the application thereof by any Governmental Authority) arising after the Bid Date, (iv) a delay caused by the performance of works (including the activities authorized by Section 3.7) carried out by a Governmental Authority or any utility or railway operator or Person not acting under the authority or direction of, or pursuant to a contract, sublease or any other agreement or arrangement with the Concessionaire or the Operator, or (v) a delay caused by a failure by a Government Party to perform or observe any of its covenants or obligations under this Agreement, which in each case results in or would result in a delay or interruption in the performance by the Concessionaire of any obligation under this Agreement; except to the extent that the consequences of such delay or the cause thereof is specifically dealt with in this Agreement or arises by reason of (A) the negligence or intentional misconduct of the Concessionaire or its Representatives, (B) any act or omission by the Concessionaire or its Representatives in breach of the provisions of this Agreement or (C) except as contemplated by Section 5.1, lack or insufficiency of funds or failure to make payment of monies or provide required security on the part of the Concessionaire. For the avoidance of doubt, a Delay Event shall not include any of the exceptions listed in clauses (i) through (iv) of the definition of Force Majeure.

“Delay Event Dispute Notice” has the meaning ascribed thereto in Section 15.1(e).

“Delay Event Notice” has the meaning ascribed thereto in Section 15.1(e).

“Delay Event Remedy” has the meaning ascribed thereto in Section 15.1(d).

“Department” has the meaning ascribed thereto in Section 11.2(c).

“Depository” means a savings bank, a savings and loan association or a commercial bank or trust company which would qualify as an Institutional Lender, designated by the Concessionaire, that enters into an agreement with the Concessionaire to serve as depository pursuant to this Agreement, *provided* that such Depository shall have an office, branch, agency or representative located in the City of Pittsburgh; *provided, however*, that so long as a Collateral Assignment is in effect, the Depository under Section 13.3 shall be the institution acting as the collateral agent or depository under the financing secured by such Collateral Assignment.

“Designated Senior Person” means such individual who is designated as such from time to time by each Party for the purposes of Article 19 by written notice to the other Party.

“Direct Claim” means any Claim by an Indemnified Party against an Indemnifier that does not result from a Third Party Claim.

“Document” has the meaning ascribed thereto in Section 1.15(c).

“Eligible Investments” means any one or more of the following obligations or securities: (i) direct obligations of, and obligations fully guaranteed by, the United States of America or any agency or instrumentality of the United States of America, the obligations of which are backed by the full faith and credit of the United States of America; (ii) demand or time deposits, federal funds or bankers’ acceptances issued by any Institutional Lender (*provided* that the commercial paper or the short-term deposit rating or the long-term unsecured debt obligations or deposits of such Institutional Lender at the time of such investment or contractual commitment providing for such investment have been rated by a Rating Agency “A” (or the equivalent if confirmed by such Rating Agency) or higher or any other demand or time deposit or certificate of deposit fully insured by the Federal Deposit Insurance Corporation); (iii) commercial paper (including both non-interest-bearing discount obligations and interest-bearing obligations payable on demand or on a specified date not more than one year after the date of issuance thereof) which has been rated by a Rating Agency “A” (or the equivalent if confirmed by such Rating Agency) or higher at the time of such investment; (iv) any money market funds, the investments of which consist of cash and obligations fully guaranteed by the United States of America or any agency or instrumentality of the United States of America, the obligations of which are backed by the full faith and credit of the United States of America and which have been rated by a Rating Agency “A” (or the equivalent if confirmed by such Rating Agency) or higher; and (v) other investments then customarily accepted by the City in similar circumstances; *provided, however*, that no instrument or security shall be an Eligible Investment if such instrument or security evidences a right to receive only interest payments with respect to the obligations underlying such instrument or if such security provides for payment of both principal and interest with a yield to maturity in excess of 120% of the yield to maturity at par.

“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.

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

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

“Environmental Laws” means any Laws applicable to the Metered Parking System or the Metered Parking Services regulating or imposing liability or standards of conduct concerning or relating to (i) protection of human health or the Environment or (ii) the regulation, use of, or exposure to Hazardous Substances.

“Equity Participant” means any Person who holds any shares of capital stock, units, partnership or membership interests, other equity interests or equity securities of the Concessionaire.

“Escrow Agent” means a bank, trust company or national banking association selected by the City to hold the Cash Deposit.

“Excess Value Year” has the meaning ascribed thereto in Section 7.2(b).

“Excluded Liabilities” has the meaning ascribed thereto in Section 3.2(c)(ii).

“Exempt Persons” means Persons exempted by Law from paying Metered Parking Fees otherwise applicable to members of the general public. The term “Exempt Persons” does not include any Person exempted from paying Metered Parking Fees under any provision of Law exempting service vehicles operated by employees or agents of the Concessionaire, the Operator or any Contractor.

“Exempt Persons Annual Excess Loss” means, with respect to any Reporting Year, the amount, if any, by which the sum of (a) Metered Parking Revenues derived from Concession Metered Parking Spaces for such Reporting Year and (b) the Exempt Persons Annual Loss for such Reporting Year exceeds one hundred ten percent (110%) of the Metered Parking Revenues derived from Concession Metered Parking Spaces for such Reporting Year.

“Exempt Persons Annual Loss” means, with respect to any Reporting Year and based upon a statistical sampling of the use of Concession Metered Parking Spaces undertaken and performed by or at the direction of the Concessionaire in accordance with the requirements set forth in Schedule 14, the Metered Parking Revenues, which would have been derived from Concession Metered Parking Spaces but which were not collected by the Concessionaire by virtue of the use of Concession Metered Parking Spaces by Exempt Persons, including Persons claiming to be Exempt Persons (as reasonably determined by the Concessionaire and Approved by the City).

“Existing Revenue” means, with respect to a Concession Metered Parking Space, as of the first Day of any month, the Revenue Value for the preceding month, except in the following cases (i) as of the first Day of the initial Reporting Year and as of the first Day of the first full month following the Closing Date, “Existing Revenue” shall be the Revenue Value as of the Closing Date, (ii) as of _____ 1, 2011 [first day of month following first anniversary of the Closing Date], when there has been no change in the Revenue Value of such Concession Metered Parking Space during the period from the second Day of the preceding Reporting Year to the last Day of the preceding Reporting Year, both dates inclusive, “Existing Revenue” shall be the Actual Operating Revenue for the preceding Reporting Year multiplied by the Initial Reporting Year Multiplier plus all Required Closure Payments for the preceding Reporting Year multiplied by the Initial Reporting Year Multiplier, and (iii) as of the first Day of any Reporting Year commencing on or after _____ 1, 2012, when there has been no change in the Revenue Value of such Concession Metered Parking Space during the period from the second Day of the preceding Reporting Year to the last Day of the

preceding Reporting Year, both dates inclusive, “Existing Revenue” shall be the Actual Operating Revenue for the preceding Reporting Year plus all Required Closure Payments for the preceding Reporting Year.

“Existing System Revenue” means, as of any time, the sum of the Existing Revenue of all Concession Metered Parking Spaces.

“Expected Utilization Adjustment” means the percentage derived from the quotient of (Measured Utilization Rate minus Expected Utilization Rate) divided by Measured Utilization Rate, except that Expected Utilization Adjustment cannot be greater than zero percent (0%) for the period commencing on the Closing Date and ending on _____ 1, 20__ [first day of Reporting Year after fixed increase period].

“Expected Utilization Rate” means the Utilization Rate used for the purposes of assigning Revenue Value pursuant to Article 7, calculated by the City based upon the then current Metered Parking Fee, Period of Operation and Period of Stay, taking into account, where relevant, any comparable Metered Parking Spaces, with such information regarding comparable Metered Parking Spaces to be provided by the Concessionaire.

“Facilities Agreement” means the Pittsburgh Parking Facilities System Concession and Lease Agreement dated as of _____, 2010, by and among the City, the Authority and the Concessionaire.

“Fiduciary” means the bank, trust company or national banking association appointed by the City to act as the fiduciary under the Metered Parking Revenues Custody Agreement.

“Force Majeure” means any event beyond the reasonable control of the Concessionaire that delays, interrupts or limits the performance of the Concessionaire’s obligations hereunder or the Concessionaire’s use of the Metered Parking System, 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, interference by civil or military authorities, condemnation or confiscation of property or equipment by any Governmental Authority, nuclear or other explosion, radioactive or chemical contamination or ionizing radiation, fire, tornado, flooding, earthquake or other natural disaster, riot or other public disorder, epidemic, quarantine restriction, strike, labor dispute or other labor protest, 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 intentional misconduct of the Concessionaire or its Representatives, (ii) any act or omission by the Concessionaire or its Representatives in breach of the provisions of this Agreement, (iii) except as contemplated by Section 5.1, lack or insufficiency of funds or failure to make payment of monies or provide required security on the part of the Concessionaire or (iv) any strike, labor dispute or other labor protest involving any Person retained, employed or hired by the Concessionaire or its Representatives to supply materials or services for or in connection with the Metered Parking System Operations or any strike, labor dispute or labor protest pertaining to the Concessionaire that is not of general application that is caused by or attributable to any

act (including any pricing or other practice or method of operation) or omission of the Concessionaire or its Representatives.

“Full Utilization Amount” means, with respect to a Concession Metered Parking Space and during a particular measurement period, the Metered Parking Revenues to be derived from the operation of such Concession Metered Parking Space during such measurement period based upon the assumptions that (i) such Concession Metered Parking Space is utilized for the parking of motor vehicles at all times during each Period of Operation during the measurement period, (ii) the same motor vehicle is parked in the Concession Metered Parking Space during each Period of Stay for the maximum permitted time and (iii) each Metered Parking Fee is paid with respect to the use of such Concession Metered Parking Space.

“Government Parties” means the City and the Authority.

“Government Party” means the City or the Authority.

“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.

“Hazardous Substance” means any solid, liquid, gas, odor, heat, sound, vibration, 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” means any Person entitled to indemnification under this Agreement.

“Indemnifier” means any Party obligated to provide indemnification under this Agreement.

“Indemnity Payment” has the meaning ascribed thereto in Section 12.7.

“Index” means the “Consumer Price Index – U.S. City Average for all Urban Consumers, All Items Index” (not seasonally adjusted) as published by the U.S. Department of Labor, Bureau of Labor Statistics; *provided, however*, 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 Metered Parking System Operations, including (i) income statements, balance sheets, statements of cash

flow and changes in financial position, details regarding Metered Parking Revenues derived from Metered Parking System Operations, operating income, expenses, capital expenditures and budgeted operating results relating to the Metered Parking System Operations, (ii) all certificates, correspondence, data (including test data), documents, facts, files, information, investigations, materials, notices, plans, projections, records, reports, requests, samples, schedules, statements, studies, surveys, tests, test results, parking information (including volume counts, classification counts, and vehicle jurisdiction data) analyzed, categorized, characterized, created, collected, generated, maintained, processed, produced, prepared, provided, recorded, stored or used by the Metered Parking System, the Concessionaire or any of its Representatives in connection with the Metered Parking System or the Metered Parking System Operations and (iii) proper, complete and accurate books, records, accounts and documents of the Concessionaire relating to the Metered Parking System Operations, including any Information that is stored electronically or on computer-related media; *provided, however*, that nothing in this Agreement shall require the disclosure by any Party of Information that is protected by attorney-client or other legal privilege based upon an opinion of counsel reasonably satisfactory to the other Parties or acquired by a Party subject to a confidentiality agreement.

“Initial Period” means the period from the Closing Date to and including March 31, 2011 [end of first quarter].

“Initial Period Percentage” means the percentage obtained by dividing the number of Days in the Initial Period by 365.

“Initial Reporting Year Multiplier” means the fraction the numerator of which is 365 and the denominator of which is the number of Days in the Reporting Year commencing on the Closing Date and ending on December 31, 2011 [end of first full year Reporting Period].

“Initial Revenue Value” means the Revenue Value of each Concession Metered Parking Space as of the Bid Date, as set forth in Schedule 10 as revised within 10 Days of the Closing Date pursuant to Section 2.2(c).

“Initial Schedule of Parking Fees” means the fee schedule for Metered Parking Spaces set forth in Schedule 9.

“Institutional Lender” means (a) the United States of America, any state thereof or any agency or instrumentality of either of them, any municipal agency, public benefit corporation or public authority, advancing or insuring mortgage loans or making payments which, in any manner, assist in the financing, development, operation and maintenance of projects, (b) any (i) savings bank, savings and loan association, commercial bank, trust company (whether acting individually or in a fiduciary capacity) or insurance company organized and existing under the laws of the United States of America or any state thereof, (ii) foreign insurance company or commercial bank qualified to do business as an insurer or commercial bank as applicable under the laws of the United States (if such qualification is necessary in connection with the acquisition of Collateral Assignment Debt), (iii) pension fund, foundation or university or college or

other endowment fund or (iv) investment bank, pension advisory firm, mutual fund, investment company or money management firm, (c) any “qualified institutional buyer” under Rule 144(A) under the Securities Act or any other similar Law hereinafter enacted that defines a similar category of investors by substantially similar terms or (d) any other financial institution or entity designated by the Concessionaire and Approved by the City (*provided* that such institution or entity, in its activity under this Agreement, shall be acceptable under then current guidelines and practices of the City); *provided, however*, that each such entity (other than entities described in clause (c) of this definition) or combination of such entities if the Institutional Lender shall be a combination of such entities shall have individual or combined assets, as the case may be, of not less than \$200,000,000, which shall include, in the case of an investment or advisory firm, assets controlled by it or under management.

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

“Letter of Credit” means an irrevocable, unconditional, commercial letter of credit, in favor of the City, in form and content reasonably acceptable to the City, payable in U.S. dollars upon presentation of a sight draft and a certificate confirming that the City has the right to draw under such letter of credit in the amount of such sight draft, without presentation of any other Document, which letter of credit (i) is issued by a commercial bank or trust company that is a member of the New York Clearing House Association and that has a current credit rating of A+ or better by Standard & Poor’s Ratings Services and an equivalent credit rating by another Rating Agency (or an equivalent credit rating from at least two nationally recognized Rating Agencies if the named Rating Agency ceases to publish ratings) (or such other commercial bank or trust company reasonably acceptable to the City and Approved by the City prior to the submission of the letter of credit), and (ii) provides for the continuance of such letter of credit for a period of at least one year or as otherwise provided in this Agreement. The office for presentment of sight drafts specified in the Letter of Credit shall be located at a specified street address within the Commonwealth of Pennsylvania or other location acceptable to the City. For the avoidance of doubt, the obligations of the account party during the Term to reimburse the issuer for draws under the Letter of Credit may be secured by a Collateral Assignment.

“Loss” 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.

“M.B.E.” means minority owned business enterprise.

“Material Adverse Effect” means a material adverse effect on the business, financial condition or results of operations of the Metered Parking System taken as a whole; *provided, however*, that no effect arising out of or in connection with or resulting from any of the following shall be deemed, either alone or in combination, to constitute or contribute to a Material Adverse Effect: (i) general economic conditions or changes therein; (ii) financial, banking, currency or capital markets fluctuations or conditions

(either in the United States or any international market and including changes in interest rates); (iii) conditions affecting the financial services or parking industries generally; (iv) any existing event or occurrence of which the Concessionaire has actual knowledge as of the Bid Date; (v) any action, omission, change, effect, circumstance or condition contemplated by this Agreement other than the exercise of any Reserved Power, or attributable to the execution, performance or announcement of this Agreement or the transactions contemplated hereby (except for any litigation relating thereto or to this Agreement (or the matters contemplated herein)); and (vi) negligence, intentional misconduct or bad faith of the Concessionaire or its Representatives.

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

“Measured Utilization Rate” means, with respect to a Concession Metered Parking Space and as of the first Day of a Reporting Year commencing with the second Reporting Year, the percentage obtained by dividing the Metered Parking Revenues derived from the operation of such Concession Metered Parking Space during the previous Reporting Year by the Full Utilization Amount of such Concession Metered Parking Space for such measurement period (which shall not include any period of time when the Concession Metered Parking Space was the subject of a Required Closure or the Metering Device for such Concession Metered Parking Space was not operating).

“Meter Account” means the Meter Account of the Authority established and maintained pursuant to the Parking Authority Law with respect to Metered Parking Spaces.

“Metered Parking Fee” means the fee established by the City, and revised from time to time, as consideration for the privilege of parking a motor vehicle.

“Metered Parking Revenues” means, during the Term, the revenues derived from Metered Parking Fees collected by the Concessionaire from the operation of Concession Metered Parking Spaces and Reserve Metered Parking Spaces.

“Metered Parking Revenues Custody Agreement” means the agreement by and among the Concessionaire, the City, the Authority and the Fiduciary in substantially the form attached hereto as Exhibit D.

“Metered Parking Services” means the services to be provided by the Concessionaire as grantee of the concession under this Agreement.

“Metered Parking Spaces” means those spaces or places on streets or in the public way that the City designates from time to time as parking spaces or places where, during certain periods of time, the City requires the payment of a Metered Parking Fee for parking a motor vehicle at that space or place for a limited period of time and such designation is effective for all purposes of this Agreement notwithstanding that Exempt Persons (such as Persons with disabilities) using that parking space or place may be exempted from paying the Metered Parking Fee otherwise applicable to members of the general public.

“Metered Parking System” means the Metering Devices, supporting structures, computer systems and software used in connection with the administration of Concession Metered Parking Spaces and Reserve Metered Parking Spaces and the collection of Metered Parking Fees therefrom as described on Schedule 5, and all improvements 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 Concession Metered Parking Spaces and Reserve Metered Parking Spaces (including all Metering Devices but excluding any interest in the streets, sidewalks, paving or similar real property).

“Metered Parking System Assets” means, (i) as of the time immediately prior to the Time of Closing, the personal property of the City used in connection with operations of the Metered Parking System set forth on Schedule 4 and (ii) from and after the Time of Closing, the personal property of the Concessionaire or the Operator used in connection with the operations of the Metered Parking System.

“Metered Parking System Concession Value” means, at any given date, the fair market value of the Concessionaire Interest at the time of the occurrence of the relevant Adverse Action, Authority Default or City Default or any event of termination, cancellation, rescinding or voiding referred to in Section 16.5 (but excluding the effect of such Adverse Action, Authority Default or City Default or such other event referred to in Section 16.5), as determined pursuant to a written appraisal by an independent third party appraiser that is nationally recognized in appraising similar assets and that is acceptable to the City and the Concessionaire; *provided, however*, that the Metered Parking System Concession Value shall in no event be less than the amount of all Collateral Assignment Debt on the End Date. If the Parties fail to agree upon such a single appraiser within 30 Days after a Party requests the appointment thereof, then the City and the Concessionaire shall each appoint an independent third party appraiser and both such appraisers shall be instructed jointly to select a third independent third party appraiser to make the appraisal referred to above. The City shall pay the reasonable costs and expenses of any appraisal.

“Metered Parking System Contracts” means the agreements to which the City is a party relating to the operations of the Metered Parking System that are set forth on Schedule 1.

“Metered Parking System Operations” means (i) the operation, management and maintenance of the Metered Parking System and (ii) all other actions relating to the Metered Parking System that are performed by or on behalf of the Concessionaire pursuant to this Agreement.

“Metered Parking System Ordinance” has the meaning ascribed thereto in the recitals to this Agreement.

“Metering Devices” means, with respect to the Concession Metered Parking Spaces and the Reserve Metered Parking Spaces, 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 Metered Parking System Operations.

“Monthly System in Service Percentage” means, for any month, the System in Service Percentage as of the first Day of the month.

“New Agreement” has the meaning ascribed thereto in Section 18.5(a).

“Notice Period” has the meaning ascribed thereto in Section 12.4(b).

“Offsets” has the meaning ascribed thereto in Section 12.11(a).

“Operating Agreement” means any material agreement, contract or commitment to which the Concessionaire is a party relating to the Metered Parking System Operations as in force from time to time (including any warranties or guaranties) but excluding any Collateral Assignment and any finance documents related thereto.

“Operating Agreements and Plans” has the meaning ascribed thereto in Section 3.14.

“Operating Standards” means the standards, specifications, policies, procedures and processes that apply to the operation of, maintenance of, rehabilitation of and capital improvements to, the Metered Parking System set forth in Schedule 3, including any plans submitted by the Concessionaire to the City or the Authority as required therein. To the extent that any term or provision set forth in Schedule 3 or incorporated by reference in Schedule 3 conflicts with any term or provision specified in this Agreement, then such term or provision of this Agreement shall govern and shall supersede any such conflicting term or provision.

“Operator” has the meaning ascribed thereto in Section 3.3.

“Other Metered Parking Spaces” means Metered Parking Spaces that are not Concession Metered Parking Spaces or Reserve Metered Parking Spaces.

“Parking Authority Law” means (i) prior to the termination of the Authority, Chapter 55 of Title 53 of the Pennsylvania Consolidated Statutes, commonly known as the “Parking Authority Law” and (ii) from and after the termination of the Authority, those provisions of Laws of the Commonwealth of Pennsylvania relating to the City as successor to the Authority.

“Parking Taxes” means taxes imposed on customers of the Metered Parking System or the operation of the Metered Parking System by any Governmental Authority on the privilege of parking a motor vehicle, but not including Taxes of general application such as a general sales tax, or any other fee or additional charge imposed on customers of the Metered Parking System that is added to the Metered Parking Fee or included as part of the Metered Parking Fee to the extent that such fee or charge must be remitted to the City or the Authority or to another political subdivision at the direction of the City or the Authority.

“Party” means a party to this Agreement and “Parties” means all of them.

“Pennsylvania Political Subdivisions Tort Claims Act” means 42 Pa.C.S. §§8541-8564.

“Period of Operation” means, with respect to each Metered Parking Space, the Days and the period or periods of time during each Day that the City permits the parking of a motor vehicle in that Metered Parking Space and requires the payment of a Metered Parking Fee for use of that Metered Parking Space.

“Period of Stay” means, with respect to each Metered Parking Space, the period or periods of time that the same motor vehicle may remain continuously parked in such Metered Parking Space.

“Permitted City Encumbrance” means, with respect to the Metered Parking System: (i) the Concessionaire Interest; (ii) any Encumbrance that is being contested, or being caused to be contested, by a Government Party in accordance with Section 3.5(b) (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 Metered Parking System or a Government Party’s performance of any of its rights or obligations hereunder, and either (A) not delinquent or (B) which are being contested, or are being caused to be contested, by a Government Party in accordance with Section 3.5(b) (but only for so long as such contest effectively postpones enforcement of any such Encumbrance); (iv) any easement, covenant, condition, right-of-way, servitude, or any zoning, building, environmental, health or safety Law relating to the use or operation of the Metered Parking System (or other similar reservation, right and restriction) or other defects and irregularities in the title to the Metered Parking System that do not materially interfere with the Metered Parking System Operations or the rights and benefits of the Concessionaire under this Agreement or materially impair the value of the Concessionaire Interest; (v) the Reserved Powers; (vi) the police and regulatory powers of the Commonwealth of Pennsylvania with respect to State Roads; (vii) the police and regulatory powers of Allegheny County, Pennsylvania; (viii) any right reserved to or vested in any Governmental Authority (other than the City or the Authority) by any statutory provision or under common law (it being understood and agreed that nothing in this clause (viii) shall limit or otherwise affect the Authority’s obligations, the City’s obligations or the Concessionaire’s rights hereunder); (ix) any other Encumbrance permitted hereunder; (x) any Encumbrances created, incurred, assumed or suffered to exist by the Concessionaire or any Person claiming through it; (xi) any rights reserved to or vested in the City or the Authority by any statutory provision (it being understood and agreed that nothing in this definition shall limit or otherwise affect the Authority’s obligations, the City’s obligations or the Concessionaire’s rights hereunder); and (xii) any amendment, extension, renewal or replacement of any of the foregoing.

“Permitted Concessionaire Encumbrance” means, with respect to the Concessionaire Interest: (i) any Encumbrance that is being contested in accordance with Section 3.5(a) (but only for so long as such contest effectively postpones enforcement 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 Metered Parking System Operations and either (A) not delinquent or (B) which are being contested by the Concessionaire in accordance with Section 3.5(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 Metered Parking System or the Concessionaire's performance of any of its rights or obligations hereunder, and either (A) not delinquent or (B) which are being contested by the Concessionaire in accordance with Section 3.5(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 Collateral Assignment and any other Encumbrance 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 Metered Parking System; (vii) any Encumbrances created, incurred, assumed or suffered to exist by the City, the Authority or any Person claiming through them; and (viii) any amendment, extension, renewal or replacement of any of the foregoing. No Permitted Concessionaire Encumbrance shall be permitted to attach to any part of the public right of way.

“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.

“Quarter” means (i) the Initial Period and (ii) on and after _____ 1, 2011, each of the three-month periods in a Reporting Year ending respectively on the last Days of _____, _____, _____ and _____ of that Reporting Year.

“Quarterly Settlement Amount” means, (i) for any Quarter other than the Initial Period, the sum of (a) any Required Closure Payments accrued in that Quarter plus (b) [twenty-five percent (25%) multiplied by the Settlement System Revenue Value multiplied by (one plus the Annual Percentage Adjustment) multiplied by (one minus the Quarterly System in Service Percentage)]; and (ii) for the Initial Period, the sum of (a) any Required Closure Payments accrued in that Quarter plus (b) [the Initial Period Percentage of the Settlement System Revenue Value multiplied by (one plus the Annual Percentage Adjustment) multiplied by (one minus the Quarterly System in Service Percentage)].

“Quarterly System in Service Percentage” means, for any Quarter, the simple average of each of the Monthly System in Service Percentages for that Quarter.

“Rate to Fine Multiple” means, with respect to any Concession Metered Parking Space, the amount of the fine imposed for a parking violation divided by the hourly Metered Parking Fee with respect to such Concession Metered Parking Space.

“Rate to Fine Multiple Factor” means the adjustment (if any) to the Revenue Value of a Concession Metered Parking Space required by Section 7.8(e).

“Rating Agency” means any of Standard & Poor’s Corporation, Moody’s Investors Service, Inc. or Fitch Ratings, Inc. or any similar entity or any of their respective successors.

“Regular Rate Adjustment” means any revision in the Metered Parking Fee for a Concession Metered Parking Space that (i) decreases the Metered Parking Fee, or (ii) during the period from the Closing Date to and including December 31, 2015 increases the Metered Parking Fee in accordance with and by no more than the Initial Schedule of Parking Fees or (iii) after December 31, 2015 increases the Metered Parking Fee to a Metered Parking Fee that is no more than \$0.25 per hour greater than the Metered Parking Fee for such Concession Metered Parking Space that was in effect on December 31, 2015, Adjusted for Inflation to the date the revised Metered Parking Fee takes effect, or if such Concession Metered Parking Space was not designated as a Concession Metered Parking Space on December 31, 2015, then the date such Concession Metered Parking Space was so designated, Adjusted for Inflation to the date the revised Metered Parking Fee takes effect.

“Remaining Amortized Value” means an amount of money equal to the Consideration, Adjusted for Inflation from the Closing Date to the Reversion Date, multiplied by a fraction the numerator of which is the number of Days to elapse from the Reversion Date established as a result of the Concessionaire’s election to terminate this Agreement pursuant to Section 14.3(e) to _____, 20__ (or such later date if the Term has been extended pursuant to Section 15.1(d) and the denominator of which is the number of Days from the Closing Date to _____, 20__ (or such later date if the Term has been extended pursuant to Section 15.1(d)).

“Replacement Letter of Credit” has the meaning ascribed thereto in Section 16.3(c).

“Reportable Quantity” means a release of a Hazardous Substance in an amount greater than a reportable quantity as defined under an applicable Environmental Law or which otherwise required notification to a Governmental Authority, or which is likely to result in the imposition of liability for remediation, personal injury, property damage, or natural resource damage.

“Reporting Year” means each annual period from the Closing Date to the End Date, except that the first Reporting Year shall be a period commencing on the Closing Date and ending on December 31, 2011 and the last Reporting Year shall be a partial Reporting Year commencing January 1 of such Reporting Year and ending on the End Date.

“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 and any professional advisor, consultant or engineer designated by such Person as its “Representative.”

“Required Closure” means an interruption to or the suspension of Metered Parking System Operations by the City or the Authority with respect to a Concession Metered Parking Space during the Period of Operation of such Concession Metered Parking Space established by the City due to street closures, the closure of a street to vehicular traffic, emergency parking bans, weather related closures, flood related closures, public safety closures, sidewalk closures related to building construction, sidewalk construction or repair, street construction or repair, utility work and similar activities.

“Required Closure Allowance” means with respect to a particular Concession Metered Parking Space and a particular Reporting Year, six percent (6%) of the number of Days during such Reporting Year that such Concession Metered Parking Space was a designated Concession Metered Parking Space for Metered Parking System Operations, and based upon the assumption that such Concession Metered Parking Space will continue to be a Concession Metered Parking Space for the remainder of such Reporting Year.

“Required Closure Payment” means, with respect to a Concession Metered Parking Space and for the Quarter during which the Required Closure Allowance for the Reporting Year is first exceeded and for each subsequent Quarter during the Reporting Year, an amount of money equal to twenty-five percent (25%) of the weighted average Revenue Value of such Concession Metered Parking Space during the Reporting Year multiplied by a fraction the numerator of which is the number of Days in such Quarter that such Concession Metered Parking Space was closed as a result of a Required Closure after the date the Required Closure Allowance for such Reporting Year was fully applied and the denominator of which is the number of Days that such Concession Metered Parking Space was so designated during such Quarter as a Concession Metered Parking Space for Metered Parking System Operations, all based upon the assumption that such Concession Metered Parking Space will continue to be a Concession Metered Parking Space with its then current Revenue Value for the remainder of such Reporting Year.

“Required Coverages” has the meaning ascribed thereto in Section 13.1.

“Reserve Metered Parking Spaces” means those Metered Parking Spaces so designated by the City that the Concessionaire operates and maintains on behalf of the City pursuant to this Agreement (and, as of the Bid Date being the Metered Parking Spaces, if any, listed in Schedule 8) and with respect to which the City or the Authority is paid the net Metered Parking Revenues.

“Reserved Powers” means the exercise by the City or the Authority of those police and regulatory powers with respect to Metered Parking Spaces, including Concession Metered Parking Spaces and Reserve Metered Parking Spaces, and the

regulation of traffic, traffic control and the use of the public way including the exclusive and reserved rights of the City or the Authority to (i) designate the number and location of Metered Parking Spaces and to add and remove Metered Parking Spaces; (ii) establish and revise from time to time the schedule of Metered Parking Fees for the use of Metered Parking Spaces; (iii) establish and revise from time to time the Periods of Operation and Periods of Stay of Metered Parking Spaces; (iv) establish a schedule of fines for parking violations; (v) administer a system for the adjudication and enforcement of parking violations and the collection of parking violation fines and (vi) establish and administer peak period pricing, congestion pricing or other similar plans.

“Reserved Powers Action Date” has the meaning ascribed thereto in Section 7.4.

“Reserved Powers Adverse Action” has the meaning ascribed thereto in Section 14.3(b).

“Reserved Powers Adverse Action Compensation” has the meaning ascribed thereto in Section 14.3(a).

“Reserved Powers System Impact” means one minus (Aggregate Revenue Value divided by Existing System Revenue).

“Restoration” has the meaning ascribed thereto in Section 13.3(a).

“Restoration Funds” has the meaning ascribed thereto in Section 13.3(a).

“Revenue Bonds” means the following outstanding debt obligations of the Authority: the \$13,625,000 principal amount of Parking System Revenue Bonds, Refunding Series of 2002; the \$6,079,665 principal amount of Parking System Revenue Bonds, Series A of 2005; the \$39,224,244.90 principal amount of Parking System Revenue Bonds, Series B of 2005; the \$34,515,000 principal amount of Parking System Revenue Bonds, Refunding Series A of 2005; and the \$1,355,000 principal amount of Parking System Revenue Bonds, Refunding Series B of 2005.

“Revenue Value” means, on any particular date or for any period of time, with respect to each Concession Metered Parking Space, the value of such Concession Metered Parking Space computed and determined pursuant to Schedule 6, as said value and Schedule may be adjusted pursuant to Section 7.8.

“Revenue Value Adjustment” means on the first day of each Reporting Year and with respect to a Concession Metered Parking Space, the value computed and determined pursuant to Schedule 6, as said value and Schedule may be adjusted pursuant to Section 7.7 and Section 7.8.

“Reversion Date” means the Business Day immediately following the End Date.

“Right-to-Know Law” means the Pennsylvania Right-to-Know Law, Act of February 14, 2008, P.L. 6, No. 3, as amended, 65 P.S. §67.101 *et seq.*

“RP-Dispute Notice” has the meaning ascribed thereto in Section 14. 3(d).

“RP-Notice” has the meaning ascribed thereto in Section 14. 3(d).

“RP-Preliminary Notice” has the meaning ascribed thereto in Section 14.3(d).

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

“Securities Act” means the United States Securities Act of 1933, as amended.

“Settlement Credit” has the meaning ascribed thereto in Section 7.5(b).

“Settlement System Revenue Value” means (i) on or prior to _____, 2011 [Last Day of First Full Reporting Year], Initial Revenue Value, (ii) on any date from _____ 1, 2011 to _____, 2012 [Last Day of Second Reporting Year], both dates inclusive, Actual System Operating Revenue for the preceding Reporting Year multiplied by the Initial Reporting Year Multiplier with the result divided by the simple average of the Monthly System in Service Percentages for the preceding Reporting Year, plus the sum of all Required Closure Payments due in the preceding Reporting Year multiplied by the Initial Reporting Year Multiplier, and (iii) on or after _____ 1, 2012 [First Day of Third Reporting Year], Actual System Operating Revenue for the preceding Reporting Year, divided by the simple average of the Monthly System in Service Percentages for the preceding Reporting Year, plus the sum of all Required Closure Payments due in the preceding Reporting Year.

“Special Event” means any event that (i) does not occur annually or more frequently than annually; (ii) has an expected average daily attendance of more than 100,000 Persons and (iii) in the reasonable judgment of the City, requires the provision of temporary parking facilities to provide for public safety at the event or for the safety of Persons expected to attend the event.

“State Roads” means those roadways located in the City that are owned by, or are under the jurisdiction of, the Commonwealth of Pennsylvania.

“System in Service Percentage” means, (a) 100% as of the Closing Date, (b) as calculated as of the first Day of any Reporting Year other than the initial Reporting Year, the System in Service Percentage for the immediately preceding month multiplied by (one minus the Reserved Powers System Impact) multiplied by [one divided by (one plus the Annual Percentage Adjustment)] and (c) as calculated monthly on the first Day of any other month, the System in Service Percentage for the immediately prior month multiplied by (one minus the Reserved Powers System Impact).

“Tax” means any federal, state, local or foreign income, gross receipts, 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.

“Term” means the term of the concession referred to in Section 2.1.

“Termination Damages” has the meaning ascribed thereto in Section 14.2(a).

“Third Party Claim” means any Claim asserted against an Indemnified Party by any Person who is not a Party or an Affiliate of such a Party.

“Time of Closing” means 10:00 a.m. (Pittsburgh time) on the Closing Date or such other time on that date as the City and the Concessionaire agree in writing that the Closing shall take place.

“Transaction” has the meaning ascribed thereto in Section 2.1.

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

“Transferee” means any Person who obtains the Concessionaire Interest pursuant to a Transfer.

“Utilization Rate” means, with respect to a Concession Metered Parking Space and during a particular measurement period (which shall not include any period of time when the Concession Metered Parking Space was the subject of a Required Closure or the Metering Device for such Concession Metered Parking Space was not operating), the percentage obtained by dividing the Metered Parking Revenues derived from the operation of such Concession Metered Parking Space during such measurement period by the Full Utilization Amount of such Concession Metered Parking Space for such measurement period.

“W.B.E.” means woman owned business enterprise.

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 are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The headings in this Agreement are not intended to be full or precise descriptions of the text to which they refer and shall not be considered part of this Agreement.

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

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

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

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

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 a Party, such approval or consent, and any request therefor, must be in writing (unless waived in writing by the other Parties).

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

Section 1.12. Currency. Unless specified otherwise, all statements of or references to dollar amounts or money in this Agreement are to the lawful currency of the United States of America.

Section 1.13. Generally Accepted 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 accounting principles in the United States of America, consistently applied.

Section 1.14. 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. (Pittsburgh 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. (Pittsburgh time) on the next Business Day.

Section 1.15. Approvals, Consents and Performance by Government Party.

(a) *Procedures.* Wherever the provisions of this Agreement require or provide for or permit an approval or consent by a Government Party of or to any action,

Person, Document, or other matter contemplated by this Agreement, the following provisions shall apply: (i) such request for approval or consent must (1) contain or be accompanied by any documentation or information required for such approval or consent in reasonably sufficient detail, as reasonably determined by the Government Party, (2) clearly set forth the matter in respect of which such approval or consent is being sought, (3) form the sole subject matter of the correspondence containing such request for approval or consent, and (4) state clearly that such approval or consent is being sought; (ii) such approval or consent shall not be unreasonably or arbitrarily withheld, conditioned or delayed (unless such provision provides that such approval or consent may be unreasonably or arbitrarily withheld, conditioned or delayed or is subject to the discretion of the Government Party); (iii) the Government Party shall, within such time period set forth herein (or if no time period is provided, within 45 Days, subject to the Government Party's right to extend such period for an additional 15 Days) after the giving of a notice by the Concessionaire requesting an approval or consent, advise the Concessionaire by notice either that it consents or approves or that it withholds its consent or approval, in which latter case it shall (unless such provision provides that such approval or consent may be unreasonably or arbitrarily withheld, conditioned or delayed or is subject to the discretion of the Government Party) set forth, in reasonable detail, its reasons for withholding its consent or approval, which reasons may include the insufficiency, as determined by the Government Party acting reasonably, of the information or documentation provided; (iv) if the responding notice mentioned in clause (iii) of this Section 1.15(a) indicates that the Government Party does not approve or consent, the Concessionaire may take whatever steps may be necessary to satisfy the objections of the Government Party set out in the responding notice and, thereupon, may resubmit such request for approval or consent from time to time and the provisions of this Section 1.15 shall again apply until such time as the approval or consent of the Government Party is finally obtained; (v) if the disapproval or withholding of consent mentioned in clause (iv) of this Section 1.15(a) is subsequently determined pursuant to Article 19 to have been improperly withheld or conditioned by the Government Party, such approval or consent shall be deemed to have been given on the date of such final determination; and (vi) for the avoidance of doubt, any dispute as to whether or not a consent or approval has been unreasonably withheld, conditioned or delayed shall be resolved in accordance with the provisions of Article 19.

(b) *Authorization.* Wherever this Agreement provides that an act is to be taken or performed or approval or consent is to be given (i) by the City, the issuance of such approval, consent or action in writing by the Mayor shall constitute evidence that such approval, consent or action has been authorized by all necessary action by the City, including the City Council, and the Concessionaire may rely thereon in all respects and (ii) by the Authority, the issuance of such approval, consent or action in writing by the Chair shall constitute evidence that such approval, consent or action has been authorized by all necessary action by the Authority, including the Board, and the Concessionaire may rely thereon in all respects.

(c) *Approved Documents.* Subject to the other provisions hereof, wherever in this Agreement an approval or consent is required with respect to any document, proposal, certificate, plan, drawing, specification, contract, agreement, budget, schedule,

report or other written instrument whatsoever (a “Document”), following such Approval such Document shall not be amended, supplemented, replaced, revised, modified, altered or changed in any manner whatsoever without obtaining a further Approval in accordance with the provisions of this Section 1.15.

Section 1.16. Authority Successors and Assigns. Whenever in this Agreement the Authority is named or referred to, it shall be deemed to include its successors and assigns whether so expressed or not. All of the covenants, stipulations, obligations and agreements by or on behalf of, and other provisions for the benefit of, the Authority contained in this Agreement shall bind and inure to the benefit of the City or any board, commission, authority or public instrumentality to which there shall be transferred by or in accordance with Law any right, power or duty of the Authority, or of its successors or assigns, the possession of which is necessary or appropriate in order to comply with any of the provisions of this Agreement.

The Parties acknowledge that the Authority may be terminated pursuant to the provision of Section 5514 of the Parking Authority Law, as in effect on the date of this Agreement, and that upon the transfer of the property of the Authority to the City pursuant to said Section 5514 or otherwise by operation of Law, the City shall succeed to all of the rights and assume all of the obligations of the Authority under this Agreement.

Section 1.17. Enactment, Administration, Application and Enforcement of Laws. Nothing in this Agreement shall fetter or otherwise interfere with the right and authority of the City or the Authority to enact, administer, apply and enforce any Law. Except for Adverse Actions, Reserved Powers Adverse Actions, Compensation Events and Delay Events or if compensation or other relief is otherwise available or provided for pursuant to applicable Law or this Agreement, the Concessionaire shall not be entitled to claim or receive any compensation or other relief whatsoever as a result of the enactment, administration, application or enforcement of any Law by the City or the Authority.

Section 1.18. Incorporation of Schedules and Exhibits. The following attached Schedules and Exhibits are made a part of this Agreement:

Schedule 1	Metered Parking System Contracts
Schedule 2	Required Capital Improvements
Schedule 3	Operating Standards
Schedule 4	Metered Parking System Assets
Schedule 5	Metered Parking System
Schedule 6	Article 7 Methodology
Schedule 7	Concession Metered Parking Spaces
Schedule 8	Reserve Metered Parking Spaces
Schedule 9	Initial Parking Fees
Schedule 10	Revenue Value
Schedule 11	Form of Legal Opinion of the Authority and the City
Schedule 12	Form of Legal Opinion of the Concessionaire
Schedule 13	Supplemental Financial Information
Schedule 14	Exempt Persons Statistical Sampling Methodology

Exhibit A	Metered Parking System Ordinance
Exhibit B	Metered Parking System Resolution
Exhibit C	Parking Authority Term Ordinance
Exhibit D	Metered Parking Revenues Custody 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.

ARTICLE 2

THE TRANSACTION; CLOSING; CONDITIONS PRECEDENT; COVENANTS

Section 2.1. Grant of Concession. Upon the terms and subject to the conditions of this Agreement, effective at the Time of Closing, (a) the Concessionaire shall pay the City the exact amount of \$_____ in cash (the “Consideration”) and (b) (i) the Authority shall engage the Concessionaire to perform the Metered Parking Services for and during the term (the “Term”) commencing on the Closing Date and expiring at 11:59 p.m. on _____, 20__ (or such later date as may be required to effect a Delay Event Remedy but subject to earlier termination as provided in this Agreement), and in connection therewith (A) to operate, manage, maintain, rehabilitate and improve the Metered Parking System; (B) to collect and to be credited with the Metered Parking Revenues derived from the Concession Metered Parking Spaces as compensation for the provision of such Metered Parking Services with respect to Concession Metered Parking Spaces; and (C) to collect Metered Parking Revenues derived from the Reserve Metered Parking Spaces for the benefit of the City and to be compensated for the provision of such Metered Parking Services with respect to Reserve Metered Parking Spaces; and (ii) the Government Parties shall assign, transfer and otherwise convey to the Concessionaire by bill of sale the Metered Parking System Assets, free and clear of any Encumbrances (other than Permitted City Encumbrances) and the Concessionaire shall accept each such assignment, transfer and conveyance (collectively, the “Transaction”). The rights granted to the Concessionaire to operate, manage, maintain, rehabilitate and improve the Metered Parking System and to collect and be credited with Metered Parking Revenues as provided in this Section 2.1 are subject to (A) the Reserved Powers of the City, which are expressly reserved to the City for the Term of this Agreement and (B) the Reserved Powers of the Authority, which are expressly reserved to the Authority for the Term of this Agreement.

No interest in real estate of any kind (whether in the form of ownership, leasehold interest or otherwise) is conveyed by this Agreement.

The City reserves the right to operate (or permit the Authority to operate on behalf of the City) Other Metered Parking Spaces. The Government Parties agree that they will not enter into additional concession agreements with respect to Metered Parking Spaces for so long as this Agreement is in effect and the Concessionaire is not in default under this Agreement.

Section 2.2. Closing.

(a) Subject to the satisfaction of all conditions precedent contained in Sections 2.4(a), (b) and (c) or the waiver by the Parties of any unsatisfied condition, the closing of the Transaction (the “Closing”) shall take place on the first Business Day immediately after the 90-day period following the date hereof or such other date agreed to in writing by the City and the Concessionaire (the “Closing Date”). The Closing shall be held at the offices of _____, _____, Pittsburgh, Pennsylvania or such other place agreed to in writing by the City and the Concessionaire. At the Time of Closing, the Concessionaire shall deliver or cause to be delivered to the City same-day funds by wire transfer in the amount of the Consideration (as adjusted pursuant to Section 2.2(b) and Section 2.2(c) and Section 2.2(d)) in full payment of the Transaction, and upon receipt of such payment the Transaction shall be effective. Upon receipt of the funds described in the preceding sentence, the City shall immediately cancel and return the LOC, if any, in accordance with the Concessionaire’s instructions.

(b) All revenues, charges, costs and expenses with respect to Assumed Liabilities shall be prorated between the City and the Concessionaire 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 Consideration accordingly. If final prorations cannot be made at the Closing for any item being prorated under this Section 2.2(b), then the City and the Concessionaire shall allocate such items on a fair and equitable basis as soon as revenue statements, invoices or bills are available, with final adjustment to be made as soon as reasonably possible after the Closing Date. The City and the Concessionaire 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.

(c) No more than 10 Days prior to the Closing Date, the Authority shall determine the then current Concession Metered Parking Spaces and shall accordingly adjust Schedule 7 and Schedule 10. If the aggregate Initial Revenue Value taking into account any such adjustment to Schedule 10 varies from the aggregate Initial Revenue Value as of the Bid Date, then the Consideration shall be increased or decreased, as the case may be, by the same percentage as the percentage change in the aggregate Initial Revenue Value; *provided, however*, that any increase in the Consideration may not exceed one percent (1.00%) without the prior written consent of the Concessionaire.

(d) Using the 30 year, mid-market London Interbank Offered Rate (LIBOR) swap rate in the “Money & Investing, Borrowing Benchmarks” section of *The Wall Street Journal*, from the close of business on the Business Day immediately prior to the Bid Date (as published on the Bid Date) through the close of business two Business Days prior to the Closing Date (as published on the Business Day immediately prior to the Closing Date), the amount of the Consideration will be decreased by four hundredths of one percent (4/100 of 1%) for every one basis point increase in the 30 year, mid-market LIBOR swap rate; during the same period, the amount of the Consideration will be increased by four hundredths of one percent (4/100 of 1%) for every one basis point increase in the 30 year, mid-market LIBOR swap rate; *provided* that (i) any increase in

the amount of the Consideration may not exceed four percent (4%) without the prior written consent of the Concessionaire and (ii) any decrease in the amount of the Consideration may not exceed four percent (4%) without the prior written consent of both of the Government Parties.

Section 2.3. Deposit.

(a) The City acknowledges receipt from the Concessionaire of cash (the “Cash Deposit”) or one or more Letters of Credit with a term of at least 180 Days from the date hereof (the “Closing LOC”), in an aggregate amount equal to, at the election of the Concessionaire, either \$15,000,000 or 10% of the Consideration, to be held by the City for the sole purpose described in Section 2.3(b). In the event of any Cash Deposit, (i) the City shall deposit any Cash Deposit with the Escrow Agent, which shall invest such amount in Eligible Investments pending the Closing, and (ii) the City, the Concessionaire and the Escrow Agent shall enter into a customary escrow agreement and ancillary agreements to effectuate these provisions with respect to any Cash Deposit.

(b) If the City terminates this Agreement pursuant to Section 2.4(d)(iv) as a result of the failure of the Concessionaire to satisfy any condition set forth in Section 2.4(b) of this Agreement or Section 2.4(b) of the Facilities Agreement, then the City shall be entitled to (i) retain the Cash Deposit and all interest accrued thereon or, (ii) without notice to the Concessionaire, immediately draw the full amount of the Closing LOC upon presentation of a sight draft and a certificate confirming that the City has the right to draw under the Closing LOC in the amount of such sight draft, and the City shall be entitled to retain all of the proceeds of the Closing LOC, in each case as the sole remedy or right of the City against the Concessionaire hereunder (*provided* that this limitation shall not apply in the event of fraud); *provided, however*, that if this Agreement is terminated for any other reason, the City shall return any Cash Deposit and the interest earned thereon in accordance with the Concessionaire’s reasonable instructions, or deliver, in accordance with the Concessionaire’s reasonable instructions, the Closing LOC and agree to cancel the Closing LOC, in each case, immediately following any such termination (*provided* that this limitation shall not apply in the event of fraud). Except in cases involving fraud by the Concessionaire, the right of the City to retain the Cash Deposit or to draw the Closing LOC is intended to be, and shall constitute, liquidated damages, and any payment thereof to the City shall terminate the Government Parties’ rights and remedies in all respects.

(c) At Closing, upon the satisfaction of, or waiver by all Parties of, the conditions set forth in Sections 2.4(a), 2.4(b) and 2.4(c), the Concessionaire shall be entitled to apply the Cash Deposit (including any accrued interest) as a credit against the Consideration.

Section 2.4. Conditions Precedent; Termination.

(a) *Conditions for the Benefit of the Concessionaire.* The Concessionaire 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 Concessionaire: (i) the representations and warranties of the City set forth in Section 9.1

and the representations and warranties of the Authority set forth in Section 9.2 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 except that representations and warranties that by their terms speak only as of the date of this Agreement or some other date need be true and correct only as of such date; (ii) no Government Party 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 Government Party at or prior to the Time of Closing; (iii) the Initial Schedule of Parking Fees shall be in full force and effect; (iv) the City and the Authority shall have delivered to the Concessionaire a legal opinion of counsel to the City and the Authority, in substantially the form attached hereto as Schedule 11; (v) the City shall have executed and delivered the consents and estoppel certificate contemplated by Section 10.2; (vi) the Authority shall have arranged for the deposit of funds sufficient to provide for the payment of all obligations payable from and secured by the Metered Parking Revenues or the Metered Parking System and outstanding at the Time of Closing (including all outstanding Revenue Bonds) in such a manner that such obligations shall be legally defeased on the Closing Date and no longer treated as outstanding under the documents under which such obligations were issued and are secured and the Authority shall have provided the Concessionaire evidence reasonably satisfactory to it that any and all security interests and collateral securing any such obligations will be released in full as of the Time of Closing (it being understood that the receipt or acceptance by the Concessionaire of any such evidence shall in no way constitute a waiver of the obligation of the Authority to indemnify the Concessionaire if any such obligations would finally become payable); (vii) the aggregate Initial Revenue Value of all Concession Metered Parking Spaces as of the Closing Date shall not be less than ninety-five percent (95%) of the aggregate Initial Revenue Value of all Concession Metered Parking Spaces as of the Bid Date, (viii) no event has transpired between the date of signing of this Agreement and the Closing Date that is not remedied as of the Closing Date and would have constituted an Adverse Action or a Reserved Powers Adverse Action had such event occurred during the Term; and (ix) there shall not have occurred an unremedied material casualty loss to the Metered Parking System. As used in this Section 2.4(a) and in Section 2.5(i), a material casualty loss to the Metered Parking System means the casualty loss of not less than 500 Concession Metered Parking Spaces such that those Metered Parking Spaces are not available as spaces for parking motor vehicles and collecting Metered Parking Fees.

(b) *Conditions for the Benefit of the Government Parties.* The Government Parties 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 City: (i) all representations and warranties of the Concessionaire in Section 9.3 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 and date except that representations and warranties that by their terms speak only as of the date of this Agreement or some other date need be true and correct only as of such date; (ii) the Concessionaire 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 Concessionaire at or prior to the Time of Closing; and (iii) the Concessionaire shall have

delivered to the Government Parties a legal opinion of counsel to the Concessionaire, in substantially the form attached hereto as Schedule 12.

(c) *Mutual Conditions.* The Parties 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 Parties: (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 makes the consummation of the Transaction illegal; and (iii) all conditions to the “Closing” of the Facilities Agreement shall be satisfied or waived and the “Closing” under the Facilities Agreement shall be completed simultaneously with the Closing of the Transaction.

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

(i) by mutual consent of the Parties in a written instrument;

(ii) by any Party, upon notice to the other Parties, if (a) any Governmental Authority (other than the City or the Authority) 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, or (b) any action is taken, or any law enacted, entered, enforced or deemed applicable to the Transaction by any Governmental Authority of competent jurisdiction that made consummation of the Transaction illegal; *provided, however*, that the right to terminate this Agreement under this Section 2.4(d)(ii) shall not be available to any Party whose failure to comply with any provision of this Agreement has been the cause of, or resulted in, such action;

(iii) by the Concessionaire, upon notice to the Government Parties, if any condition set forth in Sections 2.4(a) or (c) is not satisfied at the Time of Closing; *provided, however*, that the Concessionaire shall not have the right to terminate this Agreement under this Section 2.4(d)(iii) if the Concessionaire’s failure to comply with any provision of this Agreement has been the cause of, or resulted in, the failure of such condition or conditions to be satisfied; or

(iv) by the Government Parties (acting jointly), upon notice to the Concessionaire, if any condition set forth in Sections 2.4(b) or (c) is not satisfied at the Time of Closing; *provided, however*, that the Government Parties shall not have the right to terminate this Agreement under this Section 2.4(d)(iv) if a Government Party’s failure to comply with any provision of this Agreement has been the cause of, or resulted in, the failure of such condition or conditions to be satisfied.

(e) *Effect of Termination.* In the event of termination of this Agreement as provided in Section 2.4(d), this Agreement shall forthwith become void and there shall be no liability or obligation on the part of any Party or their respective Representatives,

except as set forth in Section 2.3(b), this Section 2.4(e), Article 12, Article 19 and Article 20. In the event that the Concessionaire terminates this Agreement pursuant to Section 2.4(d)(iii) as a result of the failure of the Government Parties to satisfy any condition set forth in Section 2.4(a) of this Agreement or Section 2.4(a) of the Facilities, the City (or the Authority at the direction of the City) will compensate the Concessionaire for up to \$1,000,000 of reasonable and documented out-of-pocket costs (but not hedging costs and financing breakage costs) incurred by the Concessionaire in connection with the transaction contemplated by this Agreement. In the event of termination pursuant to Section 2.4(d)(i), (ii) or (iii), the Cash Deposit and all investment earnings accrued thereon shall be paid to the Concessionaire or the Closing LOC shall be returned undrawn to the Concessionaire marked canceled, as applicable.

Section 2.5. Covenants.

(a) *Cooperation.* From the date hereof up to the Time of Closing, the Parties shall cooperate with each other in order to permit the Closing to be consummated on the Closing Date.

(b) *Reasonable Efforts.* From the date hereof up to the Time of Closing, 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, but not limited to, making any necessary filings, and (ii) to obtain (and to cooperate with the other Parties 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. Each Party shall promptly cooperate with and promptly furnish information to the other Parties 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. Except to the extent provided in Section 2.4(d)(ii), any costs associated with any action taken pursuant to this Section 2.5(c) shall be borne by the Party responsible for such injunction, decree, or order or, in the absence of any such responsibility, then each Party shall bear its own costs.

(d) *Operation of the Metered Parking System.* From the Bid Date up to the Time of Closing, the City and the Authority shall have operated the Metered 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 Metered Parking System and to maintain good business relationships with Persons having business dealings with the Metered Parking System, to maintain the Metered Parking System Assets in normal operating condition and repair in accordance with past practice

(ordinary wear and tear excepted), to perform (or cause to be performed) in all material respects all of the Government Parties' obligations under the Metered Parking System Contracts and to cause the Metered 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), all to the end that the Metered Parking System as a going concern shall be unimpaired and delivered to the Concessionaire at the Time of Closing in a condition not materially worse than the condition as of the Bid Date; *provided, however*, that the Government Parties shall not amend, modify, renew, execute or otherwise negotiate any contracts relating to the Metered Parking System or the Metered Parking System Operations (exclusive of any contract for the enforcement of parking violations) after the date hereof up to the Time of Closing without the prior written approval of the Concessionaire. The Government Parties, shall, up to and including the Time of Closing, be entitled to all of the cash or cash equivalents in or generated by the Metered 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 Government Parties shall not terminate, amend, modify or agree to a waiver of the terms of any Authorization related to the Metered Parking System after the Bid Date and before the Time of Closing without the Concessionaire's consent, which shall not be unreasonably withheld, conditioned or delayed.

(e) *Metered Parking System Contracts.* The Metered Parking System Contracts are listed on Schedule 1. At least 30 Days prior to the Closing Date, the Concessionaire shall designate any such Metered Parking System Contracts as Metered Parking System Contracts to be assigned to the Concessionaire by the appropriate Government Party on the Closing Date. Following the Concessionaire's designation, the Government Parties shall designate any remaining Metered Parking System Contracts that are not to be assigned to the Concessionaire as Metered Parking System Contracts to be retained by a Government Party following the Closing Date (so long as such retained Metered Parking System Contracts do not adversely affect the Concessionaire or the Metered Parking System or otherwise interfere with the operation of the Metered Parking System (or any of the rights or remedies of the Concessionaire hereunder and should not bind the Concessionaire or the Metered Parking System to any obligations)). All other Metered Parking System Contracts shall be terminated, effective at the Time of Closing. Any liability under or related to any Metered Parking System Contract retained by a Government Party following the Closing Date or terminated by the Government Party on the Closing Date (including any liability resulting from the termination thereof), and any liability under or related to any Metered Parking System Contract that is assigned to the Concessionaire on the Closing Date attributable to periods prior to the effectiveness of the assignment thereof to the Concessionaire, shall be solely for the account of the appropriate Government Party.

(f) *Disclosure of Changes.*

(i) From the date hereof up to the Time of Closing, each Party shall immediately disclose in writing to the other Parties any matter which becomes known to it which is inconsistent in any material respect with any of the representations or

warranties contained in Article 9. No such disclosure, however, shall cure any misrepresentation or breach of warranty for the purposes of Section 2.4 or Article 12; and

(ii) From the date hereof up to the Time of Closing, the City or the Authority 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 2.4(a) or, subject to the following sentence, for any other purpose. Notwithstanding the previous sentence, if the Closing occurs, then, subsequent to the Time of Closing, any such supplement or amendment with respect to any representation or warranty contained in Sections 9.1(d), (e), (f), (g)(ii), (h), (i) and (j) or Sections 9.2(d), (e), (f), (g)(ii), (i), (j) and (k) relating to a matter arising after the date hereof will be effective to cure and correct for all purposes any inaccuracy in, or breach of, any such representation or warranty which would exist if the City or the Authority had not made such supplement or amendment, and all references to any Schedule hereto which is supplemented or amended as provided in this Section 2.5(f)(ii) shall (subject to the foregoing limitation) for all purposes after the Time of Closing be deemed to be a reference to such Schedule as so supplemented or amended.

(g) *Access to Information.* From the date hereof up to the Time of Closing, but subject to confidentiality obligations binding on any Government Party with respect to any Person (*provided* that the Government Party has disclosed to the Concessionaire the existence of the applicable agreement or document that is subject to such confidentiality limitation in order to enable the Concessionaire to evaluate the materiality and significance of the lack of disclosure based on such limitations) the Government Party shall (i) give the Concessionaire and its Representatives reasonable access during normal business hours and on reasonable notice to the Metered Parking System, subject to the Government Parties' policies and regulations regarding safety and security and any other reasonable conditions imposed by the Government Parties, (ii) permit the Concessionaire and its Representatives to make such inspections as they may reasonably request and (iii) to furnish the Concessionaire and its Representatives with such financial and operating data and other information that is available with respect to the Metered Parking System as they may from time to time reasonably request. The Concessionaire shall hold and will cause its Representatives to hold in strict confidence all Documents and information concerning the Metered Parking System to the extent and in accordance with the terms and conditions of the confidentiality agreement between the City and the Concessionaire in connection with the Transaction. After the Closing Date, the Concessionaire shall at the request of the City, in connection with claims or actions brought by or against third parties based upon events or circumstances concerning the Metered Parking System, (A) provide reasonable assistance in the collection of information or Documents and (B) make the Concessionaire's employees available when reasonably requested by the City; *provided, however*, that the City shall reimburse the Concessionaire for all reasonable out-of-pocket and documented costs and expenses incurred by the Concessionaire in providing said assistance and will not unduly interfere with the Concessionaire's operations.

(h) *Transition.* From the date hereof up to the Time of Closing, the Parties shall cooperate with each other to ensure the orderly transition of control, custody, operation, management, maintenance of, and the right to charge and collect Metered Parking Revenues in connection with, the Metered Parking System at the Time of Closing. The Government Parties shall take all efforts as may be necessary in order to ensure such orderly transition and provide to the Concessionaire with all Information and Documents related to the Metered Parking System Operations. At the request of the Concessionaire, the Government Parties will provide to the Concessionaire, for up to six months following the Closing, the services of any employee whose primary responsibilities relate to the Metered Parking System (or the services of other Government Party employees who are assigned for such purpose). All such services shall be provided for an amount equal to the actual cost to the Government Party (including employment costs and related overhead expenses allocable to such employees, as reasonably determined by the Government Party), which amount shall be billed to the Concessionaire as soon as reasonably practicable following the end of each month and shall be payable by the Concessionaire within 30 Days of receipt of any such statement, and upon such other reasonable terms and conditions as the Government Party and the Concessionaire may agree.

(i) *Casualty Loss Prior to Closing.* If prior to the Time of Closing, a material casualty loss to the Metered Parking System has occurred and this Agreement has not been terminated under Section 2.4(d), then the City (or the Authority on behalf of the City) shall either (i) promptly and diligently repair and rebuild the affected parts of the Metered Parking System to restore them to at least the same condition in which they were before the occurrence of such casualty loss or (ii) authorize the Concessionaire to repair the Metered Parking System and assign to the Concessionaire all insurance and other proceeds (if any) payable by third-party insurers or other third parties in respect of such casualty loss and enforce (with the cooperation of the Concessionaire) all of its rights, remedies and privileges under any applicable insurance policies with third-party insurers; *provided* that if no insurance exists or such insurance proceeds are not sufficient to repair the affected parts of the Metered Parking System to its prior condition, then the City shall reimburse the Concessionaire for that amount representing the difference between the cost to repair and the amount of any insurance proceeds.

(j) *Policies of Insurance.* From the date hereof up to the Time of Closing, the Government Parties shall continue in force or replace all applicable policies of insurance maintained by the Government Parties in respect of the Metered Parking System. At the Time of Closing, the Concessionaire shall be responsible for obtaining insurance for the Metered Parking System in accordance with the terms hereof.

(k) *Employees.* Prior to the Time of Closing, the Concessionaire shall use its best efforts to interview all Authority employees as of the date of this Agreement who apply to the Concessionaire for employment and to offer employment to such Authority employees who meet the Concessionaire's stated requirements for employment.

(l) *Operations Matters.* The City shall consult with the Concessionaire with respect to any Metered Parking System operations of a material nature prior to the Time of Closing.

Section 2.6. Intended Treatment for Federal and State Income Tax Purposes. This Agreement is intended for United States federal and state income Tax purposes to be a sale of the Metered Parking System and the Metered Parking System Assets to the Concessionaire and the grant to the Concessionaire of a right for and during the Term to collect and be credited with certain Metered Parking Revenues as provided in this Agreement. Payments made by the City to the Concessionaire in connection with Quarterly Settlement Amounts, or payments made by the Concessionaire to the City in connection with the generation of a Settlement Credit pursuant to Section 7.5(b) shall for United States federal and state income tax purposes be deemed to be an adjustment to the Consideration for such sale of the Metered Parking System (but not the Metered Parking System Assets) and the grant of the rights to collect and be credited with Metered Parking Revenues with respect to Concession Metered Parking Spaces. The Government Parties and the Concessionaire agree that the Consideration will be allocated among the assets that the Concessionaire 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 2.7. Closing Deliveries. At the Time of Closing, each Party shall execute and deliver all assets, agreements, bills of sale, assignments, endorsements, instruments and Documents as are reasonably necessary in the opinion of the other Parties to effect the Transaction (and in form and substance that are reasonably satisfactory to such other Parties).

ARTICLE 3 TERMS OF THE CONCESSION

Section 3.1. Right to Operate and Present Condition.

(a) *Right to Operate.* The Government Parties agree that, subject to the Government Parties' remedies upon a Concessionaire Default, the Concessionaire shall, at all times during the Term, be entitled to and shall have the right to operate, maintain, repair, rehabilitate and improve the Metered Parking System and the rights and privileges granted to the Concessionaire hereunder, subject to (i) the provisions contained in this Agreement and (ii) the police and regulatory powers of the City and the Authority, including the Reserved Powers. The Parties acknowledge that the Concessionaire's rights to operate the Metered Parking System, to perform the Metered Parking Services, to collect and be credited with Metered Parking Revenues from the Concession Metered Parking Spaces and to be compensated for operating and maintaining the Reserve Metered Parking Spaces, are subject to the right of the Government Parties, in accordance with the terms of this Agreement, to monitor compliance with this Agreement to ensure that the Metered Parking System is used and operated as required by this Agreement. The City shall, at all times during the Term, defend (i) its lawful right to impose fees and charges for the privilege of parking motor vehicles in Metered Parking Spaces and to impose and collect fines for violations of parking rules and regulations related to Metered Parking Spaces and (ii) the rights granted to the Concessionaire hereunder, or any portion thereof, against any Person claiming any interest adverse to the Government Parties or

the Concessionaire in the Metered Parking System, or any portion thereof, or the Reserved Powers of the City or the Authority, except where such adverse interest arises as a result of the act, omission, negligence, misconduct or violation of Law of the Concessionaire, its Affiliates or their respective Representatives.

(b) *Present Condition.* Without limiting any rights or remedies of the Concessionaire in connection with a breach of the representation and warranty in Section 9.1(g)(i) or Section 9.2(g)(i), the Concessionaire understands, agrees and acknowledges that the Concessionaire (i) by the execution of this Agreement, agrees to accept the Metered Parking System “AS IS” at the Time of Closing and (ii) has inspected the Metered Parking System and is aware of its condition and acknowledges that the Government Parties have not made and are not making any representation or warranty, express or implied, regarding the condition of the Metered Parking System (or any part thereof) or its suitability for the Concessionaire’s proposed use.

Section 3.2. Metered Parking System Operations.

(a) *Use.* Except as otherwise specifically provided herein, the Concessionaire shall, at all times during the Term, (i) be responsible for all aspects of the Metered Parking System Operations, and (ii) cause the Metered Parking System Operations to be performed in accordance with the provisions of this Agreement and applicable Law. The Concessionaire shall, at all times during the Term, cause the Metered Parking System to be continuously operational for use during the applicable Periods of Operation of Concession Metered Parking Spaces and Reserve Metered Parking Spaces by all members of the public except that the Concessionaire shall not be obligated to conduct Metered Parking System Operations with respect to a Metered Parking Space (A) during any period of time during which the City or the Authority has suspended Metered Parking System Operations with respect to such Metered Parking Space including, but not limited to, any suspension resulting from a Required Closure, (B) as specifically permitted under this Agreement, (C) as required by applicable Law, (D) as necessary to comply with any other requirement of this Agreement (including closures related to the performance of capital improvements or maintenance or repair activities as required by the Operating Standards), (E) as necessary for temporary closures required to address emergencies, public safety, temporary events or closures undertaken to maintain the public way or (F) as necessary for temporary closures to perform maintenance or repairs of the Metering Devices.

(b) *Costs and Expenses.* Except as otherwise specifically provided herein, the Concessionaire shall, at all times during the Term, pay or cause to be paid all costs and expenses relating to the Metered Parking System Operations as and when the same are due and payable.

(c) *Assumed Liabilities and Excluded Liabilities.*

(i) The Concessionaire agrees to assume and discharge or perform when due, all debts, liabilities and obligations whatsoever relating to the Metered Parking System or the Metered Parking System Operations that occur, arise out of or relate to, or are based on facts or actions occurring, during the Term, but only to the extent such

debts, liabilities or obligations do not arise from or relate to any breach by any Government Party of any covenant, representation or warranty set forth in this Agreement (collectively, the “Assumed Liabilities”); *provided that* the Assumed Liabilities shall not include the Excluded Liabilities as defined in paragraph (ii).

(ii) The Excluded Liabilities shall consist of any debts, liabilities and obligations: (1) with respect to the such Government Party’s obligations under this Agreement, which each respective Government Party shall perform and discharge when due; (2) arising out of Metered Parking System Operations (including with respect to any Metered Parking System Contracts) prior to the Time of Closing, which the Authority shall perform and discharge when due; and (3) relating to Revenue Bonds or any other debt or obligations related to the Metered Parking System and incurred by any Government Party or the defeasance thereof, which the Government Party who incurred such debt or obligation shall discharge; and (4) arising under any Environmental Law related to the ownership, operation or condition of the Metered Parking System at any time prior to the Time of Closing or any Hazardous Substance or other contaminant that was present or released on or migrated or escaped or was released from the Metered Parking System or otherwise existed at any time prior to the Time of Closing and including any known or unknown environmental conditions that existed prior to the Time of Closing the manifestation of which occurs following the Time of Closing, which environmental obligations the City shall perform and discharge when due.

(d) *Right of Entry and Access to the Public Way.* The City hereby grants to the Concessionaire and its Representatives the right to enter upon, in, under, over and across the streets, alleys, sidewalks in the public way, all to such extent and at such times as shall be necessary or desirable for the Concessionaire to access the Metered Parking System (including the Metering Devices and all supporting structures and appurtenances thereto) in order to conduct Metered Parking System Operations, including operating, maintaining, inspecting, repairing and managing Metered Parking System properties, constructing, locating, installing, replacing, testing, dismantling and removing Metering Devices and all supporting structures and appurtenances thereto, interconnecting the same to any electric utility, telephonic or other communication lines, collecting Metered Parking Revenues, and installing monitoring or observation technology or equipment reasonably necessary for Metered Parking System Operations. The rights granted to the Concessionaire pursuant to this Section 3.2(d) are granted for the Term and without additional cost to the Concessionaire. No charge for permits need be paid by the Concessionaire, but the Concessionaire and the Operator must comply with permit requirements. The rights granted to the Concessionaire under this Section 3.2(d) do not create a priority in favor of the Concessionaire over any other user of the public way and are subject to the Operating Standards and all provisions of Law, including, but not limited to, applicable City permit requirements, relating to the conduct of a private business in the public way.

(e) *Issuance of Parking Tickets.* The City retains the exclusive right to establish and to revise from time to time all parking rules and regulations in accordance with Section 7.6. The Concessionaire, as the agent of the Government Parties and subject to the supervision of, and in compliance with the policies and procedures established by, the Authority, shall have the right, at its sole cost and expense, to issue parking tickets for

violations of the parking rules and regulations with respect to the Concession Metered Parking Spaces and Reserve Metered Parking Spaces, provided that such tickets must be in the form prescribed by the City (or the Authority on behalf of the City), that the issuance of such tickets shall otherwise be subject to applicable City and Authority rules and regulations and the performance of such services by the Concessionaire must conform to the Operating Standards and applicable Laws and the supervisory policies of the Authority. The City (or the Authority on behalf of the City) shall provide to the Concessionaire, at the Concessionaire's sole cost and expense, parking ticket materials and equipment and other items reasonably necessary to enable the Concessionaire to issue parking tickets as contemplated by this Section 3.2(e). The Government Parties retain the right and responsibility to provide all other enforcement of parking rules and violations. Parking tickets issued by the Concessionaire pursuant to this Section 3.2(e) shall have the same legal efficacy as parking tickets issued by the City or the Authority.

(f) *Compensation for Services.* In consideration for providing the Metered Parking Services and paying the costs and expenses of the Metered Parking System Operations, the Concessionaire shall be entitled to compensation in accordance with the provisions of Article 7 including (i) to be paid or credited with the Metered Parking Revenues derived from Concession Metered Parking Spaces; (ii) to be paid or credited with a portion of the Metered Parking Revenues derived from Reserve Metered Parking Spaces pursuant to Section 7.1; (iii) to be paid Quarterly Settlement Amounts pursuant to Section 7.5(a) and (iv) to be paid or reimbursed for certain costs pursuant to Section 7.2(c).

Section 3.3. Operator.

(a) *Engagement.* The Metered Parking System Operations shall, at all times during the Term, be under the direction and supervision of an active operator with the expertise, qualifications, experience, competence, skills and know-how to perform the Metered Parking System Operations in accordance with this Agreement (an "Operator") who may be (but is not required to be) the Concessionaire itself or its Affiliate. The Operator on the first day of the Term shall be the Concessionaire unless the Concessionaire has designated another Person to be the Operator in the response to the request for Metered Parking System concessionaire qualifications delivered by or on behalf of the Concessionaire to the Authority in connection with the execution of this Agreement. The Concessionaire shall not engage or appoint a replacement Operator unless the Authority has Approved such Operator or such Operator and replacement Operator are Affiliates of the Concessionaire in which case no such Approval shall be required; *provided, however*, that (i) a Change in Control of an Operator shall be deemed to be the appointment of a replacement Operator subject to the Authority's Approval. The Operator shall at all times be subject to the direction, supervision and control (by ownership, contract or otherwise) of the Concessionaire, and any delegation to an Operator shall not relieve the Concessionaire of any obligations, duties or liability hereunder. The Concessionaire shall immediately notify the City and the Authority upon the termination or resignation of an Operator. Any agreement between the Concessionaire and any Operator shall by its terms terminate without penalty at the election of the Authority or the Operator upon three Business Days' notice to such Operator or the Authority, as applicable, upon the termination of this Agreement. The

Operator shall have no interest in or rights under this Agreement or the Metered Parking System unless the Operator is the Concessionaire itself.

(b) *Approval.* The Authority's Approval of a proposed replacement Operator may be withheld if the Authority reasonably determines that the engagement of such proposed Operator is prohibited by applicable Law or such proposed Operator is not capable of performing the Metered Parking System Operations in accordance with this Agreement, which determination may be based upon, or take into account, one or more of the following factors: (i) the ability of the Operator to operate the Metered Parking System in a manner that complies with the Operating Standards and will result in the operation of the Metered Parking System in accordance with the public purposes of the Government Parties as set forth in Section 3.8; (ii) the financial strength and integrity of the proposed Operator, its direct or indirect beneficial owners and each of their respective Affiliates; (iii) the capitalization of the proposed Operator; (iv) the experience of the proposed Operator in operating on street metered parking systems; (v) the background and reputation of the proposed Operator, its direct or indirect beneficial owners, each of their respective officers, directors and employees and each of their respective Affiliates (including the absence of criminal, civil or regulatory claims or actions against any such Person and the quality of any such Person's past or present performance on other projects); and (v) the proposed terms of the engagement of the Operator. The Authority shall have the right to reasonably condition its Approval of a proposed replacement Operator. Any disputes between the Government Parties and the Concessionaire with respect to the appointment or replacement of the Operator shall be settled in accordance with the provisions of Article 19. Notwithstanding the foregoing, in the event that, upon termination or resignation of the Operator, a replacement Operator acceptable to the Authority has not been appointed, the Concessionaire shall have the right to appoint, for a period not to exceed six months, an interim Operator to operate the Metered Parking System until a replacement Operator can be selected pursuant to this Agreement. This interim Operator may be selected without Approval by the Authority so long as the Concessionaire reasonably determines that the interim Operator meets the following criteria: (A) the interim Operator has experience in operating public parking facilities substantially similar to the Metered Parking System and (B) the interim Operator (or any guarantor of its obligations) has a tangible net worth reasonably sufficient to carry out its obligations and responsibilities as Operator. The Concessionaire shall not extend the term of any interim Operator beyond six consecutive months or appoint a successor interim Operator after such six-month period.

(c) *Removal.* If the Operator fails to operate the Metered Parking System in compliance with the Operating Standards and Section 3.8, and after 30 Days prior written notice from the Authority to the Operator and Concessionaire, fails to correct in a timely manner all deficiencies in such operation of the Metered Parking System set forth in said written notice, then the Authority may direct that the Concessionaire remove the Operator pursuant to a resolution adopted by the Board. The Authority shall provide the Concessionaire and the Operator with no less than 20 Days prior written notice of the time, date, place and subject matter of the meeting of the Board at which the removal resolution will be considered, and both the Concessionaire and the Operator shall be afforded a reasonable opportunity to present testimony and evidence at such meeting and

to present to the Board written objections to the any proposed removal determination. Any resolution adopted by the Board shall contain written determinations as to the reasons for removal of the Operator.

Section 3.4. Authorizations; Qualifications.

(a) *Compliance.* The Concessionaire shall obtain, comply with, promptly renew and maintain in good standing all Authorizations; *provided, however,* that if the Concessionaire is, at any time during the Term, required to obtain any Authorization from a Governmental Authority that the Government Parties were not required to obtain in connection with the operation of the Metered Parking System prior to the Time of Closing, the Government Parties shall use their reasonable efforts to assist the Concessionaire in obtaining such Authorizations. Nothing in this Agreement, including Section 2.1, shall be deemed to waive or modify any Authorization required to be obtained by the Concessionaire or any other Person in connection with the Metered Parking System, the Metered Parking System Operations or any activities generating Metered Parking Revenues.

(b) *Qualifications.* The Concessionaire shall, at all times during the Term, maintain in full force and effect its existence and all qualifications necessary to carry on its business pertaining to the Metered Parking System Operations, including all rights, franchises, licenses, privileges and qualifications required in connection with the Metered Parking System Operations. For the avoidance of doubt, the foregoing shall not prohibit or limit the Concessionaire from changing its organizational form or status, subject to the terms of Section 17.1(e).

Section 3.5. No Encumbrances.

(a) *By the Concessionaire.* The Concessionaire shall not do any act or thing that will create any Encumbrance (other than a Permitted Concessionaire Encumbrance) against the Metered Parking System and shall promptly remove any Encumbrance (other than a Permitted Concessionaire Encumbrance) against the Metered Parking System, unless the Encumbrance came into existence as a result of an act of or omission by a Government Party or a Person claiming through a Government Party which in turn was not caused by an act or omission of the Concessionaire. The Concessionaire shall not be deemed to be in default hereunder if the Concessionaire continuously, diligently and in good faith contests any such Encumbrance, or the validity thereof (or causes such contest), by appropriate legal proceedings that shall operate to prevent the foreclosure of any such Encumbrance, *provided* that the Concessionaire has given (i) advance notification to the Government Parties that it is the intent of the Concessionaire to contest the validity or collection thereof or cause such contest and (ii) unless a bond or other security is provided in connection with such proceedings, a satisfactory indemnity to the Government Parties or deposited with the City a Letter of Credit, indemnity bond, surety bond, cash or Eligible Investment reasonably satisfactory to the City in an amount equal to the amount of the claim or Encumbrance, plus such interest and penalties, court costs, or other charges as the City may reasonably estimate to be payable by the Concessionaire at the conclusion of such contest or as is required to provide insurance over any potential Encumbrance; *provided, however,* that in the event such Letter of Credit, indemnity bond,

cash or Eligible Investment shall be so deposited, the same shall be held by the City until such claim or other imposition shall have been released and discharged and shall thereupon be promptly returned to the Concessionaire, less any amounts reasonably expended by the Government Parties to procure such release or discharge, or any loss, cost, damage, reasonable attorneys' fees or expense incurred by the Government Parties by virtue of the contest of such Encumbrance.

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

(c) *Removal.* The Concessionaire, if requested by a Government Party and at the cost and expense of the requesting Government Party, shall use its reasonable efforts to assist such Government Party in attempting to remove any Encumbrance that has come into existence as a result of an act or omission by such Government Party. Each Government Party, if requested by the Concessionaire and at the Concessionaire's costs and expense, shall use its reasonable efforts to assist the Concessionaire in attempting to remove any Encumbrance that has come into existence as a result of an act of or omission by the Concessionaire; *provided* that nothing herein shall obligate any Government Party to waive, modify or otherwise limit or affect the enforcement by any Government Party of any applicable Law with respect to the Metered Parking System or any activities generating Metered Parking Revenues.

Section 3.6. Single Purpose Covenants. The Concessionaire shall, at all times during the Term, (i) be formed and organized solely for the purpose of owning the Concessionaire Interest and, at the option of the Concessionaire, the "Concessionaire Interest" as such term is defined under the Facilities Agreement and using, possessing, operating and collecting (A) Metered Parking Revenues with respect to and otherwise dealing with the Metered Parking System (and carrying out other activities permitted pursuant to this Agreement (and any activities reasonably incidental thereto)) and (B) Parking Facilities Revenues and other Concession Revenues (as such terms are defined in the Facilities Agreement) with respect to and otherwise dealing with the Parking Facilities System (as such term is defined in the Facilities Agreement) and carrying out other activities permitted, pursuant to the Facilities Agreement, (ii) not engage in any business unrelated to clause (i) above, except that the Concessionaire may enter into and perform the obligations under the Facilities Agreement and carry out the other activities permitted pursuant to the Facilities Agreement and any activities reasonably incidental thereto, (iii) not have any assets other than those related to its activities in accordance with clauses (i) and (ii) above, (iv) except as appropriate for Tax

reporting purposes, or in connection with consolidated financing statements maintain its own separate books and records and its own accounts, (v) observe all corporate, limited partnership or limited liability company, as applicable, formalities and do all things necessary to preserve its existence, (vi) not guarantee or otherwise obligate itself with respect to the debts of any other Person, (vii) except as expressly permitted hereby or by any Collateral Assignment or Leasehold Mortgage (as such term is defined in the Facilities Agreement) or in connection in the ordinary course of business of the Metered Parking System or the Parking Facilities System (as such term is defined in the Facilities Agreement), not pledge its assets for the benefit of any other Person and (viii) maintain adequate capital in light of its contemplated business operations.

Section 3.7. Rights of the Government Parties to Access and Perform Work on the Metered Parking System.

(a) *Reservation of Rights.* The Government Parties shall have access to the Metered Parking System and each and every part thereof (*provided* that no access is granted to the cash collections, Metering Device keys or any software or the intangibles) at all reasonable times and upon reasonable prior notice to perform each of the following at the City's own cost and expense (other than if pursuant to clause (ii) or (iii)):

(i) to inspect the Metered Parking System or determine whether or not the Concessionaire is in compliance with its obligations under this Agreement or applicable Law pursuant to Section 8.3;

(ii) if a Concessionaire Default then exists, subject to the cure rights of the Collateral Assignee set forth in Section 18.3 to make any necessary repairs to the Metered Parking System and perform any work thereon pursuant to Section 16.1(b)(iii);

(iii) in the event of an emergency or danger that threatens to cause injury to individuals (or damage to property) or to impair the continuous operation of the Metered Parking System or to impair the enforcement of parking violations or traffic control regulations and if the Concessionaire is not then taking all necessary steps to rectify or deal with said emergency or danger, to take actions as may be reasonably necessary to rectify such emergency or danger (in which case, no notice shall be necessary);

(iv) to use the Metered Parking System in connection with any such installation, design, management, maintenance, repair or rehabilitation (*provided* that notwithstanding the foregoing, the Concessionaire shall have the right, at all times during the Term, to install, design, manage, maintain, repair and rehabilitate utilities or other services for its own account (and not for lease, resale or service to third parties) to the extent that the said utilities or services are necessary for the Metered Parking System Operations); and

(v) to, solely in accordance with the terms hereof, do any other act or thing that the City or the Authority may be obligated to do or have a right to do under this Agreement;

provided, however, the City and the Authority shall use reasonable efforts to minimize interference with the Metered Parking System Operations or the value of the Metered Parking System Assets in connection with any entry pursuant to this Section 3.7(a).

(b) *Effect of Reservation.* Any reservation of a right by the City, the Authority and any of their Representatives, grantees, licensees and others claiming by, through or under the City or the Authority to make or perform any repairs, alterations, Restoration or other work in, to, above, or about the Metered Parking System which is the Concessionaire's obligation pursuant to this Agreement, shall not be deemed to (i) impose any obligation on any Government Party to do so, (ii) render a Government Party liable to the Concessionaire or any other Person for the failure to do so or (iii) relieve the Concessionaire from any obligation to indemnify the Government Parties as otherwise provided in this Agreement. Nothing in this Agreement shall impose any duty upon the part of a Government Party to do any work required to be performed by the Concessionaire hereunder and performance of any such work by the Government Parties and any of their Representatives, grantees, licensees and others claiming by, through or under the City or the Authority shall not constitute a waiver of the Concessionaire's default in failing to perform the same.

Section 3.8. Public Purpose Requirements.

(a) The Parties agree that during the Term of this Agreement the City and the Authority retain the Reserved Power to enforce this Agreement and the Operating Standards such that the Metered Parking System will be dedicated and used at all times for purposes intended to promote the public safety, convenience and welfare, to enhance the free circulation of traffic through the streets of the City of Pittsburgh, to alleviate traffic congestion that interferes with the primary use of such streets for the movement of vehicles, including the rapid and effective disposition of firefighters, police forces and public safety responders, and to otherwise foster and promote the public purposes of the City and the Authority.

(b) The Concessionaire, and any Operator, at all times during the Term, shall maintain and operate the Metered Parking System and shall provide Metered Parking Services pursuant to this Agreement for Metered Parking Purposes in accordance with the Operating Standards and the public purposes of the Government Parties.

(c) If either Government Party at any time determines that the Concessionaire or the Operator are not maintaining or operating the Metered Parking System or providing Metered Parking Services pursuant to this Agreement for Metered Parking Purposes in accordance with the Operating Standards or the public purpose requirements set forth in this Section 3.08, such Government Party shall promptly provide the Concessionaire and the Operator with written notice thereof. Such notice to the Concessionaire and the Operator shall described in reasonable detail the basis for such Government Party's determination and set forth the steps or measures necessary to satisfy the objections of such Government Party.

(i) The Concessionaire shall have the right to dispute the validity of such Government Party's determination. If the Concessionaire shall give notice of

dispute (the “Concessionaire-Dispute Notice”) to such Government Party within 10 Days following the date of receipt of such Government Party’s notice stating in reasonable detail the grounds for such dispute. If neither the Government Party’s notice nor the Concessionaire-Dispute Notice has been withdrawn within 30 Days following the date of receipt of the Concessionaire-Dispute Notice by the Government Party, the matter shall be submitted to the dispute resolution procedure in Article 19.

(ii) If the Concessionaire does not exercise its right to dispute the validity of such Government Party’s determination within 60 Days of the receipt by the Concessionaire of such Government Party’s notice thereof, the Concessionaire shall implement the steps or measures indicated in such Government Party’s notice or take such other actions necessary to satisfy the objections of such Government Party.

Section 3.9. Withholding Payments. The Concessionaire acknowledges and agrees that if a Government Party is required under applicable Law of general application to withhold a portion of any payment that the Government Party is obligated to make to the Concessionaire under this Agreement, the Government Party will be deemed to have satisfied such payment obligation to the Concessionaire to the extent of such withholding by the Government Party. If any such withheld amounts are permitted to be paid to the Concessionaire, the Government Party shall pay such amounts to the Concessionaire whenever permitted by Law. The Government Party shall notify the Concessionaire in writing at least five Business Days prior to the withholding of any amount pursuant to this Section 3.9.

Section 3.10. **Payment of Taxes.** Except as otherwise provided in this Section 3.10, the Concessionaire shall pay when due all Taxes payable during the Term in respect of the operations at, occupancy of, or conduct of business in or from the Metered Parking System, including any Parking Taxes that the Concessionaire is obligated to collect from customers of the Metered Parking System and remit to the taxing authorities, as required by the applicable Law. The City reserves the right, without being obligated to do so, to pay the amount of any such Taxes not timely paid or contested by the Concessionaire, and the amount so paid by the City shall be deemed additional consideration hereunder, due and payable by the Concessionaire within 10 Business Days after written demand by the City. The Concessionaire shall have the right to contest in good faith the validity or amount of any Taxes which it is responsible to pay under this Section 3.10, *provided* that (i) the Concessionaire has given prior notice to the City of each such contest, (ii) no contest by the Concessionaire may involve a reasonable possibility of forfeiture or sale of the Metered Parking System, and (iii) upon the final determination of any contest by the Concessionaire, if the Concessionaire has not already done so, the Concessionaire shall pay any amount found to be due, together with any costs, penalties and interest.

Section 3.11. Utilities. The Concessionaire shall pay when due all charges (including all applicable Taxes and fees) for gas, electricity, light, heat, power, telephone, water and other utilities and services used in the Metered Parking System Operations or supplied to the Metered Parking System during the Term. Upon request of the City, the Concessionaire shall forward to the City, within 15 Days following the respective due dates, official receipts, photocopies thereof, or other evidence satisfactory to the City,

acting reasonably, of the payment required to be made by the Concessionaire in accordance with this Section 3.11.

Section 3.12. Competing Off-Street Parking.

(a) Subject to Section 3.12(b) and Section 3.12(c), the Government Parties will not operate, and will not permit the operation of, a “Competing Public Parking Facility”. A “Competing Public Parking Facility” means any off-street public parking lot or public parking garage that (i) is (A) owned or operated by a Government Party, (B) operated by any Person and located or land owned by a Government Party, or leased to a Government Party, (ii) is within one-quarter mile of a Concession Metered Parking Space, (iii) is used primarily for general public parking; (iv) has a schedule of fees for parking motor vehicles that is less than three times the highest Metered Parking Fees then in effect for Concession Metered Parking Spaces in the same area; and (v) was not used for general public parking on the effective date of this Agreement.

(b) As used in Section 3.12(a), the term “Competing Public Parking Facility” does not include (i) any parking lot or parking garage located at, or providing parking for motor vehicles in connection with the regular operations of public buildings and facilities including, but not limited to, any courthouse, correctional facility, police station, fire station, administrative building, public school, public library, public park or recreational facility, public hospital or similar government building; (ii) any parking facility located at, or within one-half mile of, any sports stadium or sports arena having a seating capacity in excess of 15,000; (iii) park and ride facilities that are used primarily by mass transit passengers; (iv) any parking garage, parking lot or parking facility that is part of the “Parking Facilities System” (as that term is defined in the Facilities Agreement); and (v) temporary parking facilities used for Special Events.

(c) If the City or the Authority undertakes or permits a Competing Public Parking Facility in violation of Section 3.12(a), such action shall constitute a Compensation Event requiring the payment of Concession Compensation. Such action shall not constitute a City Default, an Authority Default, an Adverse Action or a Reserved Powers Adverse Action. No interest in real estate is conveyed by Section 3.12.

Section 3.13. Notices of Defaults and Claims.

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

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

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

Section 3.14. Assignment of Operating Agreements and Plans. At the request of the Authority, the Concessionaire shall collaterally assign, to the extent reasonably practicable, to the Government Parties, in form and substance satisfactory to the Authority, acting reasonably, all of the right, title and interest of the Concessionaire in, to and under all or any of the Operating Agreements and all present and future specifications, plans, drawings, information and documentation in relation to the Metered Parking System Operations except to the extent any of the foregoing involve proprietary information (collectively, the “*Operating Agreements and Plans*”) as collateral security to the Government Parties for the observance and performance by the Concessionaire of its covenants and obligations under this Agreement. The Concessionaire covenants that it shall cause all of the right, title and interest of the Concessionaire in, to and under all Operating Agreements and Plans entered into or created after the Time of Closing to be collaterally assignable to the Government Parties for the purposes of this Section 3.14. The Government Parties acknowledges that the Operating Agreements and Plans may also be assigned as security to a Collateral Assignee and that each of the Government Parties and such Collateral Assignee shall be entitled to use the Operating Agreements and Plans in enforcing their respective security as hereinafter provided. Without limiting the generality of the foregoing, but subject to the Authority’s assumption of future liabilities under the Operating Agreements and Plans and to Article 18, the Authority shall be entitled to use the Operating Agreements and Plans in each of the following events: (i) if the Government Parties terminate this Agreement without a concession agreement being granted to a Collateral Assignee or nominee thereof pursuant to the provisions of Article 18; and (ii) if a Government Party elects to use the Operating Agreements and Plans to remedy a Concessionaire Default under this Agreement.

Notwithstanding the foregoing, in the event that any such Collateral Assignee has entered into possession or control of the Metered Parking System or is diligently enforcing and continues to diligently enforce its security, whether by way of appointment of a receiver or receiver and manager or power of sale in accordance with Article 18, or otherwise, and is using the Operating Agreements and Plans in respect of the Metered Parking System Operations, the Government Parties shall not be entitled to use the Operating Agreements and Plans in enforcing their security, it being acknowledged that any assignment of the Operating Agreements and Plans to a Collateral Assignee shall have priority at all times over any assignment of the Operating Agreements and Plans to the Government Parties. The Concessionaire shall promptly deliver to the Authority, at the sole cost and expense of the Concessionaire, forthwith after completion or execution and delivery, a copy of each item of the Operating Agreements and Plans.

Section 3.15. Use of Information and Records. In connection with the exercise of their Reserved Powers, the City and the Authority shall be entitled to access to all records, electronic data and other information collected and retained by the Concessionaire with respect to the Metered Parking System Operations to the extent needed or useful to the City or the Authority in connection with the enforcement of traffic and parking regulations, the identification of parking violations, the imposition and collection of parking fines and the adjudication of parking enforcement cases.

Section 3.16. Metering Devices. The Concessionaire shall be required to maintain and operate the Metering Devices in accordance with the Operating Standards. The Concessionaire will inspect all Metering Devices in a manner designed to identify and promptly repair or replace defective or inoperative Metering Devices. The Concessionaire shall establish a method pursuant to which members of the general public may report inoperative and defective Metering Devices and shall display, at or near each Metering Device, a telephone number and internet address for the reporting of inoperative and defective Metering Devices and other operational problems related to the Metered Parking System and Metered Parking System Operations.

Section 3.17. Naming Rights and Commercial Advertisements and Activities.

(a) The City retains the exclusive naming rights with respect to the Metered Parking System and the exclusive right to register and own the naming rights as the "Pittsburgh Metered Parking System." Except as provided in Section 3.17(b), the City retains (i) the exclusive rights with respect to commercial advertisements, advertising on Metering Devices and advertisements dispensed from Metering Devices, (ii) the exclusive rights with respect to any other commercial activities, other than the collection and application of Metered Parking Fees, to be derived from the Metered Parking System and (iii) all proceeds and other consideration derived from such naming rights, commercial advertisements or other commercial activities derived from the Metered Parking Operations, other than the collection and application of Metered Parking Fees. Any action taken by the City pursuant to this Section 3.17 is not a Compensation Event, an Adverse Action or a Reserved Powers Adverse Action. The City shall not use or permit to be used, any name or mark in connection with the Metered Parking System that may reasonably be odious or offensive to the Concessionaire or otherwise be reasonably likely to result in a negative association by the general public.

(b) The City, subject to the City's written approval and at the City's sole discretion, may allow the Concessionaire to market and place commercial advertisements on Metering Devices and provide for advertisements to be displaced or dispensed from Metering Devices, with the revenues from such advertisements to be shared between the City and the Concessionaire in accordance with a formula approved by the City, it being the understanding of the Parties that the Concessionaire's share of such revenues shall be limited to a reasonable amount to amortize the costs incurred by the Concessionaire for procurement and installation of any necessary equipment, marketing, administrative, and other related costs, together with a reasonable profit margin.

(c) Notwithstanding the foregoing provisions of this Section 3.17, the Government Parties grant to the Concessionaire a non-exclusive, non-transferable, royalty free license during the Term to use any names associated with the Metered Parking System together with all existing and future developed logos and marks (not including the City seal or the Authority seal, or without the Approval of the applicable Government Party, other logos and marks used by that Government Party) used in connection with the Metered Parking System Operations, solely in connection with the performance by the Concessionaire or any Operator of their obligations under the Agreement and in the provision of Metered Parking Services.

Section 3.18. Administration of the Public Way. The Concessionaire acknowledges and accepts, that the City holds and administers the public way for the non-discriminatory benefit of all Persons and interests, including the Concessionaire and the Concessionaire Interest. In the administration of the public way, the Government Parties will not take any action that is intended to discriminate against the Concessionaire or the Concessionaire Interest.

Section 3.19. Reversion of Metered Parking System. On the Reversion Date, the Concessionaire shall surrender and deliver to the City all of its rights, title and interest in the Metered Parking System (including all improvements to the Metered Parking System, the Metered Parking System Assets and all tangible and intangible personal property of the Concessionaire (including inventories) that is included in the Metered Parking System and used in connection with the Metered Parking System Operations, subject, however, as to any intellectual property included in the Metered 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 16.4.

ARTICLE 4 CAPITAL IMPROVEMENTS

Section 4.1. Concessionaire Responsibility for Capital Improvements. Subject to Section 3.2(c)(ii), the Concessionaire shall be responsible for all capital improvements with respect to the Metered Parking System required to be completed during the Term in accordance with the terms of this Agreement, including as required by the Operating Standards. As provided in Section 7.2(c), the installation of Metering

Devices for Reserve Metered Parking Spaces shall be at the sole cost and expense of the City.

Section 4.2. Authorizations Related to Capital Improvements. The Concessionaire's obligation to perform capital improvements shall be subject to the issuance by the City of any and all Authorizations to be issued by the City and as required by the City with respect thereto and the City agrees not to unreasonably withhold, condition or delay the issuance of any such Authorizations, and to use its reasonable efforts to assist the Concessionaire in obtaining such Authorizations. Without limiting the generality of the foregoing, the City agrees that it will reasonably assist and cooperate with the Concessionaire in obtaining any and all Authorizations (including any required rights of access over real property that is owned or controlled by the City) in order for the Concessionaire to perform capital improvements.

Section 4.3. Required Payment Options. Any Concession Metered Parking Space or Reserve Metered Parking Space with a Metered Parking Fee of at least \$1.50 per hour must have a payment option at the point of sale other than the cash payment of the Metered Parking Fee. The Concessionaire shall provide such payment option by use of a credit card or a debit card or similar methods with respect to each Concession Metered Parking Space and each Reserve Metered Parking Space (i) for Metered Parking Spaces that as of the Closing Date have a Metered Parking Fee of less than \$1.50 per hour, no later than the first Day that the Metered Parking Fee for such Metered Parking Space is at least \$1.50 per hour and (ii) for Metered Parking Spaces that on the Closing Date have a Metered Parking Fee of \$1.50 per hour or more than \$1.50 per hour, no later than the first Day that the hourly Metered Parking Fee for such Metered Parking Space is greater than the hourly Metered Parking Fee in effect for such Metered Parking Space on the Closing Date.

ARTICLE 5 MODIFICATIONS

Section 5.1. City Directives. Subject to compliance with applicable Laws governing procurement the City may, at any time during the Term, issue a City Directive to the Concessionaire. Subject to the City making available to the Concessionaire sufficient funds to perform the work required to implement such City Directive at or before the time payment for such work is required to be made, and the Concessionaire having obtained (with the cooperation of the City) all relevant Authorizations from all relevant Governmental Entities required for the relevant work, the Concessionaire shall perform the work required to implement such City Directive, and the City shall pay to the Concessionaire the Concession Compensation with respect thereto. The addition of or the removal of Concession Metered Parking Spaces and Reserve Metered Parking Spaces by the City (including any direction to install or remove Metering Devices) is not a City Directive and shall not result in Concession Compensation, but shall be governed by the provisions of Article 7.

Section 5.2. Concessionaire Requests. If the Concessionaire wishes at any time during the Term to make a material change in the dimensions, character or quality of any part of the Metered Parking System, then the Concessionaire may submit to the City, for Approval, a Concessionaire Request with respect to such change and shall submit to the City for its Approval specific plans with respect to any such work. The Concessionaire shall not in any event be required to submit a Concessionaire Request, and no Approval shall be required, with respect to any Concessionaire's actions so long as such actions comply with applicable Operating Standards. The Concessionaire shall be responsible for all amounts required to implement an Approved Concessionaire Request (and any Losses incurred in connection therewith). No Concessionaire Request shall be implemented unless and until such Concessionaire Request has been Approved by the City.

Section 5.3. Performance of Modifications. Subject to the other provisions of this Article 5, the Concessionaire shall ensure that City Directives and Approved Concessionaire Requests are performed in a good and workmanlike manner and diligently complied with and implemented in such manner that the costs (in the case of City Directives only) and delays relating thereto are minimized.

ARTICLE 6 OPERATING STANDARDS

Section 6.1. Compliance with Operating Standards. The Concessionaire shall, at all times during the Term, cause the Metered Parking System Operations to, comply with and implement the Operating Standards in all material respects (including any changes or modifications to the Operating Standards pursuant to the terms of this Agreement). The Government Parties and the Concessionaire acknowledge and agree that the Operating Standards shall be construed flexibly in light of their objectives. The Concessionaire shall have in place procedures that are reasonably designed to achieve compliance with the Operating Standards. The Operating Standards shall not be deemed to be violated by immaterial acts or omissions, including an immaterial failure to comply with specific requirements set forth in the Operating Standards other than actions or omissions that endanger the public health or safety. Except as specifically set forth herein, the Concessionaire shall perform all work required to comply with and implement the Operating Standards (including the capital improvements described therein) as part of the Metered Parking System Operations and at its sole cost and expense.

Section 6.2. Proposed Operating Standards. If the Concessionaire, at its cost and expense, wishes to implement and use operating standards other than the Operating Standards, the Concessionaire must provide notice of such proposed operating standards to the Authority for Approval. The Concessionaire's proposed operating standards must be accompanied by an explanation of the Concessionaire's rationale for making its proposal and all relevant supporting information, certificates, reports, studies, investigations and other materials as are necessary to demonstrate that the Concessionaire's proposed operating standards are reasonably designed to achieve the objectives of the applicable Operating Standards. The Authority may request any

additional supporting information, certificates, reports, studies, investigations and other materials as are reasonably required by the Authority to determine if the Concessionaire's proposed operating standards are reasonably designed to achieve the objectives of the applicable Operating Standards. Until the Authority provides its Approval for the implementation of the Concessionaire's proposed operating standards, the Concessionaire shall not implement the proposed operating standards and shall implement and comply with the Operating Standards. The Concessionaire's proposed operating standards shall be deemed incorporated into the Operating Standards upon Approval by the Authority in accordance with the terms hereof. If the Authority refuses to Approve any proposed operating standards and the Concessionaire disagrees with such refusal, the Concessionaire may submit the matter to dispute resolution under the provisions of Article 19.

Section 6.3. Modified Operating Standards.

(a) The Authority shall have the right, at any time during the Term, to modify or change the Operating Standards upon notice to the Concessionaire to comply with any new Law (other than a Law or change in Law enacted by a Government Party) applicable to the Metered Parking System Operations. In the event the Authority modifies the Operating Standards in accordance with the immediately preceding sentence, the Concessionaire, at its cost and expense, shall perform all work required to implement and shall comply with all such modifications and changes and in no event shall the Concessionaire be excused from compliance with any such modification or change. The Concessionaire shall have the right to challenge pursuant to Article 19 any modified Operating Standard on the grounds that it does not meet the requirement of this Section 6.3(a).

(b) If during the Term the Authority is of the opinion that a modification or change to the Operating Standards is necessary or desirable but such modification or change is not subject to Section 6.3(a), the Authority may upon reasonable written notice to the Concessionaire modify or change the Operating Standards; *provided, however*, that the Authority shall pay to the Concessionaire the Concession Compensation with respect thereto at the time such modification or change is implemented. At the Authority's request, the Concessionaire shall perform all work required to implement and shall comply with all such modifications and changes, and in no event shall the Concessionaire be excused from compliance with any such modification or change. The Authority shall have the right to undertake the work, upon reasonable notice to the Concessionaire, necessary to ensure implementation of and compliance with any such modification or change to the Operating Standards if the Concessionaire fails to do so within a reasonable period of time; *provided, however*, that to the extent that such work is undertaken by the Authority, the Concessionaire shall pay to the Authority within 10 Business Days following demand therefor, or the Authority may offset from amounts owing to the Concessionaire in connection with such modification or change, the costs of the portion of the work performed in order to comply with the Operating Standards existing immediately prior to such modification or change, and the Authority shall be responsible only for the incremental costs of the additional work required in order to implement such proposed modification or change to the Operating Standards and, without duplication

with the foregoing, the Concession Compensation with respect to such modification or change.

ARTICLE 7
PARKING REVENUES AND CONCESSION VALUE

Section 7.1. Metered Parking Fees.

(a) The City has (and shall retain during the Term) the Reserved Power to establish and revise from time to time the Metered Parking Fees that shall be imposed and charged in respect of motor vehicles using Metered Parking Spaces, including Concession Metered Parking Spaces and Reserve Metered Parking Spaces. Pursuant to the Metered Parking System Ordinance the City has approved and adopted the Initial Schedule of Parking Fees. At or before the Time of Closing the City shall place in effect the Initial Schedule of Parking Fees, and the City agrees that it will constitute a Compensation Event (with any Concession Compensation to be paid by the City) if, prior to December 31, 2015, the City (without the prior written approval of the Concessionaire) places into effect a revised schedule of Metered Parking Fees that (without regard to (i) any Expected Utilization Adjustments and (ii) any other changes to the Concession Metered Parking Spaces resulting from the exercise by the City or the Authority of their Reserved Powers) results in a reduction in the Aggregate Revenue Value from the Aggregate Revenue Value as of the time immediately prior to the effective date of such revised schedule.

(b) The exercise by the City of its Reserved Power to establish Metered Parking Fees shall not be used to favor the use by the general public of any Other Metered Parking Space located within one mile of any Concession Metered Parking Space or any Reserve Metered Parking Space over the use by the general public of any Concession Metered Parking Space.

(c) From and after the Closing Date, the Meter Account of the Authority shall be held and administered on behalf of the Authority by the Fiduciary in accordance with the terms and provisions of the Metered Parking Revenues Custody Agreement and this Agreement. The Fiduciary shall establish within the Meter Account, a Concession Metered Revenue Sub-Account and a Reserve Metered Revenue Sub-Account. The Concessionaire shall collect all Metered Parking Revenues and all such Metered Parking Revenues shall be paid to the Fiduciary by the second Business Day following the Day of collection of such Metered Parking Revenues. All Metered Parking Revenues derived from Concession Metered Parking Spaces shall be deposited into the Concession Metered Revenue Sub-Account and all Metered Parking Revenues derived from the Reserve Metered Parking Spaces shall be deposited into the Reserve Metered Revenue Sub-Account. The Authority grants to the Concessionaire a security interest in the Metered Parking Revenues held in the Meter Account as security for the payment of the compensation due to the Concessionaire for the performance of the Metered Parking Services.

(d) As compensation for performance of the Metered System Services with respect to the Concession Metered Parking Spaces, the Concessionaire shall be paid an amount equal to the Metered Parking Revenues derived from the Concession Metered Parking Spaces. No less frequently than once in every three Business Days, the Authority shall instruct the Fiduciary to disburse to the Concessionaire all of the moneys then held in the Concession Metered Revenue Sub-Account.

(e) As compensation for performance of the Metered System Services with respect to the Reserve Metered Parking Spaces, the Concessionaire shall be paid an amount equal to fifteen percent (15%) of the Metered Parking Revenues derived from the Reserve Metered Parking Spaces. On the second Business Day of each calendar week, the Authority shall instruct the Fiduciary to disburse to the Concessionaire from the moneys held in the Reserve Metered Revenue Sub-Account the Concessionaire's share of the Metered Parking Revenues derived from the Reserve Metered Parking Spaces during the previous calendar week (Sunday-Saturday). If in the reasonable opinion of the Concessionaire the operation and management costs together with a reasonable profit margin relating to performance of the Metered System Services for the Reserve Metered Parking Spaces exceeds fifteen percent (15%) of the Metered Parking Revenues derived from the Reserve Metered Parking Spaces, then the Concessionaire shall have the right to elect that the Parties consult with a Consultant on what a reasonable increase in operation and management fees would be under the then current market conditions. The decision of the Consultant shall be in the form of a signed written report and shall be binding on the Parties for a period of two years. The Concessionaire shall pay the costs and expenses of the Consultant.

(f) The Concessionaire shall be obligated to charge and collect the full amount of the Metered Parking Fees imposed by the City with respect to each Concession Metered Parking Space and each Reserve Metered Parking Space and may not initiate any plan or program of discounts or surcharges from the schedule of Metered Parking Fees as in effect from time to time. In accordance with Section 3.10, the Concessionaire shall be obligated to charge and collect all Parking Taxes that the Concessionaire is obligated to collect from customers of the Metered Parking System and shall be obligated to remit such Parking Tax collections to the appropriate Government Authority (including the City) in the manner required by Law.

Section 7.2. Designation and Removal of Metered Parking Spaces.

(a) *Designation.* The designation of Metered Parking Spaces is a Reserved Power of the City and the City shall have the right to designate, and to remove from such status, from time to time, each Metered Parking Space, Concession Metered Parking Space and Reserve Metered Parking Space; *provided, however*, that the City's right to increase the number of Concession Metered Parking Spaces is limited by the provisions of Section 7.2(b). The City shall also retain the Reserved Power to establish the Period of Operation and Period of Stay of Metered Parking Spaces. Any designation or direction of the City pursuant to this Section 7.2 shall be provided in writing to the Concessionaire.

(b) *Limitation on Concession Metered Parking Spaces.* The number of Concession Metered Parking Spaces designated and operating at any time may not

exceed 12,000 without the prior written consent of the Concessionaire. During any Excess Value Year, any increase in the number of Concession Metered Parking Spaces is subject to the written consent of the Concessionaire. As used in this Section 7.2(b), the term "Excess Value Year" means the 12-month period beginning on June 1 of a year immediately following a period of two consecutive Reporting Years in which the average System in Service Percentage was greater than one hundred ten percent (110%).

(c) *Metering Devices.* All Metering Devices shall be purchased at the expense of, and owned by, the Concessionaire. The Concessionaire shall be obligated to install promptly Metering Devices with respect to all newly designated Concession Metered Parking Spaces and Reserve Metered Parking Spaces. If a Concession Metered Parking Space or a Reserve Metered Parking Space ceases to be designated by the City as a Metered Parking Space, then the Concessionaire must immediately cease to collect Metered Parking Fees with respect to such parking space and, upon the direction of the City, shall proceed to remove all Metering Devices with respect thereto. The installation and the removal of Metering Devices shall be undertaken in accordance with the Operating Standards.

(d) *Costs.* With respect to the payment of the costs of installation of Metering Devices for newly designated Concession Metered Parking Spaces when no Metering Device then exists to service such Metered Parking Space, the first 1,000 installations in any Reporting Year shall be at the sole cost and expense of the Concessionaire and any additional installations in such Reporting Year in excess of the first 1,000 installations shall be paid by the Concessionaire and reimbursed by the City. Such reimbursement shall be paid by the City within 60 Days after the Concessionaire shall have filed with the City a written request for payment together with such information as the City may reasonably request to confirm the claim for reimbursement. For the purpose of determining the number of such installations in any Reporting Year, the date of installation of a Metering Device shall be the Day such Metering Device is placed in service in accordance with the Operating Standards. The Concessionaire shall be obligated to pay all other costs and expenses related to the installation of Metering Devices for Concession Metered Parking Spaces, including, but not limited to, any required installation of a new Metering Device pursuant to Section 4.3 and any reinstallation of a Metering Device after a Required Closure. Any removal of a Metering Device with respect to any Concession Metered Parking Space that is undertaken because such Metered Parking Space is no longer designated by the City as a Metered Parking Space shall be at the sole cost and expense of the City. The installation and removal of Metering Devices with respect to Reserve Metered Parking Spaces shall be undertaken by the Concessionaire at the cost and expense of the City. When a Metering Device is used with respect to a Reserve Metered Parking Space, the City shall pay a monthly rental fee to the Concessionaire for the use of such Metering Device. The monthly rental fee shall be an amount equal to one and one-half percent (1.5%) of the invoiced acquisition cost of the Metering Device (or allocated portion of such acquisition cost if the Metering Device services Other Metered Parking Spaces) and shall be payable on the first Business Day after such Metering Device is placed in service with respect to such Reserve Metered Parking Space and thereafter as of the first Business Day of each month during the time such Reserve Metered Parking Space remains designated as a Reserve Metered Parking

Space. If the End Date occurs prior to the date falling on the last Day of the 67th month following the first Business Day after such Metering Device is placed in service with respect to such Reserve Metered Parking Space, then the remaining unpaid portion of the invoiced acquisition cost of the Metering Device (or allocated portion of such allocation cost) shall be reimbursed by the City. If in any Reporting Year, the aggregate invoiced acquisition cost of all Metering Devices placed in service during such Reporting Year with respect to Reserve Metered Parking Spaces exceeds the Acquisition Cost Limitation for such Reporting Year, then the City shall reimburse the Concessionaire for any such aggregate invoiced acquisition cost in excess of the Acquisition Cost Limitation for such Reporting Year. Each such reimbursement shall be paid by the City within 60 Days after the Concessionaire shall have filed with the City a written request for payment together with such information as the City may reasonably request to confirm the claim for reimbursement.

(e) *Deemed Removal.* A Metered Parking Space shall be deemed to be removed by the City for the purposes of this Article 7 (and the provisions of Section 14.3) if the City or the Authority (or any Person acting at the direction of the City or the Authority) takes any action that has the practical effect of removing such Metered Parking Space from service or making it unusable (or fails to take an action that is necessary to be taken in order to preserve a designated Metered Parking Space as a useable parking space) and such condition continues for a period of 180 consecutive Days, whether or not the City officially or formally removes such a space from designation as a Metered Parking Space (or formally declares a Required Closure), and whether or not any specific notice of such removal or closure is provided by the City. Notwithstanding the foregoing, the Concessionaire shall not remove any Metered Parking Devices from a Metered Parking Space unless and until such Metered Parking Space is formally removed by the City from being designated as a Metered Parking Space and notice of such removal is provided by the City to the Concessionaire in accordance with Section 7.2(a).

Section 7.3. Notice of Exercise of Reserved Powers. The City shall provide the Concessionaire with timely written notice of any changes in Metered Parking Fees pursuant to Section 7.1 and of any actions taken by the City pursuant to Section 7.2. The City shall use reasonable efforts to provide the Concessionaire with timely written notice of any Required Closure other than a Required Closure that is disregarded pursuant to Section 7.8(c). The City shall provide the Concessionaire with twenty (20) Days prior written notice of any proposed designation or removal of Metered Parking Spaces, any proposed changes in Metered Parking Fees, Periods of Operation, Periods of Stay, Required Closures or fines for parking violations and any other Reserved Power actions (other than emergency actions) that could reasonably be expected to have the effect of resulting in a reduction in Revenue Value of at least five percent (5%).

Section 7.4. Revenue Value. Revenue Values shall be determined by the City in accordance with the methodology set forth in Schedule 6 with respect to the Concession Metered Parking Spaces shown in Schedule 10. The Initial Revenue Value of each Concession Metered Parking Space shall be determined by the City based upon and after taking into account with respect to such Concession Metered Parking Space, the Metered Parking Fee, the Period of Operation, the Period of Stay, the Utilization Rate of such

Concession Metered Parking Space and the Rate to Fine Multiple Factor determined in accordance with Section 7.8(e).

For the purpose of determining any Revenue Value or adjusting any Revenue Value, (i) any designation of a new Concession Metered Parking Space or change in Metered Parking Fees, Periods of Operation or Periods of Stay that requires the installation of a new Metering Device shall be deemed effective as the earlier of the date the Metering Device is placed in service in accordance with the Operating Standards or the 90th Day following the Reserved Powers Action Date; (ii) any removal of the designation of a Metered Parking Space as a Concession Metered Parking Space shall be deemed effective as of the second Business Day immediately following the Reserved Powers Action Date; (iii) any change in Metered Parking Fees, Periods of Operation or Periods of Stay that does not require the installation of a new Metering Device shall be deemed effective as of the earlier of the Day the Metering Device as modified to reflect such change is placed in service in accordance with the Operating Standards or the 90th Day following the Reserved Powers Action Date; (iv) any designation of a Concession Metered Parking Space that does not require the installation of a new Metering Device or the modification of the then installed Metering Device (including an informational sticker or display) shall be deemed effective as of the second Business Day after the Reserved Powers Action Date. The Concessionaire shall provide the City with prompt written notice of the placed in service date of each new Metering Device installed pursuant to clause (i) of this paragraph and of each Metering Device that is modified pursuant to clause (iii) of this paragraph. As used in this Section 7.4, "Reserved Powers Action Date" means (A) (i) the effective date of the Reserved Power action as determined in the ordinance or resolution of the City Council authorizing such Reserved Powers action or (ii) if no such effective date is determined in such ordinance or resolution, then the date such ordinance or resolution takes effect or (B) if the exercise of such Reserved Power has been delegated by action of the City Council to the Authority or a designated official, the stated effective date of the action taken by the Authority or such official or if no effective date is stated in such action, the date of the written notice to the Concessionaire of such action by the Authority or such designated official. The provisions of this paragraph relate only to the effective dates for the determination or adjustment of Revenue Values and are not a limitation on Section 4.3 of this Agreement or any provision or requirement of the Operating Standards.

On the first Business Day of each month the Authority shall calculate the Monthly System in Service Percentage for that month which shall include changes, if any, in the Aggregate Revenue Value and the Existing System Revenue. On the first Business Day of the third month of each Quarter, the Authority shall calculate the Quarterly System in Service Percentage and the Quarterly Settlement Amount for that Quarter. On the first Business Day of March of the year 2012 and annually thereafter on the first Business Day of March, the Authority shall calculate the Settlement System Revenue Value.

Each of the foregoing calculations by the Authority shall be promptly reported in writing and such reports shall be promptly submitted to the Concessionaire. For a period of ten Days following the submission by the Authority of any of the foregoing reports, the Concessionaire or the City may provide the Authority with comments or objections to the report and the Authority agrees to meet with the Concessionaire and the City and their

Representatives to discuss any of the matters presented in the report. Within 30 Days after the initial submission of any report, unless the Concessionaire or the City is disputing any element of the report, the Authority shall deliver to the Concessionaire the report in final form.

During the month of January immediately following the end of a Reporting Year, the Concessionaire shall file with the Government Parties a written report determining the Actual System Operating Revenue for the Reporting Year and shall provide the information needed to determine the Utilization Rate of each Concession Metered Parking Space for that Reporting Year. The methodology used to make such determinations shall be subject to the Approval of the Government Parties.

Section 7.5. Settlements.

(a) *City Settlement Payment.* If the Quarterly Settlement Amount for any Quarter is a positive number, then the City shall owe the Concessionaire the Quarterly Settlement Amount for that Quarter. Each such Quarterly Settlement Amount shall bear interest at the Bank Rate (which interest shall be compounded daily) from the last Day of the Quarter until discharged. Any such Quarterly Settlement Amount shall be reduced by the application of the amount of any available Settlement Credit and any Quarterly Settlement Amount remaining after such reduction must be paid within 60 Days following the final determination of such Quarterly Settlement Amount in accordance with Section 7.4.

(b) *Concessionaire Settlement Payment or Credit.* If the Quarterly Settlement Amount is a negative number for that Quarter, then the Concessionaire shall owe the City the Quarterly Settlement Amount for that Quarter. Any Quarterly Settlement Amount due to the City by the Concessionaire shall accrue as a credit (the "Settlement Credit") against future Quarters in which the City owes a Quarterly Settlement Amount to the Concessionaire. Any balance of a Settlement Credit shall bear interest at the Bank Rate (which interest shall be compounded daily) from the last Day of its respective Quarter until applied or discharged. On any date, the Concessionaire, at its option, may pay to the City all or any portion of the Settlement Credit, including accrued interest thereon, due to the City. On the End Date, the amount of any such accrued Settlement Credit, including accrued interest, shall constitute the final settlement amount to be paid by the Concessionaire to the City on the End Date. Notwithstanding Section 12.11(a), such payment amount shall in no event be offset against any obligation of the City to pay the Metered Parking System Concession Value pursuant to this Agreement.

Section 7.6. Parking Fines and Enforcement.

(a) *General Provisions.* The Parties acknowledge and agree that effective enforcement of parking rules and regulations by the Government Parties and the adjudication and punishment of Persons that violate such rules and regulations are material to the Parties and to the administration of this Agreement. The Concessionaire acknowledges and agrees that the Government Parties' system for the enforcement of parking rules and regulations as in effect on the date of execution of this Agreement satisfies the requirements of this Section 7.6 and that the Government Parties will incur

no liability to the Concessionaire during such period as such system remains unchanged and in effect. The Government Parties covenant that they will enforce parking rules and regulations, as in effect from time to time, in accordance with the provisions of this Section 7.6 and acknowledge that their failure to do so may result in Losses to the Concessionaire and thereby may constitute a Compensation Event. The Concessionaire acknowledges and agrees that the adjudication of parking violations and the punishment of violators is a judicial or quasi-judicial matter and that the outcome of such adjudications (and the methods employed by the City and the Authority with respect thereto) and the punishments, if any, imposed, may not be compensated for under this Agreement and will not give rise to a Compensation Event or result in Concession Compensation in any event. During the Term and pursuant to their Reserved Powers, but subject to applicable provisions of the Law, the Government Parties shall adopt and enforce rules and regulations with respect to the Metered Parking Spaces. Violations of parking rules and regulations shall be enforced by the Government Parties in accordance with Law. The Government Parties agree to establish, maintain and undertake procedures for the enforcement of parking rules and regulations that are designed to deter parking violations, including procedures for the collection of unpaid parking tickets by such means as then permitted by Law. In addition, the Government Parties shall maintain at all times during the Term a vehicle immobilization program (the form and method of which may be determined from time to time by the City or another Governmental Authority). The Government Parties have the right to use other methods of deterrence and immobilization that are not currently being used as of the date of this Agreement. The amount of the fines imposed for violations with respect to Metered Parking Spaces shall be established by the City and revised from time to time as necessary to deter parking violations. The Government Parties shall establish and maintain a system for the adjudication and punishment of those Persons that commit parking violations. With respect to parking by Exempt Persons, the Government Parties will penalize abuse of such parking permits through significant fines and other appropriate measures and will take all reasonable measures to ensure that levels of counterfeit parking permits are minimized.

(b) *Specific Undertakings.* In the administration of its vehicle immobilization program, the Government Parties will not discriminate between tickets issued for metered parking violations and tickets issued for other parking violations. Whenever a metered parking violation has neither been contested or paid and the Authority has obtained accurate and complete registration information with respect to the registered owner of the vehicle, the Authority will mail, or cause to be mailed, notices of violation, determination and final determination to the registered owner of the cited vehicle. If the Authority is unable to collect the amount of any unpaid metered parking violation fine or penalty within 180 days following the final adjudication of such fine or penalty, and the aggregate amount due equals or exceeds the amount of the fine for the violation, then the Authority shall refer such collection to a law firm or collection agency.

(c) *Compensation Events.* Each of the following shall constitute a Compensation Event: (i) if the Government Parties requires more than five final determinations of parking violation liability for a passenger vehicle to become eligible for vehicle immobilization, provided, however, that nothing in this clause (i) limits the

Government Parties from enacting an outstanding parking penalty, costs and interest balance threshold value for vehicle immobilization eligibility as long as such threshold value is less than or equal to five times the average fine or penalty value of all final determinations of parking violation liability rendered in the prior 12 months, and (ii) if the Government Parties offer Persons with unpaid parking fines or penalties the option of paying an amount as full satisfaction of the fine and penalty if that amount is less than eight times the then weighted average hourly Parking Fee for Concession Metered Parking Spaces.

(d) *Limitation on Remedies.* A failure on the part of the City or the Authority to satisfy the provisions of Section 7.6(a), (b) or (c) shall not constitute a City Default, an Authority Default or an Adverse Action.

Section 7.7. Additional Concession Metered Parking Spaces. During the Term and subject to the provisions of Section 7.2(b), the City may designate additional Concession Metered Parking Spaces and each additional Concession Metered Parking Space shall immediately become part of the Metered Parking System. The Concessionaire shall promptly undertake to install (if needed) a Metering Device for each such additional Concession Metered Parking Space and to commence Metered Parking System Operations with respect to such Concession Metered Parking Space.

The City shall assign a Revenue Value to each such additional Concession Metered Parking Space taking into account the then current Metered Parking Fee, Period of Operation, Period of Stay, Rate to Fine Multiple Factor and Expected Utilization Rate, pursuant to the methodology set forth in Schedule 6. On the first Day of the Reporting Year that occurs no less than 12 months and not more than 24 months after the date the designation of the Concession Metered Parking Space is deemed to be effective for Revenue Value purposes pursuant to Section 7.4, the City shall adjust the Aggregate Revenue Value by the Expected Utilization Adjustment for such additional Concession Metered Parking Space, if any, pursuant to the methodology set forth in Schedule 6. However, if the Revenue Value of a Concession Metered Parking Space has been changed by virtue of a Reserved Power action, excluding Regular Rate Adjustments, that impacts the Expected Utilization Rate prior to the first Day of a Reporting Year occurring not less than 12 months and not more than 24 months after the date the designation of an additional Concession Metered Parking Space is deemed to be effective for Revenue Value purposes pursuant to Section 7.4, an Expected Utilization Adjustment shall only be made for the final Reserved Power action.

Section 7.8. Adjustments to Revenue Values.

(a) *General.* Schedule 10 listing the Revenue Values of the Concession Metered Parking Spaces shall be adjusted from time to time as provided in this Section 7.8. Any change in Revenue Value (other than as set forth in Section 7.1 with respect to the Initial Schedule of Parking Fees) made by the City pursuant to this Article 7 is not a Compensation Event and will not result in Concession Compensation. For the purposes of calculating Revenue Value, the Utilization Rate of a Concession Metered Parking Space will be adjusted (i) pursuant to Section 7.8(f); or (ii) when the City exercises its Reserved Powers and such action impacts the Utilization Rate *provided*,

however that no adjustment of the Utilization Rate will take place under this clause (ii) on account of a revision in the Metered Parking Fee for a Concession Metered Parking Space that is a Regular Rate Adjustment.

(b) *Changes in Rate, Period of Operation or Period of Stay.* Whenever there is a change in the Metered Parking Fee or the Period of Operation or the Period of Stay of a Concession Metered Parking Space, the City shall promptly assign a new Revenue Value to the Concession Metered Parking Space taking into account the then current Metered Parking Fee, Period of Operation, Period of Stay, Rate to Fine Multiple Factor and Expected Utilization Rate, pursuant to the methodology set forth in Schedule 6 *provided* that if such change is solely a Regular Rate Adjustment then the Utilization Rate in effect immediately prior to such Regular Rate Adjustment, pursuant to the methodology set forth in Schedule 6, shall be used in the calculation of Revenue Value and no Expected Utilization Adjustment shall be made. On the first Day of the Reporting Year that occurs no less than 12 months and not more than 24 months after the date the change is deemed to be effective for Revenue Value purposes pursuant to Section 7.4, the City shall adjust Aggregate Revenue Value by the Expected Utilization Adjustment for such Concession Metered Parking Space, if any, pursuant to the methodology set forth in Schedule 6. However, if the Revenue Value of a Concession Metered Parking Space has been changed by virtue of a Reserved Power action, excluding Regular Rate Adjustments, that impacts the Expected Utilization Rate prior to the first Day of a Reporting Year occurring not less than 12 months and not more than 24 months after the date such change is deemed to be effective for Revenue Value purposes pursuant to Section 7.4, an Expected Utilization Adjustment shall only be made for the final Reserved Power action.

(c) *Required Closure.* If as a result of a Required Closure, Metered Parking System Operations for a Concession Metered Parking Space are suspended for a number of Days in the Reporting Year in excess of the Required Closure Allowance, then for the current and any subsequent Quarter during such Reporting Year the City shall be obligated to make a Required Closure Payment. Any Required Closure of an aggregate duration of greater than six hours in any Day shall be treated as a Required Closure for the entire Day and any Required Closure of an aggregate duration of six hours or less shall be disregarded; *provided* that any Required Closure of an aggregate duration of six hours or more that occurs within a period of three consecutive Days (with no single Day Required Closure of greater than six hours) shall be treated as a Required Closure for one Day.

(d) *Parking Tax Imposition or Increase.* If a Parking Tax is imposed with respect to Concession Metered Parking Spaces, then the Revenue Value of each such Concession Metered Parking Space shall be promptly reduced to reflect that the Metered Parking Fee expected to be derived by the Concessionaire from such Concession Metered Parking Space will be net of the Parking Tax.

(e) *Rate to Fine Multiple.* The Revenue Value of a Concession Metered Parking Space shall be promptly reduced by ten percent during any period of time that the Rate to Fine Multiple is less than eight; by twenty-five percent during any period of

time that the Rate to Fine Multiple is less than four and by eighty percent during any period of time that the Rate to Fine Multiple is less than two.

(f) *Utilization Adjustment.* Whenever in the reasonable opinion of the Concessionaire, the exercise by the City of its Reserved Powers (including the designation of any Other Metered Parking Spaces), other than a change in Metered Parking Fees, Periods of Operation, Periods of Stay or Rate to Fine Multiple factor, has caused a reduction in both the Utilization Rate of the Concessionaire Metered Parking Spaces and Aggregate Revenue Value, measured over a period of at least 60 Days, then, upon the written request of the Concessionaire, the City shall, after taking into account information provided by the Concessionaire with respect to the Utilization Rate over such 60 Day period (i) evaluate the Utilization Rate of all Concession Metered Parking Spaces as needed to adjust the then current Revenue Value of each Concession Metered Parking Space, taking into account such exercise by the City of its Reserved Powers and (ii) promptly make such adjustments in the Utilization Rate of Concession Metered Parking Spaces in accordance with the results of such evaluation.

(g) *Meter Adjustment.* Schedule 10 shall also be promptly adjusted whenever a Metered Parking Space is added or removed as a Concession Metered Parking Space. The Revenue Value of any such Concession Metered Parking Space shall also be subject to all of the other adjustments required under this Section 7.8.

Section 7.9. **Incentive to Modernize Metering Devices.** Any increase in the number of parking spaces resulting from the replacement of traditional single bay and double bay electronic or mechanical Metering Devices by the installation of pay and display Metering Devices or other Metering Devices that eliminate or reduce the need for stanchions and other structures in the public way will not constitute an increase in the number of Concession Metered Parking Spaces for the purpose of any calculation of Revenue Value.

Section 7.10. **Reduction in System in Service Percentage.** A Reserved Powers Adverse Action shall have occurred if for any Reporting Year ending prior to January 1, 2056, the average of the Monthly System in Service Percentages for such Reporting Year is less than eighty percent (80%).

Section 7.11. **Excessive Use By Exempt Persons.** The amount of any Exempt Persons Annual Excess Loss for a Reporting Year shall accrue interest at the Bank Rate from the last day of the applicable Reporting Year and shall be paid by the City to the Concessionaire no later than 90 Days following the determination of the amount of such Exempt Persons Annual Excess Loss.

Section 7.12. **Right to Challenge.** If a Party objects to any determination made by another Party pursuant to this Article 7, the objecting Party shall have the right to submit such determination (at any time including after the date of such determination) for resolution by technical arbitration pursuant to Section 19.7.

ARTICLE 8
REPORTING; AUDITS; INSPECTIONS

Section 8.1. Reports.

(a) *Incident Management and Notifications.* The Concessionaire shall provide notice to the City within 24 hours of all emergencies, known to the Concessionaire or the Operator, and promptly provide notice to the Government Parties of all material accidents and incidents occurring with respect to the Metered Parking System, and of all claims in excess of \$50,000 made by or against the Concessionaire, or potential claims in excess of \$50,000 that the Concessionaire reasonably expects to make against, or to be made against it by, third parties.

(b) *Financial Reports.* The Concessionaire shall deliver to the Government Parties within 120 Days after the end of each Reporting Year a copy of the audited balance sheets of the Concessionaire at the end of each such Reporting Year, and the related audited statements of income, changes in equity and cash flows for such Reporting Year, including in each case the notes thereto, together with the report thereon of the independent certified public accountants of the Concessionaire, in each case in a manner and containing information consistent with the Concessionaire's current practices and certified by the Concessionaire's chief financial officer that such financial statements fairly present the financial condition and the results of operations, changes in equity and cash flows of the Concessionaire as at the respective dates of and for the periods referred to in such financial statements, all in accordance with generally accepted accounting principles in the United States consistently applied. Such financial statements shall reflect the consistent application of such accounting principles throughout the periods involved, except as disclosed in the notes to such financial statements.

Section 8.2. Information.

(a) *Furnish Information.* At the request of a Government Party, the Concessionaire shall, at the Concessionaire's cost and expense and at any and all reasonable times during the Term: (i) make available or cause to be made available (and, if requested by Government Party, furnish or cause to be furnished) to the Government Parties all Information relating to the Metered Parking System Operations, this Agreement or the Metered Parking System as may be specified in such request and as shall be in the possession or control of the Concessionaire or its Representatives, and (ii) permit the Government Parties, after giving 10 Business Days' prior notice to the Concessionaire (which notice shall identify the persons to be present for an interview and describe with reasonable specificity the subject matter to be raised in the interview), to discuss the obligations of the Concessionaire under this Agreement with any of the directors, officers, employees or managers of the Concessionaire, the Operator or their respective Representatives (it being agreed that the Concessionaire shall have the right to be present during any such discussions with the Operator or Representatives of the Concessionaire or the Operator), for the purpose of enabling the Government Parties to determine whether the Concessionaire is in compliance with this Agreement, *provided that*, in the case of investigations of possible criminal conduct or City ordinance violations, no prior notice shall be required to the Concessionaire and the Concessionaire

shall not have the right to be present during any discussions with the Operator or Representatives of the Concessionaire or the Operator. For the avoidance of doubt, this Section 8.2(a) does not impose a requirement to retain Information not otherwise retained in the normal course of business or required to be retained by applicable Law.

(b) *Confidentiality.* Unless disclosure is required by applicable Law, the Government Parties shall keep confidential any Information obtained from the Concessionaire or its Representatives that constitutes “confidential proprietary information” or “trade secrets” (as those terms are defined under the Pennsylvania Right-to-Know Law) that are exempt from required disclosure under the Pennsylvania Right-to-Know Law, where such Information is designated and clearly marked as such by the Concessionaire in writing at the time when the Information is submitted to the Government Parties; *provided, however*, that the Government Parties shall have the right to determine, in its reasonable discretion, whether any exemption from disclosure under the Pennsylvania Right-to-Know Law applies to any such Information; *provided further* that in the event a Government Party determines that the exemptions from disclosure under the Pennsylvania Right-to-Know Law do not apply to any such Information, the Government Party shall provide reasonable notice to, and shall consult with, the Concessionaire prior to disclosure of such Information. In the event that the Concessionaire requests the Government Party to defend an action seeking the disclosure of Information that the Government Party determines to be exempt from disclosure pursuant to the Pennsylvania Right-to-Know Law and this Section 8.2(b), the Concessionaire shall reimburse the Government Party for the reasonable costs and expenses (including attorneys’ fees of the prevailing party) incurred by the Government Party in defending any such action. Notwithstanding anything to the contrary herein, the Government Party and the Concessionaire may disclose the United States federal tax treatment and tax structure of the Transaction.

Section 8.3. Inspection, Audit and Review Rights of the Government Parties.

(a) *Audit Right.* In addition to the rights set out in Section 8.2, a Government Party may, at all reasonable times, upon 10 Business Days’ prior notice, except in the case of investigations of possible criminal conduct or City ordinance violations, in which case no prior notice shall be required, cause a Representative designated by it to, carry out an Audit of the Information required to be maintained or delivered by the Concessionaire under this Agreement in connection with the performance of the Metered 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, at the Government Party’s expense, but, in any event, subject to Section 8.2(b). The Concessionaire, at the cost and expense of the Concessionaire, shall, at reasonable times, make available or cause to be made available to each Government Party or its designated Representative such information and material as may reasonably be required by the Government Party or its designated Representative for its purposes and otherwise provide such cooperation as may be reasonably required by the Government Party in connection with the same.

(b) *Inspection Right.* The Government Parties and their Representatives shall, at all reasonable times and upon reasonable prior notice, have access to the Metered

Parking System and every part thereof (*provided* that no access is permitted to the cash collections, Metering Device keys and locks, or any software or other intangibles) and the Concessionaire, at the reasonable cost and expense of the Concessionaire, shall and shall cause its Representatives to, furnish the Government Parties with every reasonable assistance for inspecting the Metered Parking System and the Metered Parking System Operations for the purpose of Auditing the Information or ascertaining compliance with this Agreement and applicable Law.

(c) *Tests.* A Government Party and its Representatives shall, with the prior consent of the Concessionaire (which shall not be unreasonably withheld, conditioned or delayed), except in the case of investigations of possible criminal conduct or City ordinance violations, in which case no consent shall be required, be entitled, at the sole cost and expense of the Government Party, and at any time and from time to time, to perform or cause to be performed any test, study or investigation in connection with the Metered Parking System or the Metered Parking System Operations as the Government Party may reasonably determine to be necessary in the circumstances and the Concessionaire, at the cost and expense of the Concessionaire, shall, and shall cause its Representatives to, furnish the Government Party or its Representatives with reasonable assistance in connection with the carrying out of such tests, procedures, studies and investigations.

(d) *No Waiver.* Failure by the Government Parties or their Representatives to inspect, review, test or Audit the Concessionaire's responsibilities under this Agreement or any part thereof or the Information, shall not constitute a waiver of any of the rights of the Government Parties hereunder or any of the obligations or liabilities of the Concessionaire hereunder. Inspection, review, testing or Audit not followed by a notice of Concessionaire Default shall not constitute a waiver of any Concessionaire Default or constitute an acknowledgement that there has been or will be compliance with this Agreement and applicable Law.

(e) *No Undue Interference.* In the course of performing its inspections, reviews, tests and Audits hereunder, the Government Parties shall minimize the effect and duration of any disruption to or impairment of the Metered Parking System Operations or the Concessionaire's rights or responsibilities under this Agreement, having regard to the nature of the inspections, reviews, tests and Audits being performed, except as necessary in the case of investigations of possible criminal conduct or City ordinance violations.

Section 8.4. Audits, Assistance, Inspections and Approvals. Wherever in this Agreement reference is made to a Government Party or its Representatives providing assistance, services, Approvals or consents to or on behalf of the Concessionaire or its Representatives or to a Government Party or its Representatives performing an Audit or inspecting, testing, reviewing or examining the Metered Parking System, the Metered Parking System Operations or any part thereof or the books, records, documents, budgets, proposals, requests, procedures, certificates, plans, drawings, specifications, contracts, agreements, schedules, reports, lists or other instruments of the Concessionaire or its Representatives, such undertaking by a Government Party or its Representatives shall not relieve or exempt the Concessionaire from, or represent a waiver of, any requirement,

liability, Concessionaire Default, covenant, agreement or obligation under this Agreement or at law or in equity and shall not create or impose any requirement, liability, covenant, agreement or obligation (including an obligation to provide other assistance, services or Approvals) on a Government Party or its Representatives not otherwise created or imposed pursuant to the express provisions of this Agreement.

ARTICLE 9 REPRESENTATIONS AND WARRANTIES

Section 9.1. Representations and Warranties of the City. The City makes the following representations and warranties to the Concessionaire and acknowledges that the Concessionaire and its Representatives are relying upon such representations and warranties in entering into this Agreement:

(a) *Organization.* The City is a municipal corporation and city of the second class, duly organized and existing under the Constitution and laws of the Commonwealth of Pennsylvania and the City of Pittsburgh Home Rule Charter.

(b) *Power and Authority.* The City Council has (i) duly adopted the Metered Parking System Ordinance, which remains in full force and effect, (ii) duly authorized and approved the execution and delivery of this Agreement and (iii) duly authorized and approved the performance by the City of its obligations contained in this Agreement. The City has the power and authority to adopt the Metered Parking System Ordinance, 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 *provided, however*, that the power and authority of the City over State Roads is subject to the exercise by the Commonwealth of Pennsylvania of its police and regulatory powers.

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

(d) *Title.* At the Time of Closing, the City will have good and sufficient title to the Metered Parking System necessary for the Metered Parking System Operations pursuant to this Agreement, subject only to Permitted City Encumbrances and Permitted Concessionaire Encumbrances (other than the Permitted Concessionaire Encumbrances specified in clause (iv), clause (vii) and clause (viii) as it pertains to clauses (iv) and (vii), of the definition of the term “Permitted Concessionaire Encumbrances”). Subject to any and all Permitted City Encumbrances and Permitted Concessionaire Encumbrances (other than the Permitted Concessionaire Encumbrances specified in clause (iv), clause (vii) and clause (viii) as it pertains to clauses (iv) and (vii), of the definition of the term “Permitted Concessionaire Encumbrances”) existing at the Time of Closing, there is no recorded or unrecorded agreement, contract, option, commitment, right, privilege or other right of

another binding upon, or which at any time in the future may become binding upon, the City to sell, transfer, convey, subject to lien, charge, grant a security interest in, or in any other way dispose of or materially encumber the Metered Parking System. Subject to any and all permitted City Encumbrances, the recorded or unrecorded restrictions, exceptions, easements, rights of way, reservations, limitations, interests and other matters that affect title to the Metered Parking System (or any portion thereof) do not and will materially adversely affect the Concessionaire's ability to operate the Metered Parking System in accordance with the terms hereof. No indebtedness for borrowed money of the City is or will be secured by any right or interest in the Metered Parking System or the revenues or income therefrom (other than (i) the revenues payable to the City from the operation of Reserve Metered Parking Spaces and (ii) revenues and income to be derived after the End Date) and no judgment lien exists or shall exist in any revenue derived from or generated with respect to the Metered Parking System.

(e) *No Conflicts.* The adoption of the Metered Parking System Ordinance, execution and delivery of this Agreement by the City, the consummation of the transactions contemplated hereby (including the operation of the Metered 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) any agreement, instrument or document to which the City is a party or by which it is bound.

(f) *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 as of the Closing except for those Consents that have been obtained or will be obtained on or before the Closing or, with respect to the performance of the City's obligations after the Closing, those Consents which the City has obtained or reasonably expects to obtain in the ordinary course prior to the time such Consent is required.

(g) *Compliance with Law and Litigation.*

(i) To the best knowledge of the City, the Authority has operated and is operating the Metered Parking System in compliance, in all material respects, with all applicable Laws and the City is not in breach of any applicable Law that would have a material adverse effect on the operations of the Metered Parking System or on the Concessionaire Interest. There are no Authorizations from any Governmental Authority necessary for the operation of the Metered Parking System as currently being 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 City's knowledge, threatened against the City prior to or at the Time of Closing, which will have a material adverse effect on the operations of the Metered Parking System. As of the date of this Agreement, there is no action, suit or proceeding, at Law or in equity, or before or by any

Governmental Authority, pending nor, to the best of the City's knowledge, threatened against the City which could materially affect the validity or enforceability of this Agreement.

(h) *Metered Parking System Contracts.* Each Metered Parking System Contract is in full force and effect, has been made available for review by the Concessionaire and subject to Section 2.5(e) shall be terminated at the Time of Closing in accordance with Section 2.5(e) without liability or obligation to the Concessionaire. The City is not in material breach of its obligations under any Metered 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, and to the knowledge of the City no other party to any Metered Parking System Contract is in material breach of its obligations under any Metered Parking System Contract, and no act or event has occurred with respect to any such party, which with notice or lapse of time, or both, would or is reasonably be expected to constitute a material breach thereof. The Metered Parking System Contracts are all of the material contracts and agreements (i) to which the City is a party that relate to the Metered Parking System Operations or (ii) that bind the Metered Parking System in any material respect.

(i) *Absence of Changes.* Since September 30, 2009, there has not been any transaction or occurrence that has resulted or is reasonably likely to result in a Material Adverse Effect.

(j) *Brokers.* Except for Morgan Stanley & Co. Incorporated and Scott Balice Strategies, LLC, whose fees will be paid by the Authority, 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.

(k) *Accuracy of Information.* To the knowledge of the City, all consultant reports and financial information prepared by the Government Parties in connection with the Transaction and all historical financial statements and results of operations regarding the Metered Parking System that the Government Parties provided to the Concessionaire in the virtual data room was accurate in all material respects at the time such information was prepared.

Section 9.2. Representations and Warranties of the Authority. The Authority makes the following representations and warranties to the Concessionaire and acknowledges that the Concessionaire and its Representatives are relying upon such representations and warranties in entering into this Agreement:

(a) *Organization.* The Authority is a body corporate and politic, duly organized and existing under the Constitution and laws of the Commonwealth of Pennsylvania.

(b) *Power and Authority.* The Board has (i) duly adopted a resolution authorizing the Transaction, which remains in full force and effect, (ii) duly authorized and approved the execution and delivery of this Agreement and (iii) duly authorized and

approved the performance by the Authority of its obligations contained in this Agreement. The Authority 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 Authority and constitutes a valid and legally binding obligation of the Authority, enforceable against the Authority 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.* Subject to any and all Permitted City Encumbrances and Permitted Concessionaire Encumbrances (other than the Permitted Concessionaire Encumbrances specified in clause (iv), clause (vii) and clause (viii) as it pertains to clauses (iv) and (vii), of the definition of the term “Permitted Concessionaire Encumbrances”) existing at the Time of Closing, there is no recorded or unrecorded agreement, contract, option, commitment, right, privilege or other right of another binding upon, or which at any time in the future may become binding upon, the Authority to sell, transfer, convey, subject to lien, charge, grant a security interest in, or in any other way dispose of or materially encumber the Metered Parking System. The recorded or unrecorded restrictions, exceptions, easements, rights of way, reservations, limitations, interests and other matters that affect title to the Metered Parking System (or any portion thereof) do not materially adversely affect the Concessionaire’s ability to operate the Metered Parking System in accordance with the terms hereof. Following defeasance of the outstanding Revenue Bonds, no indebtedness for borrowed money of the Authority will be secured by any right or interest in the Metered Parking System or the revenues or income therefrom (other than (i) the revenues payable to the City from the operation of Reserve Metered Parking Spaces and (ii) revenues and income to be derived after the End Date) and no Person will have any claim or right to, or interest in, any income, profits, rents, or revenue derived from or generated with respect to the Metered Parking System (other than the Concessionaire under this Agreement and any claims, rights or interests granted by or otherwise relating to the Concessionaire). No judgment lien exists or shall exist in any revenue derived from or generated with respect to the Metered Parking System.

(e) *No Conflicts.* The execution and delivery of this Agreement by the Authority, the consummation of the transactions contemplated hereby (including the operation of the Metered Parking System in accordance with the terms of this Agreement) and the performance by the Authority 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 Authority under (i) any applicable Law or (ii) any agreement, instrument or document to which the Authority is a party or by which it is bound.

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

Consents which have been obtained or will be obtained on or before the Closing or, with respect to the performance of the Authority's obligations after the Closing, those Consents which the Authority has obtained or reasonably expects to obtain in the ordinary course prior to the time when such Consent is required.

(g) *Compliance with Law and Litigation.*

(i) To the best of the Authority's knowledge, the Authority has operated and is operating the Metered Parking System in compliance, in all material respects, with all applicable Laws and is not in breach of any applicable Law that would have a material adverse effect on the operations of the Metered Parking System or on the Concessionaire Interest. There are no Authorizations from any Governmental Authority necessary for the operation of the Metered Parking System as currently being 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 Authority's knowledge, threatened against the Authority prior to or at the Time of Closing, which will have a material adverse effect on the operations of the Metered Parking System. As of the date of this Agreement, there is no action, suit or proceeding, at Law or in equity, or before or by any Governmental Authority, pending nor, to the best of the Authority's knowledge, threatened against the Authority which could materially affect the validity or enforceability of this Agreement.

(h) *Financial Statements and Supplemental Financial Information.* The financial statements of the Authority for the fiscal years ending September 30 of the years 2005 to 2009, both inclusive, fairly present the financial position and results of operations of the Authority reflected in such financial statements as of the dates and for the periods stated in such financial statements in accordance with generally accepted accounting principles, as applied to governmental units. The supplemental financial information attached hereto as Schedule 13 fairly presents a statement of revenues derived from the Metered Parking System as of the dates and for the periods stated in such supplemental financial information.

(i) *Metered Parking System Contracts.* Each Metered Parking System Contract is in full force and effect, has been made available for review by the Concessionaire and shall be terminated at the Time of Closing in accordance with Section 2.5(e). The Authority is not in material breach of its obligations under any Metered 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, and to the knowledge of the Authority no other party to any Metered Parking System Contract is in material breach of its obligations under any Metered Parking System Contract, and no act or event has occurred with respect to any such party, which with notice or lapse of time, or both, would or is reasonably be expected to constitute a material breach thereof. The Metered Parking System Contracts are all of the material contracts and agreements (i) to which the Authority is a party that relate to the Metered Parking System Operations or (ii) that bind the Metered Parking System in any material respect.

(j) *Absence of Changes.* Since _____, 20__, there has not been any transaction or occurrence that has resulted or is reasonably likely to result in a Material Adverse Effect.

(k) *Brokers.* Except for Morgan Stanley & Co. Incorporated and Scott Balice Strategies, LLC, whose fees will be paid by the Authority, there is no investment banker, broker, finder or other intermediary which has been retained by or is authorized to act on behalf of the Authority who might be entitled to any fee or commission from the Authority in connection with the transactions contemplated by this Agreement.

(l) *Accuracy of Information.* To the knowledge of the Authority, all consultant reports and financial information prepared by the Government Parties in connection with the Transaction and all historical financial statements and results of operations regarding the Metered Parking System that the Government Parties provided to the Concessionaire in the virtual data room was accurate in all material respects at the time such information was prepared.

Section 9.3. Representations and Warranties of the Concessionaire. The Concessionaire makes the following representations and warranties to the Government Parties (and acknowledges that the Government Parties are relying upon such representations and warranties in entering into this Agreement):

(a) *Organization.* The Concessionaire is duly organized, validly existing and in good standing under the laws of the state of its organization. The capital stock, units, partnership or membership interests and other equity interests or securities of the Concessionaire (including options, warrants and other rights to acquire any such equity interests) are owned by the Persons set forth in the written certification that the Concessionaire delivered to the City prior to the date hereof.

(b) *Power and Authority.* The Concessionaire 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 Concessionaire and constitutes a valid and legally binding obligation of the Concessionaire, 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 Concessionaire, the consummation of the transactions contemplated hereby and the performance by the Concessionaire of the terms, conditions and provisions hereof has not and will not contravene or violate or result in a material breach of (with or without the giving of notice or lapse of time, or both) or acceleration of any material obligations of the Concessionaire under (i) any applicable Law, (ii) any material agreement, instrument or document to which the Concessionaire is a party or by which it is bound or (iii) the articles, bylaws or governing documents of the Concessionaire.

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

(f) *Compliance with Law; Litigation.* The Concessionaire is not in breach of any applicable Law that could have a material adverse effect on the operations of the Metered Parking System. Neither the Concessionaire nor any Affiliate of the Concessionaire is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the Bureau of Industry and Security of the U.S. Department of Commerce or their successors, or on any other list of Persons with which the City may not do business under applicable Law: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List. 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 Concessionaire's knowledge, threatened against the Concessionaire prior to or at the Time of Closing, which will have a material adverse effect on (i) the transactions contemplated by this Agreement or (ii) the validity or enforceability of this Agreement.

(g) *Operator.* To the extent the Operator is not the Concessionaire, the Concessionaire represents and warrants as follows: To the best knowledge of the Concessionaire: (i) the Operator is duly organized, validly existing and in good standing under the laws of the state of its organization; (ii) the capital stock of the Operator (including options, warrants and other rights to acquire capital stock) is owned by the Persons set forth in the written certification that the Concessionaire delivered to the City prior to the date of this Agreement; (iii) the Operator has the power and authority 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 connection with its engagement by the Concessionaire; (iv) the Operator has all necessary expertise, qualifications, experience, competence, skills and know-how to perform the Metered Parking System Operations in accordance with this Agreement; and (v) the Operator is not in breach of any applicable Law that would have a material adverse effect on the operations of the Metered Parking System.

(h) *RFQ and RFP.* All of the information in the Concessionaire's Statement of Affiliations submitted pursuant to the City of Pittsburgh Code of Ordinances, Title One, Article 21, Section 197.08(c), all information in the response to the request for Metered Parking System concessionaire qualifications and the response to the request for proposals delivered by or on behalf of the Concessionaire to the Authority in connection with the execution of this Agreement is true, accurate and correct in all material respects.

(i) *Brokers.* Except for any broker or advisor whose fees will be paid by the Concessionaire or its Affiliates, there is no investment banker, broker, finder or other intermediary which has been retained by or is authorized to act on behalf of the Concessionaire or any of its Affiliates who might be entitled to any fee or commission in connection with the transactions contemplated by this Agreement.

Section 9.4. 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 9.5. Survival.

(a) *City's Representations and Warranties.* The representations and warranties of the City contained in Section 9.1 shall survive and continue in full force and effect for the benefit of the Concessionaire as follows: (i) as to the representations and warranties contained in Sections 9.1(a) through 9.1(g), inclusive, and Section 9.1(k) without time limit; and (ii) as to all other matters, for a period of 24 months following the Closing Date unless a bona fide notice of a Claim shall have been given, in writing in accordance with Section 20.1, prior to the expiry of that period, in which case the representation and warranty to which such notice applies shall survive in respect of that Claim until the final determination or settlement of that Claim, provided such determination or settlement is being pursued diligently and in good faith by the applicable Party.

(b) *Authority's Representations and Warranties.* The representations and warranties of the Authority contained in Section 9.2 shall survive and continue in full force and effect for the benefit of the Concessionaire as follows: (i) as to the representations and warranties contained in Sections 9.2(a) through 9.2(g), inclusive, and Section 9.2(l) without time limit; and (ii) as to all other matters, for a period of 24 months following the Closing Date unless a bona fide notice of a Claim shall have been given, in writing in accordance with Section 20.1, prior to the expiry of that period, in which case the representation and warranty to which such notice applies shall survive in respect of that Claim until the final determination or settlement of that Claim, provided such determination or settlement is being pursued diligently and in good faith by the applicable Party.

(c) *Concessionaire's Representations and Warranties.* The representations and warranties of the Concessionaire contained in Section 9.3 shall survive and continue in full force and effect for the benefit of the City as follows: (i) as to the representations and warranties contained in Sections 9.3(a) through 9.3(h), inclusive, without time limit; and (ii) as to all other matters, for a period of 24 months following the Closing Date unless a bona fide notice of a Claim shall have been given, in writing in accordance with Section 20.1, before the expiry of that period, in which case the representation and warranty to which such notice applies shall survive in respect of that Claim until the final determination or settlement of that Claim, provided such determination or settlement is being pursued diligently and in good faith by the applicable Party.

ARTICLE 10
FINANCE OBLIGATIONS

Section 10.1. Concessionaire's Obligations. Except with respect to the City's funding of costs and expenses related to City Directives as contemplated by Section 5.1, the Concessionaire shall be responsible for obtaining any financing for the performance of its obligations under this Agreement, which financing shall comply with all requirements of this Agreement.

Section 10.2. Government Party's Obligations. Each Government Party shall, to the extent consistent with applicable Law and at the sole cost and expense of the Concessionaire, cooperate with the Concessionaire with respect to documentation reasonably necessary to obtain, maintain and replace financing for the performance of the obligations of the Concessionaire hereunder. The Government Party's cooperation may include reviewing, Approving and executing documents which substantiate the terms of this Agreement (including any consents and agreements necessary to confirm that the debt evidenced by the relevant financing constitutes Collateral Assignment Debt) and making information and material available to the Concessionaire's lenders 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 Concessionaire, the Government Party shall, at the sole cost and expense of the Concessionaire, use its reasonable efforts to cause the Government Party's independent public accountants to consent to the preparation, use and inclusion of certain financial information regarding the Metered Parking System in connection with the Concessionaire's public or private offering of securities, as the case may be. In addition, the Government Party shall, promptly upon the request of the Concessionaire or any Collateral Assignee, execute, acknowledge and deliver to the Concessionaire, or any of the parties specified by the Concessionaire, standard consents and estoppel certificates with respect to this Agreement which may be qualified to the best of the knowledge and belief of a designated Representative of the Government Party. Nothing herein shall require a Government Party to incur any additional obligations or liabilities (unless the Government Party shall have received indemnification, as determined in the Government Party's discretion, with respect thereto) or to take any action, give any consent or enter into any document inconsistent with the provisions of this Agreement.

Section 10.3. Concessionaire's Obligation for Estoppel Certificates. The Concessionaire shall, promptly upon the request of a Government Party, execute and deliver to the Government Party, or any of the parties specified by the Government Party, standard consents and estoppel certificates with respect to this Agreement which may be qualified to the best of the knowledge and belief of a designated Representative of the Concessionaire. Nothing herein shall require the Concessionaire to incur any additional obligations or liabilities or to take any action, give any consent or enter into any document inconsistent with the provisions of this Agreement or applicable Law.

Section 10.4. Prohibited Tax Shelter Transactions. The Concessionaire covenants and agrees that it shall not enter into any lease, sublease, concession, management agreement, operating agreement or other similar arrangement or other transaction that would cause the City or the Authority to become a party to a "prohibited

tax shelter transaction” within the meaning of Section 4965 of the Internal Revenue Code of 1986 (it being agreed that, for purposes of this Section 10.4, neither the City nor the Authority shall be treated as having become a party to any such transaction solely by virtue of the execution of this Agreement). A violation of this Section 10.4 by the Concessionaire shall entitle a Government Party to (a) recover from the Concessionaire, to the extent permitted by applicable Law, the amount of any Tax liability to which the Government Party or any Government Party official is subject and (b) require the Concessionaire, at the Concessionaire’s expense, to prepare timely all statements and returns, and to maintain all lists and similar information that the City or the Authority becomes obligated to disclose, file or maintain with any taxing authority or participant or otherwise as a result of such transaction.

ARTICLE 11 COMPLIANCE WITH LAWS

Section 11.1. **Compliance with Laws.** The Concessionaire must at all times at its own cost and expense observe and comply, in all material respects, and cause the Metered Parking System Operations to observe and comply, in all material respects, with all applicable Laws now existing or later in effect that are applicable to it or such Metered Parking System Operations, including those Laws expressly enumerated in this Article 11, and those that may in any manner apply with respect to the performance of the Concessionaire’s obligations under this Agreement. The Concessionaire must notify the City within seven days after receiving notice from a Governmental Authority that the Concessionaire may have violated any Laws as described above.

Section 11.2. **Non-Discrimination.**

(a) *Non-Discrimination Requirements.* The Concessionaire shall comply with all applicable federal, state and local Laws regarding non-discrimination, including: (i) the Civil Rights Act of 1964, 42 U.S.C. § 2000 *et seq.* (1981); (ii) the Civil Rights Act of 1991, P.L. 102-166; (iii) Executive Order Number 11246, 30 Fed. Reg. 12,319 (1965), reprinted in 42 U.S.C. § 2000(e) note, as amended by Executive Order Number 11375, 32 Fed. Reg. 14,303 (1967) and by Executive Order Number 12086, 43 Fed. Reg. 46,501 (1978); (iv) the Age Discrimination Act, 42 U.S.C. §§ 6101-6106 (1981); (v) the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-34 (1967); (vi) the Rehabilitation Act of 1973, 29 U.S.C. §§ 793-794 (1981); (vii) the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.* (1990); (viii) the Pennsylvania Human Relations Act, Act of October 27, 1955 (P.L. 744, No. 222) as amended, 43 P.S. §§ 951-963; and (ix) City of Pittsburgh Code of Ordinances, Title Six, Article V, Chapters 651 through 659.

(b) *Contract Provisions.* The Concessionaire shall cause all Contractors to comply with each of the federal laws, Pennsylvania Laws and City Laws referenced in this Section 11.2, and shall include a provision to such effect in each contract entered into with any Contractor.

Section 11.3. Non-Discrimination/Sexual Harassment Clause. Pursuant to 62 Pa.C.S. § 3701, the Concessionaire agrees as follows during the Term:

(a) In the hiring of any employees for the manufacture of supplies, performance of work, or any other activity required under this Agreement or any subcontract, the Concessionaire, any Contractor or any Person acting on behalf of the Concessionaire or a Contractor shall not by reason of gender, race, creed, or color discriminate against any citizen of the Commonwealth of Pennsylvania who is qualified and available to perform the work to which the employment relates.

(b) Neither the Concessionaire nor any Contractor nor any Person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work or any other activity required under this Agreement on account of gender, race, creed, or color.

(c) The Concessionaire and all Contractors shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.

(d) The Concessionaire shall not discriminate by reason of gender, race, creed, or color against any Contractor or supplier who is qualified to perform the work to which the contract relates.

(e) The Concessionaire and each Contractor shall furnish all necessary employment documents and records to and permit access to its books, records, and accounts by the City for purposes of investigation to ascertain compliance with this Section 11.3. If the Concessionaire or any Contractor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the City.

(f) The Concessionaire shall include the provisions of this Section 11.3 in every subcontract so that such provisions will be binding upon each Contractor.

Section 11.4. **Non-Collusion.** The Concessionaire attests, after inquiry of its Representatives and subject to the penalties for perjury, that no Representative of the Concessionaire, directly or indirectly, to the best of the Concessionaire's knowledge, entered into or offered to enter into any combination, conspiracy, collusion or agreement to receive or pay any sum of money or other consideration for the execution of this Agreement other than that which is expressly set forth in this Agreement.

Section 11.5. **Ethics and Conflict of Interest Requirements.**

(a) The Concessionaire shall maintain the highest standards of integrity in the performance of this Agreement and shall take no action in violation of state or federal Laws, regulations, or other requirements that govern contracting with the Commonwealth of Pennsylvania, the Authority or the City.

(b) The Concessionaire shall not, in connection with this or any other agreement with the Authority or City, directly, or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any officer or employee of the Commonwealth of Pennsylvania.

(c) The Concessionaire shall not, in connection with this or any other agreement with the Authority or City, directly or indirectly, offer, give, or agree or promise to give to anyone any gratuity for the benefit of or at the direction or request of any officer or employee of the Authority or City.

(d) Except with the consent of the Authority and City, neither the Concessionaire nor anyone in privity with the Concessionaire shall accept or agree to accept from, or give or agree to give to, any Representative of the Authority or City, any gratuity from any person in connection with this Agreement that is intended by the provider thereof to be a material inducement to enter into this Agreement or any other contract.

(e) The Concessionaire certifies that except as fully disclosed in the Concessionaire's proposal, Concessionaire has not entered into any arrangement involving a finder's fee, fee splitting, firm affiliation or relationship with any broker-dealer, payment to any consultant, lobbyist, or commissioned representative or any other contractual arrangement that could present a real or perceived conflict of interest.

(f) The Concessionaire, upon being informed that any violation of the provisions of this Section 11.5 has occurred or may occur, shall immediately notify the Authority and City in writing.

(g) The Concessionaire, by execution of this Agreement and any request for compensation pursuant hereto certifies and represents that it has not violated any of the provisions of this Section 11.5.

Section 11.6. **Prevailing Wage.**

(a) *Compliance with Prevailing Wage Act.* The Concessionaire shall comply with (i) the provisions of the Pennsylvania Prevailing Wage Act, Act of August 15, 1961 (P.L. 987), as amended, 43 P.S. §§165-1 to 165-17, known as the Pennsylvania Prevailing Wage Act and the regulations issued pursuant thereto by the Pennsylvania Department of Labor and Industry; and (ii) the provisions of City of Pittsburgh Code of Ordinances, Title One, Article VII, Chapter 161, Section 161.23. To the extent that the Concessionaire performs any "public work" (as such term is defined in the Pennsylvania Prevailing Wage Act) related to the Metered Parking System during the Term, or engages any Contractor to perform any such "public work" relating to the Metered Parking System during the Term, the Concessionaire shall pay and ensure that all of its Contractors pay all employees engaged in such "public work" at least the prevailing wage rates as ascertained from time to time by the Pennsylvania Department of Labor and Industry (or its successors).

(b) *City and Authority Powers.* Further, the Concessionaire acknowledges that the City and Authority may withhold any sums due to the Concessionaire or a Contractor as is necessary to pay to such employees of the Concessionaire or Contractor, as applicable, any deficiency between the wages required to be paid to such employees and the wages actually paid to such employees, and the Authority or City may make such payments directly to the appropriate employees.

(c) *Contract Provisions.* The Concessionaire shall include a provision in each contract or subcontract entered into with a Contractor performing “public work” reflecting the requirements of this Section 11.6.

Section 11.7. Living Wage. The Concessionaire shall comply with, and shall cause all Contractors to comply with, the living wage requirements of the City of Pittsburgh Code of Ordinances Title One, Article VIII, Chapter 161, §161.35, as may be amended from time to time, so long as such requirements are in full force and effect. If an employee of the Concessionaire or a Contractor is required to be paid a living wage pursuant to this Section 11.7 and is also subject to payment of a prevailing wage pursuant to Section 11.6 of this Agreement, then the Concessionaire or Contractor, as appropriate, shall pay the employee the higher of the prevailing wage or the living wage.”

Section 11.8. Reciprocal Limitations Act. Subject to federal and state Law, the Concessionaire shall comply with the provisions of the Reciprocal Limitations Act, 62 Pa. C.S.A. § 107, which imposes certain procurement restrictions against those states which have imposed restrictions against purchases from the Commonwealth of Pennsylvania or other states, as such statute relates to the performance by the Concessionaire of any obligation under this Agreement.

Section 11.9. Steel Products Procurement Act. In the performance of any construction, reconstruction, alteration, repair, improvement or maintenance of the Metered Parking System, the Concessionaire shall comply with the requirements of the Steel Products Procurement Act, Act of March 3, 1978 (P.L. 6, No. 3), as amended, 73 P.S. §§1881-1887.

Section 11.10. Trade Practices Act. In accordance with Pennsylvania Trade Practices Act, the Act of July 23, 1968 (P.L. 686, No. 226), 71 P.S. §§ 773.101-773.113, the Concessionaire shall not furnish or use or permit to be furnished or used in any “public works” (as defined in the Pennsylvania Trade Practices Act) any aluminum or steel products made in a foreign country that has been identified by the Commonwealth of Pennsylvania as a foreign country that discriminates against aluminum or steel products manufactured in the Commonwealth of Pennsylvania.

Section 11.11. Pennsylvania Procurement Code. In addition to the other obligations set forth in this Agreement, the Concessionaire shall be subject to the following provisions of the Pennsylvania Procurement Code: 62 Pa. C.S. § 531 (relating to debarment and suspension), 62 Pa. C.S. § 541 (relating to accounting standards); 62 Pa. C.S. § 551 (relating to inspections), 62 Pa. C.S.A. § 552 (relating to audits) and 62 Pa. C.S. § 563 (relating to record retention requirements).

Section 11.12. City Residential Preference Requirements.

(a) In the event that the Concessionaire or a Contractor enters into a Covered Contract (as defined Section 11.12(b)), the Concessionaire shall comply with, and shall cause all Contractors to comply with, the residential preference requirements of (i) City of Pittsburgh Code of Ordinances, Title One, Article VII, Chapter 161, §161.33, (ii) the City of Pittsburgh Code of Ordinances, Title One, Article IX, Chapter 177A, and (iii) Section 515 of the City of Pittsburgh Home Rule Charter, as each may be amended from time to time, so long as such requirements are in effect.

(b) For purposes of this Section 11.12, the term “Covered Contract” has the meaning set forth in City of Pittsburgh Code of Ordinances, Title One, Article VII, Chapter 161, §161.33. As of the date of the agreement: (1) the term Covered Contract means any Construction Contract (as hereinafter defined) for \$200,000 or more to which the City is a party and which is funded in whole or in part by (i) City funds or value, (ii) funds received from the City directly or indirectly from the state or federal government which the City may expend or administer in connection with a construction project subject to the City of Pittsburgh Code of Ordinances, Title One, Article VII, Chapter 161, or (iii) a combination thereof, and (2) the term “Construction Contract” means any agreement for the erection, repair, alteration or demolition of any building, structure, bridge, roadway or other improvement to real property which is funded, in whole or in part, by City funds or value.

Section 11.13. Minority-Owned and Women-Owned Business Enterprises.

The Concessionaire shall use good faith efforts during the Term to obtain the participation of M.B.E./W.B.E. in its Metered Parking System Operations. In order to demonstrate this good faith efforts commitment, the Concessionaire shall, and shall cause all Contractors to, complete and submit to the City (i) a M.B.E./W.B.E.. Solicitation and Commitment Statement, which shall detail the efforts of the Concessionaire or the Contractor, as applicable, to obtain such participation or (ii) a M.B.E./W.B.E. Commitment Waiver Request, which shall detail the reasons why no M.B.E./W.B.E. participation could be obtained. Further, within thirty (30) Days after the City’s request, the Concessionaire and the Contractor, as applicable, shall submit a report detailing the actual levels of M.B.E./W.B.E. participation.

ARTICLE 12
INDEMNIFICATION

Section 12.1. Indemnification by the Concessionaire. The Concessionaire shall indemnify and hold harmless the City, the Authority and each of their Representatives from and against any Losses actually suffered or incurred by the City, the Authority or any such Representative, based upon, arising out of, occasioned by or attributable to (i) any failure by the Concessionaire, the Operator or each of their respective Representatives to comply with, observe or perform any of the covenants, obligations, agreements, terms or conditions in this Agreement or, subject to Section 9.5(c), any breach by the Concessionaire of its representations or warranties set

forth herein, (ii) any Assumed Liabilities, (iii) any Tax attributable to any Transfer of the Concessionaire Interest or any part thereof by the Concessionaire or (iv) any claim for brokerage commissions, fees or other compensation by any Person who acted on behalf of the Concessionaire or its Representatives in connection with this Agreement, any Transfer of the Concessionaire Interest or any part thereof or any other matter affecting the Metered Parking System; *provided, however*, that, except with respect to Claims resulting from Third Party Claims, Claims are made in writing within a period of three years following the expiration of the Term or earlier termination of this Agreement or within such shorter period as may be prescribed by the applicable statute of limitations.

Section 12.2. **Indemnification by the Government Parties.**

(a) *Authority.* The Authority shall indemnify and hold harmless the Concessionaire and each of its Representatives against and from and against any Losses actually suffered or incurred by the Concessionaire or any such Representative, based upon, arising out of, occasioned by or attributable to (i) any failure by the Authority or its Representatives to comply with, observe or perform any of the covenants, obligations, agreements, terms or conditions in this Agreement or, subject to Section 9.5(b), any breach by the Authority of its representations or warranties set forth herein, or (ii) any claim for brokerage commissions, fees or other compensation by any Person who acted on behalf of the Authority or any of its Representatives in connection with this Agreement, or any other matter affecting the Metered Parking System; *provided, however*, that, (A) except with respect to Claims resulting from Third Party Claims, Claims are made in writing within a period of three years of the expiration of the Term or earlier termination of this Agreement or within such shorter period as may be prescribed by the applicable statute of limitations and (B) nothing in this Section 12.2(a) shall be construed as a waiver of the Authority's governmental immunity and related limitations on liability as to damages on account of any injury to a person or property pursuant to the Pennsylvania Political Subdivisions Tort Claims Act, and the Authority shall not be required to indemnify the Concessionaire for any such personal injury or property damages (including Third Party Claims as to such damages) except to the extent provided under Pennsylvania Political Subdivisions Tort Claims Act.

(b) *City.* The City shall indemnify and hold harmless the Concessionaire and each of its Representatives against and from and against any Losses actually suffered or incurred by the Concessionaire or any such Representative, based upon, arising out of, occasioned by or attributable to (i) any failure by the City or its Representatives to comply with, observe or perform any of the covenants, obligations, agreements, terms or conditions in this Agreement or, subject to Section 9.5(a), any breach by the City of its representations or warranties set forth herein, (ii) any Excluded Liabilities, or (iii) any claim for brokerage commissions, fees or other compensation by any Person who acted on behalf of the City or any of its Representatives in connection with this Agreement, or any other matter affecting the Metered Parking System; *provided, however*, that, (A) except with respect to Claims resulting from Third Party Claims, Claims are made in writing within a period of three years of the expiration of the Term or earlier termination of this Agreement or within such shorter period as may be prescribed by the applicable statute of limitations and (B) nothing in this Section 12.2(b) shall be construed as a waiver of the City's governmental immunity and related limitations on liability as to

damages on account of any injury to a person or property pursuant to the Pennsylvania Political Subdivisions Tort Claims Act, and the City shall not be required to indemnify the Concessionaire for any such personal injury or property damages (including Third Party Claims as to such damages) except to the extent provided under Pennsylvania Political Subdivisions Tort Claims Act.

Section 12.3. **Agency for Representatives.** Each of the Parties agree that it accepts each indemnity in favor of any of its Representatives, as agent and trustee of that Representative and agrees that each of the Parties may enforce an indemnity in favor of its Representatives on behalf of that Representative.

Section 12.4. **Third Party Claims.**

(a) *Notice of Third Party Claim.* If an Indemnified Party receives notice of the commencement or assertion of any Third Party Claim, the Indemnified Party shall give the Indemnifier reasonably prompt notice thereof, but in any event no later than 30 Days after receipt of such notice of such Third Party Claim. Such notice to the Indemnifier shall describe the Third Party Claim in reasonable detail (and include a copy of any complaint or related documents) and shall indicate, if reasonably practicable, the estimated amount of the Loss that has been or may be sustained by the Indemnified Party.

(b) *Defense of Third Party Claim.* The Indemnifier may participate in or assume the defense of any Third Party Claim by giving notice to that effect to the Indemnified Party not later than 30 Days after receiving notice of that Third Party Claim (the “Notice Period”). The Indemnifier’s right to do so shall be subject to the rights of any insurer or other Party who has potential liability in respect of that Third Party Claim. The Indemnifier agrees to pay all of its own expenses of participating in or assuming each defense. The Indemnified Party shall co-operate in good faith in the defense of each Third Party Claim, even if the defense has been assumed by the Indemnifier and may participate in such defense assisted by counsel of its own choice at its own expense. If the Indemnified Party has not received notice within the Notice Period that the Indemnifier has elected to assume the defense of such Third Party Claim, the Indemnified Party may assume such defense, assisted by counsel of its own choosing and the Indemnifier shall be liable for all reasonable costs and expenses paid or incurred in connection therewith and any Loss suffered or incurred by the Indemnified Party with respect to such Third Party Claim.

(c) *Assistance for Third Party Claims.* The Indemnifier and the Indemnified Party will use all reasonable efforts to make available to the Party which is undertaking and controlling the defense of any Third Party Claim (the “Defending Party”), (i) those employees whose assistance, testimony and presence is necessary to assist the Defending Party in evaluating and in defending any Third Party Claim, and (ii) all documents, records and other materials in the possession of such party reasonably required by the Defending Party for its use in defending any Third Party Claim, and shall otherwise co-operate with the Defending Party. The Indemnifier shall be responsible for all reasonable expenses associated with making such documents, records and materials available and for all expenses of any employees made available by the Indemnified Party to the

Indemnifier hereunder, which expense shall not exceed the actual cost to the Indemnified Party associated with such employees.

(d) *Settlement of Third Party Claims.* If an Indemnifier elects to assume the defense of any Third Party Claim in accordance with Section 12.4(b), the Indemnifier shall not be liable for any legal expenses subsequently incurred by the Indemnified Party in connection with the defense of such Third Party Claim. However, if the Indemnifier fails to take reasonable steps necessary to defend diligently such Third Party Claim within 30 Days after receiving notice from the Indemnified Party that the Indemnified Party bona fide believes on reasonable grounds that the Indemnifier has failed to take such steps, the Indemnified Party may, at its option, elect to assume the defense of and to compromise or settle the Third Party Claim assisted by counsel of its own choosing and the Indemnifier shall be liable for all reasonable costs and expenses paid or incurred in connection therewith. The Indemnified Party shall not settle or compromise any Third Party Claim without obtaining the prior written consent of the Indemnifier unless such settlement or compromise is made without any liability to, and does not require any action on the part of, the Indemnifier.

Section 12.5. Direct Claims. Any Direct Claim shall be asserted by giving the Indemnifier reasonably prompt notice thereof, but in any event not later than 60 Days after the Indemnified Party becomes aware of such Direct Claim. The Indemnifier shall then have a period of 30 Days within which to respond in writing to such Direct Claim. If the Indemnifier does not so respond within such 30-Day period, the Indemnifier shall be deemed to have rejected such Claim, and in such event the Indemnified Party may submit such Direct Claim to the dispute resolution process set forth in Article 19.

Section 12.6. Failure to Give Timely Notice. A failure to give timely notice in accordance with this Article 12 shall not affect the rights or obligations of any Party except and only to the extent that, as a result of such failure, a Party which was entitled to receive such notice was deprived of its right to recover any payment under its applicable insurance coverage or was otherwise directly and materially damaged as a result of such failure. However, this Section 12.6 shall have no effect whatever on the survival provisions set out in Section 9.5 and the rights of the Parties with respect thereto.

Section 12.7. Reductions and Subrogation. If the amount of any Loss incurred by an Indemnified Party at any time subsequent to the making of an indemnity payment hereunder (an "Indemnity Payment") is reduced by any recovery, settlement or otherwise under or pursuant to any insurance coverage, or pursuant to any claim, recovery, settlement or payment by or against any other Person, the amount of such reduction (less any costs, expenses (including Taxes) or premiums incurred in connection therewith), together with interest thereon from the date of payment thereof at the Bank Rate, shall promptly be repaid by the Indemnified Party to the Indemnifier. Upon making a full Indemnity Payment, the Indemnifier shall, to the extent of such Indemnity Payment, be subrogated to all rights of the Indemnified Party against any third party in respect of the Loss to which the Indemnity Payment relates. Until the Indemnified Party recovers full payment of its Loss, any and all claims of the Indemnifier against any such third party on account of such Indemnity Payment shall be postponed and subordinated in right of payment to the Indemnified Party's rights against such third party.

Section 12.8. **Payment and Interest.** All amounts to be paid by an Indemnifier hereunder shall bear interest at a rate per annum equal to the Bank Rate, calculated annually and payable monthly, both before and after judgment, from the date that the Indemnified Party disbursed funds, suffered damages or losses or incurred a loss, liability or expense in respect of a Loss for which the Indemnifier is liable to make payment pursuant to this Article 12, to the date of payment by the Indemnifier to the Indemnified Party.

Section 12.9. **Limitation on Certain Claims.** No Claim may be made by the Concessionaire or its Representatives against (i) the Authority under Section 12.2(a) for the breach of any representation or warranty made or given by the Authority in Section 9.2 or (ii) the City under Section 12.2(b) for the breach of any representation or warranty made or given by the City under Section 9.1 unless (A) the Loss suffered or incurred by the Concessionaire or its Representatives in connection with such breach is in excess of \$10,000 and (ii) the aggregate of all Losses suffered or incurred by the Concessionaire or its Representatives in connection with breaches of representations and warranties in Section 9.1 and Section 9.2 exceeds \$2,000,000 in the aggregate, in which event the amount of all such Losses in excess of such amount may be recovered by the Concessionaire or its Representatives; *provided, however*, that the maximum aggregate liability of the Government Parties to the Concessionaire or its Representatives in respect of such Losses shall not exceed 50% of the Consideration; *provided further* that this Section 12.9 shall not apply to Claims for the breach of the representations or warranties in Section 9.1(a), (b), (c), (d), (e), (f) or (g); or in Section 9.2(a), (b), (c), (d), (e), (f) and (g); or to Claims for fraud, intentional misrepresentation or intentional breach of the representations or warranties in Section 9.1 or Section 9.2.

Section 12.10. **Workers Compensation.** To the extent permissible by applicable Law, the Concessionaire waives any limits to the amount of its obligations to defend, indemnify, hold harmless or contribute to any sums due to the City, the Authority or their respective Representatives for any Losses, including any Losses related to any claim by any employee of the Concessionaire, that may be subject to the Pennsylvania Workers Compensation Act, Act of June 2, 1915, P.C. 736, as amended §§ 77 P.S. Section 1-1001.

Section 12.11. **Offset Rights; Limitations on Certain Damages.**

(a) Except as provided in Section 7.5(b), each Party's obligations under this Agreement are subject to, and each Party shall have the benefit of, all defenses, counterclaims, rights of offset or recoupment or other claims and rights, including the right to deduct payments due to the other Parties hereunder (collectively, "Offsets") which such Party may have at any time against such other Party (or any of their respective successors and assigns) or any transferee or assignee of any such other Party's rights as against such Party or any part thereof or interest therein, whether the claim or right of such Party relied upon for such purpose is matured or unmatured, contingent or otherwise, and no transfer or assignment of this Agreement or any other obligation of such other Party, or of any rights in respect thereof, pursuant to any plan of reorganization or liquidation or otherwise shall affect or impair the availability to each party of the Offsets.

(b) In no event shall any Party be liable to any other Party under this Agreement for consequential, indirect, exemplary or punitive damages (except for claims for fraud or for intentional misrepresentation or intentional breach).

Section 12.12. **Survival.** This Article 12 shall remain in full force and effect in all circumstances and shall not be terminated by any breach (fundamental, negligent or otherwise) by any Party of its representations, warranties or covenants hereunder or by any termination or rescission of this Agreement by any Party.

ARTICLE 13 INSURANCE

Section 13.1. **Insurance Coverage Required.** The Concessionaire shall provide and maintain at the Concessionaire's own expense, or cause to be maintained, during the Term and during any time period following expiration if the Concessionaire is required to return and perform any additional work, the insurance coverages and requirements specified below, insuring the Metered Parking System and all Metered Parking System Operations (the "Required Coverages").

(a) *Workers' Compensation and Employer's Liability.* The Concessionaire shall provide or cause to be provided Workers' Compensation Insurance, as prescribed by applicable Law, covering all employees who agree to provide a service under this Agreement and Employer's Liability Insurance coverage with limits of not less than \$1,000,000 each accident or illness or disease.

(b) *Commercial General Liability (Primary and Umbrella).* The Concessionaire shall provide or cause to be provided Commercial General Liability Insurance or equivalent with limits of not less than \$10,000,000 per occurrence and in the annual aggregate, which limits may be met through a combination of primary and excess or umbrella policies, for bodily injury, personal injury and property damage liability. Coverage shall include the following: all premises and operations, products/completed operations, explosion, collapse, underground, separation of insureds, defense and contractual liability. The City and the Authority are to be named as an additional insureds on a primary, non-contributory basis for any liability arising under or in connection with this Agreement.

(c) *Automobile Liability (Primary and Umbrella).* When any motor vehicles (owned, non-owned or hired) are used in connection with work to be performed, the Concessionaire shall provide or cause to be provided Automobile Liability Insurance with limits of not less than \$5,000,000 per occurrence and in the annual aggregate, which limits may be met through a combination of primary and excess or umbrella policies, for bodily injury and property damage. The City and the Authority are to be named as additional insureds on a primary, non-contributory basis.

(d) *Builder's Risk.* When the Concessionaire undertakes any construction, including improvements, betterments, rehabilitation, maintenance and/or repairs, the

Concessionaire shall provide or cause to be provided, All Risk Builder's Risk Insurance at replacement cost for materials, supplies, equipment, machinery and fixtures that are or will be part of the Metered Parking System. Coverage shall include, but not be limited to, the following: material stored off-site and in-transit, water including overflow, leakage, sewer backup, and seepage, debris removal, flood, faulty workmanship or materials when applicable with aggregate sublimits for catastrophic perils of earthquake, flood and named wind which are the best available on commercially reasonable terms. The City and the Authority shall be named as an additional insured and, subject to the claims of any Collateral Assignee if applicable, as loss payee.

(e) *Professional Liability.* When any architects, engineers, construction managers or any other professional consultants perform work of a material nature in connection with this Agreement, the Concessionaire shall cause such professional consultants to provide Professional Liability Insurance covering acts, errors or omissions shall be maintained with limits of not less than \$1,000,000. When policies are renewed or replaced, the policy retroactive date shall coincide with, or precede, start of work in connection with this Agreement. A claims-made policy which is not renewed or replaced shall have an extended reporting period of two years.

(f) *Property.* The Concessionaire shall be responsible for all loss or damage to the Metered Parking System at full replacement cost unless such loss or damage was caused by, or resulted from any action by, the City, the Authority or any of their Representatives. The Concessionaire shall be responsible for all loss or damage to City or Authority property caused by, or resulting from any action by, the Concessionaire or any of its Representatives at full replacement cost. The Concessionaire shall be responsible for all loss or damage to personal property (including materials, equipment, tools and supplies) owned, rented or used by the Concessionaire unless such loss or damage was caused by, or resulted from any action by, the City, the Authority or any of their Representatives. The Concessionaire shall not be required to have, obtain or maintain insurance coverage for property loss or damage to City or Authority property.

(g) *Railroad Protective Liability.* When any work is to be done adjacent to or on railroad or transit property, the Concessionaire shall provide or shall cause to be provided, with respect to the operations that the Concessionaire or Contractors perform, Railroad Protective Liability Insurance in the name of the applicable railroad or transit entity. The policy shall have limits of not less than the requirement of the operating railroad for losses arising out of injuries to or death of all persons, and for damage to or destruction of property, including the loss of use thereof.

Section 13.2. Additional Requirements.

(a) *Evidence of Insurance.* The Concessionaire shall deliver or cause to be delivered to the City and to the Authority, original Certificates of Insurance 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 Business Days following renewal of the then current coverages (or such other period as is agreed to by the City), 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 Government Parties 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 Government Parties to obtain certificates or other insurance evidence from the Concessionaire shall not be deemed to be a waiver by the Government Parties. The Concessionaire shall advise all insurers of provisions of this Agreement regarding insurance. Non-conforming insurance shall not relieve the Concessionaire of the obligation to provide insurance as specified herein. Except as otherwise expressly set forth herein, each Required Coverage may be reviewed by the City for compliance with the terms of this Agreement. Each Required Coverage shall be signed by the insurer responsible for the risks insured against or by the insurer's authorized representative. All Required Coverages shall be placed with insurers reasonably acceptable to the City; *provided* that all such insurers, at a minimum, shall have a rating of A(VII) or better by A.M. Best Company (unless the City consents to waive this requirement).

(b) *Notice of Cancellation, Material Change or Violation.* All Required Coverages shall provide for 60 Days (or in the case of cancellation for non-payment of premiums, 10 Days) prior written notice to be given to the City by the insurer in the event coverage is substantially changed, canceled or non-renewed. The City shall be permitted (but not obligated) to pay any delinquent premiums before the cancellation date specified by the insurer in any notice of cancellation for non-payment of premium in order to maintain such coverage in full force and effect and the Concessionaire shall reimburse the City for any delinquent premiums paid by the City on demand without any Days of grace and without prejudice to any other rights and remedies of the City hereunder. The Concessionaire shall not cancel, terminate, materially change to the detriment of the City any Required Coverage.

(c) *Deductibles.* All Required Coverages may contain deductibles or self-insured retentions not to exceed amounts reasonably acceptable to the City taking into account the deductibles or self-insured retentions for the required insurance coverages for comparable parking facilities. Any and all deductibles or self-insured retentions on Required Coverages shall be borne by the Concessionaire or its Contractors.

(d) *Inflation Adjustment.* The amounts of coverage required by Section 13.1 shall be Adjusted for Inflation each succeeding fifth anniversary of the Closing Date.

(e) *Waiver of Subrogation by Insurers.* Each of the Required Coverages shall where legally or customarily permitted include a waiver by the insurer of its rights of subrogation against the Government Parties, their employees, elected officials, agents or representatives.

(f) *Government Parties' Right to Insure.* If the Concessionaire fails to obtain and maintain or cause to be obtained and maintained the insurance required by this Article 13, the Government Parties shall have the right (without any obligation to do so), upon two Business Days' notice to the Concessionaire 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 Government Parties in connection therewith shall be payable by the Concessionaire to the City or the

Authority, as applicable, on demand without any Days of grace and without prejudice to any other rights and remedies of the Government Parties hereunder. Such insurance taken out by a Government Party shall not relieve the Concessionaire of its obligations to insure hereunder and the Government Party shall not be liable for any loss or damage suffered by the Concessionaire in connection therewith.

(g) *No Limitation as to Concessionaire Liabilities.* The Concessionaire expressly understands and agrees that any coverages and limits furnished by the Concessionaire shall in no way limit the Concessionaire's liabilities and responsibilities specified within this Agreement or by Law.

(h) *No Contribution by Government Parties.* The Concessionaire expressly understands and agrees that any insurance or self-insurance programs maintained by the Government Parties shall not contribute with insurance provided by the Concessionaire under this Agreement.

(i) *Insurance Not Limited by Indemnification.* The required insurance shall not be limited by any limitations expressed in the indemnification language herein or any limitation placed on the indemnity therein given as a matter of law.

(j) *Insurance Requirements of Contractors.* The Concessionaire shall require in each contract with any Contractor (where such Contractor is not covered by the Required Coverages) that such Contractor obtain coverages reasonably 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 City, the Authority, their employees, elected officials, agents and representatives, the Concessionaire 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 Concessionaire pursuant to this Agreement. When requested to do so by a Government Party, the Concessionaire shall provide or cause to be provided to a Government Party 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 Government Party.

(k) *Joint Venture and Limited Liability Company Policies.* If the legal entity maintaining the Required Coverage is a joint venture or limited liability company, the insurance policies shall specifically name the joint venture or limited liability company as a named insured. If the Concessionaire contracts operations to a third party, the Concessionaire will be an additional insured on any liability policy.

(l) *Other Insurance Obtained by Concessionaire.* If the Concessionaire or its Contractors desire coverages in addition to the Required Coverages, the Concessionaire and each Contractor shall be responsible for the acquisition and cost of such additional coverages. If the Concessionaire or its Contractors obtain any property, liability or other insurance coverages in addition to the Required Coverages ("Additional Coverages"), then the Concessionaire or its Contractors shall (i) notify the City as to such Additional Coverages, (ii) provide the City with any documentation relating to the Additional Coverages, including Certificates of Insurance, that the City reasonably requests and

(iii) at the City's election, acting reasonably, cause the City, the Authority and their employees, elected or appointed officials, agents and representatives to be named as additional insureds under such Additional Coverages, if that is normally allowed in accordance with good industry practice.

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

(n) *City's Right to Modify.* The City shall have the right, acting reasonably, to modify, delete, alter or change insurance coverage requirements set forth in Section 13.1 (other than any property insurance, which pursuant to Section 13.1(f) is not required to be maintained) and this Section 13.2 to reflect known and established material changes in insurance coverages for operations comparable to the Metered Parking System Operations or known and established material changes in insurance exposures associated with the Metered Parking System provided that the Concessionaire shall not have any obligation to procure or maintain at its cost any additional insurance unless an independent insurance consultant shall have delivered to the Concessionaire its opinion to the effect that the additional coverages are required pursuant to the above-stated criteria and such additional coverages are commercially available at reasonable rates in terms of cost of premium and amount of deductibles. Notwithstanding anything to the contrary herein, if any insurance (including the limits or deductibles thereof) required to be maintained under this Agreement shall not be available at commercially reasonable rates, the Concessionaire shall have the right to request that the City consent to waive such requirement and the City shall not unreasonably withhold, condition or delay such consent. Any such waiver shall be effective only so long as such insurance shall not be available at commercially reasonable rates, *provided* that during the period of such waiver, the Concessionaire maintains the maximum amount of such insurance otherwise available at commercially reasonable rates.

Section 13.3. Damage and Destruction.

(a) *Obligations of Concessionaire.* If all or any part of any of the Metered Parking System shall be destroyed or damaged during the Term in whole or in part by fire or other casualty of any kind or nature (including any casualty for which insurance was not obtained or obtainable), ordinary or extraordinary, foreseen or unforeseen, the Concessionaire shall: (i) give the City notice thereof promptly after the Concessionaire receives actual notice of such casualty; (ii) at its sole cost and expense, whether or not insurance proceeds, if any, shall be equal to the estimated cost of repairs, alterations, restorations, replacement and rebuilding (the "Casualty Cost"), proceed diligently to repair, restore or rebuild the same to the condition existing prior to the happening of such fire or other casualty (any such activity being a "Restoration"); and (iii) deposit all insurance proceeds received by the Concessionaire in connection with any Restoration with a Depository; *provided, however*, that if at any time the Casualty Cost exceeds the net insurance proceeds actually deposited with the Depository, then the Concessionaire shall also deposit with the Depository such cash as is sufficient to cover the difference between the Casualty Cost and the net insurance proceeds (collectively, with any interest

earned thereon, the “Restoration Funds”); *provided further* that the procedures of this clause (iii) of this Section 13.3(a) shall only apply to casualty events in which the cost of Restoration exceeds \$1,000,000.

(b) *Rights of City.* If (i) the Concessionaire shall fail or neglect to commence the diligent Restoration of the Metered Parking System or the portion thereof so damaged or destroyed, (ii) having so commenced such Restoration, the Concessionaire shall fail to diligently complete the same in accordance with the terms of this Agreement or (iii) prior to the completion of any such Restoration by the Concessionaire, this Agreement shall expire or be terminated in accordance with the terms of this Agreement, the City may, but shall not be required to, complete such Restoration at the Concessionaire’s expense and shall be entitled to be paid out of the Restoration Funds, but such payment shall not limit the Concessionaire’s obligation to pay the City’s reasonable Restoration expenses, less amounts received by the City from such Restoration Funds. In any case where this Agreement shall expire or be terminated prior to the completion of the Restoration, the Concessionaire shall (x) account to the City for all amounts spent in connection with any Restoration which was undertaken, (y) pay over or cause the Depository to pay over to the City, within 30 Days after demand therefor, the remainder, if any, of the Restoration Funds received by the Concessionaire prior to such termination or cancellation and (z) pay over or cause the Depository to pay over to the City, within 30 Days after receipt thereof, any Restoration Funds received by the Concessionaire or the Depository subsequent to such termination or cancellation. The Concessionaire’s obligations under this Section 13.3(b) shall survive the expiration or termination of this Agreement.

(c) *Payment of Restoration Funds to Concessionaire.* Subject to the satisfaction by the Concessionaire of all of the terms and conditions of this Section 13.3, the Depository shall pay to the Concessionaire from time to time, any Restoration Funds, but not more than the amount actually collected by the Depository upon the loss, together with any interest earned thereon, after reimbursing itself therefrom, as well as the City, to the extent, if any, of the reasonable expenses paid or incurred by the Depository and the City in the collection of such monies, to be utilized by the Concessionaire solely for the Restoration, such payments to be made as follows:

(i) prior to commencing any Restoration, the Concessionaire shall furnish the City with an estimate of the cost of such Restoration;

(ii) the Restoration Funds shall be paid to the Concessionaire in installments as the Restoration progresses, subject to Section 13.3(c)(iii), based upon requisitions to be submitted by the Concessionaire to the Depository and the City in compliance with Section 13.3(d), showing the cost of labor and materials purchased for incorporation in the Restoration, or incorporated therein since the previous requisition, and due and payable or paid by the Concessionaire; *provided, however*, that if any lien (other than a Permitted Concessionaire Encumbrance) is filed against the Metered Parking System or any part thereof in connection with the Restoration, the Concessionaire shall not be entitled to receive any further installment until such lien is satisfied or discharged (by bonding or otherwise); *provided further* that notwithstanding the foregoing, but subject to the provisions of Section 13.3(c)(iii), the existence of any such lien shall not preclude the Concessionaire from receiving any installment of

Restoration Funds so long as such lien will be discharged with funds from such installment and at the time the Concessionaire receives such installment the Concessionaire delivers to the City and the Depository a release of such lien executed by the lien or and in recordable form;

(iii) the amount of any installment to be paid to the Concessionaire shall be (A) the product of (x) the total Restoration Funds and (y) a fraction, the numerator of which is the cost of labor and materials theretofore incurred by the Concessionaire in the Restoration and the denominator of which is the Casualty Cost, less (B) all payments theretofore made to the Concessionaire out of the Restoration Funds and less (C) 10% of the amount determined by the calculation described in clauses (A) and (B) of this Section 13.3(c)(iii), except that no amounts due shall be withheld for architects' or engineers' fees or permitting or other governmental fees in connection with the Restoration or with respect to each Contractor upon the final completion of each such Contractor's respective work, provided that the unapplied portion of the funds held by the Depository are sufficient to complete the Restoration; *provided, however*, that all disbursements to the Concessionaire shall be made based upon an architect's or engineer's certificate for payment in accordance with industry standards, and disbursements may be made for advance deposits for material and Contractors to the extent that such disbursements are customary in the industry and provided that the unapplied portion of the funds held by the Depository are sufficient to complete the Restoration; and

(iv) except as provided in Section 13.3(b), upon completion of and payment for the Restoration by the Concessionaire, subject to the rights of any Collateral Assignee, the Depository shall pay the balance of the Restoration Funds, if any, to the Concessionaire; *provided, however*, that if the insurance proceeds are insufficient to pay for the Restoration (or if there shall be no insurance proceeds), the Concessionaire shall nevertheless be required to make the Restoration and provide the deficiency in funds necessary to complete the Restoration as provided in Section 13.3(a)(iii).

(d) *Conditions of Payment.* The following shall be conditions precedent to each payment made to the Concessionaire as provided in Section 13.3(c):

(i) at the time of making such payment, no Concessionaire Default (other than any Concessionaire Default resulting from the occurrence of the damage or destruction for which such payment is being made or the result thereof) exists;

(ii) there shall be submitted to the Depository and the City evidence reasonably satisfactory to the City stating that (A) the materials and other items which are the subject of the requisition have been delivered to the Metered Parking System (except with respect to requisitions for advance deposits permitted under Section 13.3(c)(iii)), free and clear of all Encumbrances, and no unsatisfied or unbonded mechanic's or other liens have been claimed, except for any mechanic's lien for claims that will be discharged, by bonding or otherwise, with funds to be received pursuant to such requisition (*provided* that a release of such lien is delivered to the Depository in accordance with Section 13.3(c)(ii)), or insured over by title insurance reasonably acceptable to the City, (B) the sum then requested to be withdrawn either has been paid

by the Concessionaire or is due and payable to Contractors or other Persons (whose names and addresses shall be stated), who have rendered or furnished services or materials for the work and giving a brief description of such services and materials and the principal subdivisions or categories thereof and the several amounts so paid or due to each of such Persons in respect thereof, and stating in reasonable detail the progress of the work up to the date of such certificate, (C) no part of such expenditures has been made the basis, in any previous requisition (whether paid or pending), for the withdrawal of Restoration Funds or has been made out of the Restoration Funds received by the Concessionaire, (D) the sum then requested does not exceed the value of the services and materials described in the certificate, (E) the work relating to such requisition has been performed in accordance with this Agreement, (F) the balance of the Restoration Funds held by the Depositary will be sufficient upon completion of the Restoration to pay for the same in full, and stating in reasonable detail an estimate of the cost of such completion and (G) in the case of the final payment to the Concessionaire, the Restoration has been completed in accordance with this Agreement.

(e) *Payment and Performance Bonds.* If the Concessionaire obtains payment or performance bonds related to a Restoration (which the Concessionaire may or may not obtain in its discretion), the Concessionaire shall name the City, the Authority and the Concessionaire and any Collateral Assignee, as their interests may appear, as additional obligees, and shall deliver copies of any such bonds to the City promptly upon obtaining them. The claims of any such additional obligee with respect to such payment or performance bonds shall rank *pari passu* in priority of payment with the claims of all other additional obligees.

(f) *Benefit of Government Parties.* The requirements of this Section 13.3 are for the benefit only of the Authority and the City, and no Contractor or other Person shall have or acquire any claim against the Authority or the City as a result of any failure of the City or the Authority actually to undertake or complete any Restoration as provided in this Section 13.3 or to obtain the evidence, certifications and other documentation provided for herein.

(g) *Investment of Restoration Funds.* Restoration Funds deposited with a Depositary shall be invested and reinvested in Eligible Investments at the direction of the Concessionaire, and all interest earned on such investments shall be added to the Restoration Funds.

(h) *Rights of Collateral Assignee.* The City acknowledges and agrees that any Restoration Funds not applied to a Restoration as provided in this Section 13.3 shall be subject to the lien or liens of any Collateral Assignment.

ARTICLE 14
ADVERSE ACTIONS

Section 14.1. Adverse Action.

(a) An “Adverse Action” shall occur if the City, the Authority, the County of Allegheny or the Commonwealth of Pennsylvania takes any action or actions at any time during the Term (including enacting any Law) and the effect of such action or actions, individually or in the aggregate, is reasonably expected (i) to be principally borne by the Concessionaire and (ii) to have a material adverse effect on the fair market value of the Concessionaire Interest (whether as a result of decreased revenues, increased expenses or both), except where such action is in response to any act or omission on the part of the Concessionaire that is illegal (other than an act or omission rendered illegal by virtue of the Adverse Action) or such action is otherwise permitted under this Agreement; *provided, however*, that none of the following shall be an Adverse Action: (A) any action taken by the City or the Authority pursuant to Reserved Powers, (B) the development, redevelopment, construction, maintenance, modification or change in the operation of any existing or new parking facility or mode of parking or of transportation (including a road, street or highway) whether or not it results in the reduction of Metered Parking Revenues or in the number of vehicles using the Metered Parking System, or (C) the imposition of a Tax of general application or an increase in Taxes of general application, including parking Taxes of general application imposed on customers or operators of street metered parking systems.

(b) If an Adverse Action by the City or the Authority occurs, the Concessionaire shall have the right to (i) be paid by the City the Concession Compensation with respect thereto (such Concession Compensation, the “AA-Compensation”) or (ii) terminate this Agreement and be paid by the City the Metered Parking System Concession Value. If an Adverse Action by the County of Allegheny or the Commonwealth of Pennsylvania occurs, the Concessionaire shall have the right to AA-Compensation, which AA-Compensation may be provided in the form of an extension of the Term to the extent that any extension of the Term provides the full amount of AA-Compensation; *provided, however*, that to the extent that an extension of the Term is inadequate to provide the AA-Compensation, the Concessionaire shall have the right to be paid by the City AA-Compensation. In any case, the Concessionaire shall make its election of remedy by giving notice in the manner described in Section 14.1(c).

(c) If an Adverse Action occurs, the Concessionaire shall give notice (the “AA-Preliminary Notice”) to the City within 30 Days following the date on which the Concessionaire first became aware of the Adverse Action stating an Adverse Action has occurred. Within 180 Days following the date of delivery of the AA-Preliminary Notice, the Concessionaire shall give the City another notice (the “AA-Notice”) setting forth (i) details of the effect of said occurrence that is principally borne by the Concessionaire or other operators of on street metered parking systems generally and not by others, (ii) details of the material adverse effect of the said occurrence on the fair market value of the Concessionaire Interest, (iii) a statement as to which right in Section 14.1(b) the Concessionaire elects to exercise, and (iv) if the Concessionaire elects to exercise the right to Concession Compensation under Section 14.1(b), the amount claimed as AA-

Compensation and details of the calculation thereof. The City shall, after receipt of the AA-Notice, be entitled by notice to require the Concessionaire to provide such further supporting particulars as the City may reasonably consider necessary. If the City wishes to dispute the occurrence of an Adverse Action or the amount of AA-Compensation, if any, claimed in the AA-Notice, the City shall give notice of dispute (the “AA-Dispute Notice”) to the Concessionaire within 30 Days following the date of receipt of the AA-Notice stating in reasonable detail the grounds for such dispute. If neither the AA-Notice nor the AA-Dispute Notice has been withdrawn within 30 Days following the date of receipt of the AA-Dispute Notice by the Concessionaire, the matter shall be submitted to the dispute resolution procedure in Article 19.

(d) If the Concessionaire has elected to exercise its right to AA-Compensation, the City shall pay the amount of Concession Compensation claimed to the Concessionaire within 60 Days following the date of receipt of the AA-Notice, or if a AA-Dispute Notice has been given, then not later than 60 Days following the date of determination of the AA-Compensation (together with interest at the Bank Rate from the date of receipt of the AA-Dispute Notice to the date on which payment is made), *provided* that, subject to the right of the Concessionaire to receive interest at the Bank Rate on the payment owed by the City from the date of receipt of the AA-Dispute Notice to the date on which payment is made, the City may defer any such payment for an additional 120 Days if the City determines, in its reasonable discretion, that such additional period is necessary in order to obtain financing or otherwise to obtain the necessary funds to make such a payment. It is acknowledged and agreed that payment of such Concession Compensation shall not release the City from any obligations with respect to any indemnification or other claims by the Concessionaire hereunder that are not related to the events or circumstances that gave rise to such Concessionaire Compensation.

Section 14.2. Termination.

(a) If the Concessionaire has elected to exercise its right to terminate this Agreement in connection with an Adverse Action pursuant to Section 14.1 this Agreement, subject to Section 14.2(c) and Section 14.4, shall terminate 60 Days following the date of receipt of the AA-Notice by the City, and the City shall pay an amount equal to the aggregate of (i) the Metered Parking System Concession Value as of the date of such termination (which shall be determined as if no Adverse Action has occurred), plus (ii) without duplication, the reasonable out-of-pocket and documented costs and expenses incurred by the Concessionaire as a result of such termination, plus (iii) the Concession Compensation calculated for the period between the date of the Adverse Action and the date of termination less (iv) any insurance or condemnation proceeds received by the Concessionaire in respect of all or any portion of the Metered Parking System as a result of such Adverse Action, (collectively, the “Termination Damages”) to the Concessionaire on the Reversion Date or, if the Termination Damages are determined on a date subsequent to the Reversion Date, then not later than 60 Days following the date of determination of the Termination Damages (together with interest at the Bank Rate from the Reversion Date to the date on which payment is made), *provided* that, subject to the right of the Concessionaire to receive interest at the Bank Rate on the payment owed by the City from the date of receipt of the AA-Dispute Notice to the date

on which payment is made, the City may defer any such payment for an additional 120 Days if the City reasonably determines that such additional period is necessary in order to obtain financing to make such a payment; *provided, however*, that any amounts received by the Concessionaire or any Collateral Assignee from any insurance policies payable as a result of damage or destruction to the Metered Parking System that has not been remedied prior to the Reversion Date, shall, to the extent not used to remedy such effects, be deducted from the amount payable by the City to the Concessionaire, so long as the City has not received any such amounts pursuant to Section 13.3(b).

(b) Any dispute arising out of the determination of the Termination Damages shall be submitted to the dispute resolution procedure in Article 19.

(c) This Agreement shall not terminate pursuant to Section 14.2(a) unless the Concessionaire has first obtained and delivered to the City the written consent of the Collateral Assignee to such termination.

(d) Payment of the entire sum of Termination Damages or the AA-Compensation, as the case may be, to the Concessionaire, shall constitute full and final satisfaction of all amounts that may be claimed by the Concessionaire for and in respect of the occurrence of the Adverse Action, and, upon such payment, the Government Parties shall be released and forever discharged by the Concessionaire from any and all liability in respect of such Adverse Action.

Section 14.3. Reserved Powers Adverse Actions.

(a) *Use of Reserved Powers.* The Parties acknowledge and agree that (i) it is anticipated that the City and the Authority will exercise their Reserved Powers during the Term, (ii) the impact of certain of such actions may have a material adverse effect on the fair market value of the Concessionaire Interest; (iii) the provisions of Article 7, including the provisions thereof relating to the payment of Settlement Amounts to the Concessionaire, are designed to compensate the Concessionaire for changes resulting from the exercise by the City and the Authority of their Reserved Powers in a manner that will maintain the fair market value of the Concessionaire Interest over the Term and (iv) adverse changes may be mitigated by other Reserved Power actions of the City or the Authority that will have a favorable impact on the fair market value of the Concessionaire Interest. The Parties also acknowledge and agree that there may be circumstances when the exercise by the City or the Authority of their Reserved Powers may have a material adverse effect on the fair market value of the Concessionaire Interest that cannot be compensated fully under the provisions of Article 7 and that under such circumstances the Concessionaire may seek compensation with respect thereto (the “Reserved Powers Adverse Action Compensation”).

(b) *Reserved Powers Adverse Action.* A “Reserved Powers Adverse Action” shall occur if (i) the City or the Authority takes any action or actions during the Term that would otherwise have constituted an Adverse Action under Section 14.1 except that such action or actions were taken by the City or the Authority pursuant to their Reserved Powers, and (ii) such actions, individually or in the aggregate, are reasonably expected (A) to be borne principally by the Concessionaire and (B) to have a material adverse

effect on the fair market value of the Concessionaire Interest after taking into account the provisions of Article 7. In addition, the event described in Section 7.10 relating to the average of the Monthly System in Service Percentage for certain Reporting Years is a Reserved Powers Adverse Action.

(c) *Compensation.* The amount of Reserved Powers Adverse Action Compensation shall be equal to the reduction in the fair market value of the Concessionaire Interest resulting from such Reserved Powers Adverse Action after taking into account the present value of the amounts paid, or reasonably expected to be paid, over the remaining Term by the City pursuant to Article 7 as a result of such Reserved Powers Adverse Action, as determined pursuant to a written appraisal by an independent third party appraiser that is nationally recognized in appraising infrastructure assets used to provide services to the general public and that is acceptable to the City and the Concessionaire. If the Parties fail to agree upon such a single appraiser within 30 Days after a Party requests the appointment thereof, then the City and the Concessionaire shall each appoint an independent third party appraiser and both such appraisers shall be instructed jointly to select a third party appraiser to make the fair market value appraisal. The City shall pay the reasonable costs and expenses of any appraisal.

(d) *Notice and Claim.* If a Reserved Powers Adverse Action occurs, the Concessionaire shall give notice (the “RP Preliminary Notice”) to the City within 30 Days following the date on which the Concessionaire first became aware of the Reserved Powers Adverse Action stating a Reserved Powers Adverse Action has occurred. Within 180 Days following the date of delivery of the RP-Preliminary Notice, the Concessionaire shall give the City another notice (the “RP-Notice”) setting forth (i) details of the effect of said occurrence that is principally borne by the Concessionaire, (ii) details of the lasting and material adverse effect of the said occurrence on the fair market value of the Concessionaire Interest, (iii) a statement that the reduction in the fair market value of the Concessionaire Interest cannot be fully compensated under the provisions of Article 7, and the reasons that such statement is correct, and (iv) the amount claimed as Reserved Powers Adverse Action Compensation and details of the calculation thereof. The City shall, after receipt of the RP-Notice, be entitled by notice to require the Concessionaire to provide such further supporting particulars as the City may reasonably consider necessary. If the City wishes to dispute the occurrence of a Reserved Powers Adverse Action or the amount of Reserved Powers Adverse Action Compensation claimed in the RP-Notice, the City shall give notice of dispute (the “RP-Dispute Notice”) to the Concessionaire within 30 Days following the date of receipt of the RP-Notice stating in reasonable detail the grounds for such dispute. If neither the RP-Notice nor the RP-Dispute Notice has been withdrawn within 30 Days following the date of receipt of the RP-Dispute Notice by the Concessionaire, the matter shall be submitted to the dispute resolution procedure in Article 19.

(e) *Option to Terminate.* If the amount of Reserved Powers Adverse Action Compensation, as determined pursuant to Section 14.3(c) and (d), is greater than twenty-five percent (25%) of the fair market value of the Concessionaire Interest as of the time immediately prior to the Reserved Powers Adverse Action, then the Concessionaire, at its option, may, by written notice to the City, elect to terminate this Agreement and be paid the greater of the Reserved Powers Adverse Action Compensation or the Remaining

Amortized Value. Such written notice shall establish an End Date for this Agreement, which shall be no earlier than 120 Days and no later than 180 Days later than the date of delivery of such notice, and shall be accompanied by the written consent of the Collateral Assignee to such termination. The Concessionaire's option to terminate this Agreement pursuant to this Section 14.3(e) does not limit the rights of the City to remedy the occurrence of an Adverse Action or a Reserved Powers Adverse Action as permitted by Section 14.4.

(f) *Payment of Reserved Powers Adverse Action Compensation.* If the Concessionaire has elected to exercise its right to Reserved Powers Adverse Action Compensation, the City shall pay the amount of Reserved Powers Adverse Action Compensation claimed to the Concessionaire within 60 Days following the date of receipt of the RP-Notice, or if a RP-Dispute Notice has been given, then not later than 60 Days following the date of determination of the Reserved Powers Adverse Action Compensation (together with interest at the Bank Rate from the date of receipt of the RP-Dispute Notice to the date on which payment is made), provided that, subject to the right of the Concessionaire to receive interest at the Bank Rate on the payment owed by the City from the date of receipt of the RP-Dispute Notice to the date on which payment is made, the City may defer any such payment for an additional 120 Days if the City determines, in its reasonable discretion, that such additional period is necessary in order to obtain financing or otherwise to obtain the necessary funds to make such a payment. It is acknowledged and agreed that payment of such Reserved Powers Adverse Action Compensation shall not release the City from any obligations with respect to any indemnification or other claims by the Concessionaire hereunder that are not related to the events or circumstances that gave rise to such Reserved Powers Adverse Action Compensation.

(g) *Termination Payment.* If the Concessionaire has elected to exercise its option to terminate this Agreement, then, on the Reversion Date, the City shall pay the Concessionaire the Remaining Amortized Value or the Reserved Powers Adverse Action Compensation, in accordance with the election made by the Concessionaire pursuant to Section 14.3(e), *provided* that, subject to the Concessionaire's right to receive interest at the Bank Rate on such amount after the Reversion Date, the City may defer any such payment for an additional 120 Days if the City determines, in its reasonable discretion, that such additional period is necessary in order to obtain financing or otherwise to obtain the necessary funds to make such payment.

(h) *Release of Government Parties.* Payment of the entire sum due under Section 14.3(f) or Section 14.3(g), as the case may be, to the Concessionaire shall constitute full and final satisfaction of all amounts that may be claimed by the Concessionaire for and in respect of the occurrence of the Reserved Powers Adverse Action and upon such payment, the Government Parties shall be released and forever discharged by the Concessionaire from any and all liability in respect of such Reserved Powers Adverse Action.

Section 14.4. Right of Government Parties to Remedy. If a Government Party wishes to remedy the occurrence of an Adverse Action or a Reserved Powers Adverse Action, the Government Party shall give notice thereof to the Concessionaire within 30

Days following the date of receipt of the applicable AA-Notice or RP-Notice. If the Government Party gives such notice it must remedy the applicable Adverse Action or Reserved Powers Adverse Action within 180 Days following the date of receipt of the AA-Notice or RP-Notice or, if a AA-Dispute Notice or RP-Dispute Notice has been given, within 180 Days following the final award pursuant to Article 19 to the effect that an Adverse Action or Reserved Powers Adverse Action occurred. If the Government Party elects to remedy the occurrence of an Adverse Action within the applicable period of time, the right of the Concessionaire shall be limited to a claim for AA-Compensation with respect to such Adverse Action. If the Government Party elects to remedy the occurrence of a Reserved Powers Adverse Action within the applicable period of time, the right of the Concessionaire shall be limited to a claim for Reserved Powers Adverse Action Compensation.

Section 14.5. Other Actions by Governmental Authorities. In the event that any Governmental Authority (other than the City or the Authority) proposes to take any action at any time during the Term (including or enacting any Law) and the effect of such action is reasonably expected (i) to be principally borne by the Concessionaire and (ii) to have a material adverse effect on the fair market value of the Concessionaire Interest, except where such action is in response to any act or omission on the part of the Concessionaire that is illegal (other than an act or omission rendered illegal by virtue of an Adverse Action or such action by any such other Governmental Authority), then at the request of the Concessionaire the Government Parties shall use their reasonable efforts to oppose and challenge such action by any such other Governmental Authority; *provided, however*, that all reasonable out-of-pocket costs and expenses incurred by the Government Parties in connection with such opposition or challenge shall be borne by the Concessionaire.

ARTICLE 15

DELAY EVENTS AND CONCESSION COMPENSATION

Section 15.1. Delay Events.

(a) If the Concessionaire is affected by a Delay Event, it shall give notice within 10 Business Days following the date on which it first became aware of such Delay Event to the Government Parties (*provided* that in the case of such Delay Event being a continuing cause of delay, only one notice shall be necessary), which notice shall include (i) a statement of which Delay Event the claim is based upon, (ii) details of the circumstances from which the delay arises and (iii) an estimate of the delay in the performance of obligations under this Agreement attributable to such Delay Event and information in support thereof, if known at that time. The Government Parties shall, after receipt of any such notice, be entitled by notice to require the Concessionaire to provide such further supporting particulars as the Government Parties may reasonably consider necessary.

(b) The Concessionaire shall notify the Government Parties within 10 Business Days following the date on which it first became aware that a Delay Event has ceased.

(c) Subject to the Concessionaire giving the notice required in Section 15.1(a), a Delay Event shall excuse the Concessionaire from whatever performance is prevented by the Delay Event referred to in such notice for such appropriate number of Days as the Parties determine, each acting reasonably. If the Parties cannot agree upon the period of extension, then each Party shall be entitled to refer the matter to the dispute resolution procedure in Article 19. This Section 15.1(c) shall not excuse the Concessionaire from the performance and observance under this Agreement of all obligations and covenants not affected by the Delay Event. Notwithstanding the occurrence of a Delay Event, the Concessionaire shall continue its performance and observance under this Agreement of all of its obligations and covenants to the extent that it is reasonably able to do so and shall use its reasonable efforts to minimize the effect and duration of the Delay Event. Nothing herein shall permit or excuse noncompliance with a change to applicable Laws.

(d) Except as provided in the immediately following sentence, if a Delay Event occurs that has the effect of causing physical damage or destruction to a material part of the Metered Parking System that results in the Metered Parking System being substantially unavailable for the provision of Metered Parking Services and such effect continues for a period in excess of 120 Days and has a material adverse effect on the fair market value of the Concessionaire Interest, and insurance policies payable (or that should have been payable but for the breach of an obligation to take out and maintain such insurance policy by the Concessionaire) or condemnation or other similar proceeds are insufficient to restore the Concessionaire to the same economic position as it would have been in the absence of such event, then, notwithstanding Section 2.1, the Concessionaire shall have the right to extend the Term for a period that would be sufficient so to compensate the Concessionaire and to restore it to the same economic position as it would have been in had such Delay Event not occurred (a “Delay Event Remedy”). This Section 15.1(d) shall not apply if the applicable Delay Event was caused by the exercise by the City or the Authority of any of their Reserved Powers, it being acknowledged and agreed that the Concessionaire’s remedy in such case shall be as provided in Article 7 or Section 14.3.

(e) If the Concessionaire elects to exercise the right to the Delay Event Remedy, the Concessionaire shall give notice (“Delay Event Notice”) to the Government Parties within 30 Days following the date on which the Concessionaire first became aware of its right to the Delay Event Remedy occurring setting forth (i) the details of the Delay Event and its effect on either causing physical damage or destruction to the Metered Parking System that results in the Metered Parking System being substantially unavailable for the provision of Metered Parking Services or suspending the collection of Metered Parking Fees at the Metered Parking System, (ii) the amount claimed as compensation to restore the Concessionaire to the same economic position as it would have been in had such Delay Event not occurred (including the details of the calculation thereof) and (iii) the details of the relationship between such compensation and the Delay Event Remedy that it proposes. The Government Parties shall, after receipt of the Delay

Event Notice, be entitled by notice to require the Concessionaire to provide such further supporting particulars as the Government Parties may reasonably consider necessary. If a Government Party wishes to dispute the occurrence of a Delay Event or the Delay Event Remedy claimed in the Delay Event Notice, the Government Party shall give notice to dispute (the “Delay Event Dispute Notice”) to the Concessionaire within 30 Days following the date of receipt of the Delay Event Notice stating the grounds for such dispute, and if neither the Delay Event Notice nor the Delay Event Dispute Notice has been withdrawn within 30 Days following the date of receipt of the Delay Event Dispute Notice by the Concessionaire, the matter shall be submitted to the dispute resolution procedure in Article 19.

Section 15.2. Relationship to Compensation Event. Section 15.1 shall not prevent the Concessionaire from receiving Concession Compensation or any other compensation provided for in this Agreement for any Delay Event that constitutes a Compensation Event pursuant to the terms of this Agreement.

Section 15.3. Payment of Concession Compensation.

(a) Except as provided elsewhere in this Agreement, if a Compensation Event occurs, the Concessionaire shall give notice (the “CE-Preliminary Notice”) to the Government Parties within 60 Days following the date on which the Concessionaire first became aware of the Compensation Event stating that a Compensation Event has occurred. Within 30 Days following the date of delivery of the CE-Preliminary Notice, the Concessionaire shall give the Government Parties another notice (the “CE-Notice”) setting forth (i) details of the Compensation Event, including an explanation of the reasons that the event constitutes a Compensation Event under the terms of this Agreement and (ii) the amount claimed as Concession Compensation and details of the calculation thereof in accordance with the calculation methodology set forth in the definition of “Concession Compensation”; *provided*, that the failure by the Concessionaire to timely deliver the CE-Preliminary Notice or the CE-Notice shall not limit its remedies hereunder or otherwise reduce the amount of the Concession Compensation.

(b) Except as provided elsewhere in this Agreement, all Concession Compensation due to the Concessionaire shall be due and payable within 30 Days of the CE-Notice.

(c) If a Government Party wishes to dispute the occurrence of a Compensation Event or the amount of Concession Compensation claimed in the CE-Notice issued by the Concessionaire in accordance with Section 15.3(a), then the Government Party shall give notice of dispute (the “CE-Dispute Notice”) to the Concessionaire within 30 Days following the date of receipt of the CE-Notice stating the grounds for such dispute. If the CE-Dispute Notice has not been withdrawn within 30 Days following the date of receipt of the CE-Dispute Notice by the Concessionaire, the matter shall be submitted to the dispute resolution procedure set forth in Article 19. Notwithstanding the foregoing, the City shall pay to the Concessionaire any undisputed portion of the Concession Compensation in accordance with the terms of this Agreement

during the pendency of any dispute regarding a disputed portion of the Concession Compensation.

ARTICLE 16
DEFAULTS; LETTERS OF CREDIT

Section 16.1. **Default by the Concessionaire.**

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

(i) if the Concessionaire 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 90 Days following notice thereof (giving particulars of the failure in reasonable detail) from a Government Party to the Concessionaire or for such longer period as may be reasonably necessary to cure such failure, *provided*, in the latter case, that the Concessionaire has demonstrated to the satisfaction of the Government Parties, acting reasonably, 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 Government Parties, acting reasonably and (C) such failure is in fact cured within such period of time;

(ii) if this Agreement or all or any portion of the Concessionaire Interest is Transferred in contravention of Article 17 and such failure continues unremedied for a period of 10 Business Days following notice thereof from a Government Party to the Concessionaire;

(iii) if the Concessionaire fails to comply with the requirements or directives of a final award in a matter submitted to dispute resolution in accordance with Article 19, and such failure continues unremedied for a period of 30 Days following notice thereof from a Government Party to the Concessionaire, or for such longer period as may be reasonably necessary to cure such failure, *provided*, in the latter case, that the Concessionaire has demonstrated to the satisfaction of the Government Parties, acting reasonably, 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 Government Parties, acting reasonably and (C) such failure is in fact cured within such period of time;

(iv) if the Concessionaire (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 11 of the United States Bankruptcy Code, or if such petition is filed against it and an order for relief is entered, or if the Concessionaire files any petition or answer seeking, consenting to or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future United States bankruptcy code or any other present or future

applicable Law, or shall seek or consent to or acquiesce in or suffer the appointment of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of the Concessionaire or of all or any substantial part of its properties or of the Metered Parking System or any interest therein, or (D) takes any corporate action in furtherance of any action described in this Section 16.1(a)(iv);

(v) if within 90 Days after the commencement of any proceeding against the Concessionaire seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future United States bankruptcy code or any other present or future applicable Law, such proceeding has not been dismissed, or if, within 90 Days after the appointment, without the consent or acquiescence of the Concessionaire, of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of the Concessionaire or of all or any substantial part of its properties or of the Metered Parking System or any interest therein, such appointment has not been vacated or stayed on appeal or otherwise, or if, within 90 days after the expiration of any such stay, such appointment has not been vacated;

(vi) if a levy under execution or attachment has been made against all or any part of the Metered Parking System or any interest therein as a result of any Encumbrance (other than a Permitted Concessionaire Encumbrance) created, incurred, assumed or suffered to exist by the Concessionaire 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 60 days after the Concessionaire becomes aware of such levy, unless such levy resulted from actions or omissions of a Government Party or its Representatives;

(vii) if the Concessionaire repudiates in writing any of its material obligations under this Agreement; or

(viii) if a Concessionaire Default (as such term is defined in the Facilities Agreement) shall have occurred and be continuing.

(b) *Remedies of the Government Parties Upon Concessionaire Default.* Upon the occurrence of a Concessionaire Default, a Government Party may, by notice to the Concessionaire with a copy to the Collateral Assignee in accordance with the terms hereof and to the other Government Party, declare the Concessionaire to be in default and may, subject to the provisions of Articles 18 and 19, do any or all of the following as the Government Party, in its discretion, shall determine:

(i) the Government Parties (acting jointly) may terminate this Agreement by giving 60 Days' prior notice to the Concessionaire upon the occurrence of (A) a Concessionaire Default that consists of a failure to comply with, perform or observe any Operating Standard if such Concessionaire Default creates a material danger to the safety of Metered Parking System Operations or a material impairment to the Metered Parking System or to the continuing use of the Metered Parking System for Metered Parking Purposes and the public purpose requirements of Section 3.08 or (B) any other Concessionaire Default; *provided, however*, that the Concessionaire shall be entitled to

cure a Concessionaire Default pursuant to Section 16.1(a)(i) by (i) agreeing within such 60-Day period to pay any Losses sustained as a result of such Concessionaire Default or (ii) providing the Government Parties with a written work plan within such 60-Day period outlining the actions by which the Concessionaire will ensure future compliance with either (x) the obligation, covenant, agreement, term or condition in this Agreement or (y) the requirements or directives of the issued final award in accordance with Article 19 that the Concessionaire failed to perform or observe, which work plan is Approved by the Government Parties, but any failure of the Concessionaire to comply in any material respect with such Approved work plan following 30 Days' notice of such failure from the Government Parties to the Concessionaire shall be deemed to be a Concessionaire Default described in Section 16.1(a)(i) and the entitlement of the Concessionaire to cure such Concessionaire Default by the delivery of an Approved work plan shall not apply thereto;

(ii) if the Concessionaire Default is by reason of the failure to pay any monies to another Person, the Government Party may (without obligation to do so) make payment on behalf of the Concessionaire of such monies, and any amount so paid by the Government Party shall be payable by the Concessionaire to the Government Party within three Business Days after demand therefor;

(iii) a Government Party may cure the Concessionaire Default (but this shall not obligate a Government Party to cure or attempt to cure a Concessionaire Default or, after having commenced to cure or attempted to cure a Concessionaire Default, to continue to do so), and all costs and expenses reasonably incurred by a Government Party in curing or attempting to cure the Concessionaire Default, shall be payable by the Concessionaire to the Government Party within five Business Days after written demand therefor; *provided, however*, that (A) the Government Party shall not incur any liability to the Concessionaire for any act or omission of the either Government Party or any other Person in the course of remedying or attempting to remedy any Concessionaire Default and (B) the Government Party's cure of any Concessionaire Default shall not affect the Government Party's rights against the Concessionaire by reason of the Concessionaire Default;

(iv) the Government Parties may seek specific performance, injunction or other equitable remedies, it being acknowledged that damages are an inadequate remedy for a Concessionaire Default;

(v) the Government Parties may seek to recover their Losses arising from such Concessionaire Default 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;

(vi) with respect to those Concessionaire Defaults that entitle the Government Parties to terminate this Agreement pursuant to Section 16.1(b)(i), the Government Parties may terminate the Concessionaire's right to perform the Metered Parking Services, and in such event, the Government Parties or the Government Parties' agents and servants may immediately or at any time thereafter take possession and control of the Metered Parking System and remove all or any property therefrom, by any

available action under law or proceeding at law or in equity, and with or without terminating this Agreement, and undertake any and all of the Metered Parking System Operations; *provided, however*, that no such action by a Government Party shall be construed as an election on its part to terminate this Agreement unless a notice of such intention is given to the Concessionaire; *provided further* that any repossession or termination of this Agreement made in accordance with this Agreement as against the Concessionaire shall be valid and effective against the Concessionaire even though made subject to the rights of a Collateral Assignee to cure any default of the Concessionaire and continue as in the place of the Concessionaire under this Agreement or a new concession and services agreement as provided herein; and

(vii) a Government Party may exercise any of its other rights and remedies provided for hereunder or at law or equity.

Section 16.2. Defaults by the Government Parties.

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

(i) if the Authority fails to comply with or observe any material obligation, covenant, agreement, term or condition in this Agreement (other than an Adverse Action or Reserved Powers Adverse Action) and such failure continues unremedied for a period of 90 Days following notice thereof (giving particulars of the failure in reasonable detail) from the Concessionaire to the Authority or for such longer period as may be reasonably necessary to cure such failure, *provided*, in the latter case, that the Authority has demonstrated to the satisfaction of the Concessionaire, acting reasonably, 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 Concessionaire, acting reasonably and (C) such failure is in fact cured within such period of time;

(ii) if the Authority fails to comply with the requirements or directives of a final award in a matter submitted to dispute resolution in accordance with Article 19 and such default continues unremedied for a period of 30 Days following notice thereof from the Concessionaire to the Authority, or for such longer period as may be reasonably necessary to cure such failure, *provided*, in the latter case, that the Authority has demonstrated to the satisfaction of the Concessionaire, acting reasonably, 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 Concessionaire, acting reasonably and (C) such failure is in fact cured within such period of time;

(iii) if a levy under execution or attachment has been made against all or any part of the Metered Parking System or the Concessionaire Interest as a result of any Encumbrance (other than a Permitted City Encumbrance) created, incurred, assumed or suffered to exist by the Authority 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 60 Days, unless such levy resulted from actions or omissions of the Concessionaire or its Representatives or if all or a material part of the Metered Parking System shall be subject to a condemnation or similar taking by the Authority, the City or any agency of the City;

(iv) if the Authority (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 United States Bankruptcy Code, or if such petition is filed against it and an order for relief is entered, or if the Authority files any petition or answer seeking, consenting to or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future United States bankruptcy code or any other present or future applicable Law, or shall seek or consent to or acquiesce in or suffer the appointment of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of the Authority, 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 16.2(a)(iv); or if within 90 Days after the commencement of any proceeding against the Authority seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future United States bankruptcy code or any other present or future applicable Law, such proceeding has not been dismissed, or if, within 90 Days after the appointment, without the consent or acquiescence of the Authority, of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of the Authority 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 90 days after the expiration of any such stay, such appointment has not been vacated; or

(v) if the Authority repudiates in writing any of its material obligations under the Agreement;

(vi) if an “Authority Default” (as defined in the Facilities Agreement) shall have occurred and be continuing; or

(vii) if (A) a court of competent jurisdiction enters a final and unappealable judgment order against the Authority in any action, suit or proceeding brought against the Authority, which action, suit or proceeding was not brought by or supported in any way by the Concessionaire, any Operator, any Representative, any Collateral Assignee or any other Person acting on behalf of any of the foregoing or any other Person having an pecuniary interest in this Agreement, and (B) as a result of such final and unappealable judgment order (i) it becomes unlawful for the Authority to comply with or observe any material obligation, covenant, agreement, term or condition in this Agreement or (ii) any material obligation, covenant, agreement, term or condition of the Authority under this Agreement becomes unenforceable against the Authority; and (C) the Parties, acting in good faith and within a reasonable time, are unable to reform this Agreement to conform to the requirements of such judgment order; *provided* that the entry of such judgment order shall not constitute an Authority Default if, within 270 days following the entry of such judgment order, (i) a Law is enacted that validates or

confirms the lawful authority of the Authority, or grants to the Authority the lawful authority, to perform its contractual obligations under this Agreement notwithstanding such judgment order or otherwise remedies the Authority Default and (ii) the Authority reimburses the Concessionaire for any unreimbursed Losses attributable to such judgment order and accrued during the period from the date of entry of such judgment order to the date of enactment of such Law.

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

(i) if the City fails to comply with or observe any material obligation, covenant, agreement, term or condition in this Agreement (other than an Adverse Action or Reserved Powers Adverse Action) and such failure continues unremedied for a period of 90 Days following notice thereof (giving particulars of the failure in reasonable detail) from the Concessionaire to the City or for such longer period as may be reasonably necessary to cure such failure, *provided*, in the latter case, that the City has demonstrated to the satisfaction of the Concessionaire, acting reasonably, 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 Concessionaire, acting reasonably and (C) such failure is in fact cured within such period of time;

(ii) if the City fails to comply with the requirements or directives of a final award in a matter submitted to dispute resolution in accordance with Article 19 and such default continues unremedied for a period of 30 Days following notice thereof from the Concessionaire to the City, or for such longer period as may be reasonably necessary to cure such failure, *provided*, in the latter case, that the City has demonstrated to the satisfaction of the Concessionaire, acting reasonably, 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 Concessionaire, acting reasonably and (C) such failure is in fact cured within such period of time;

(iii) if a levy under execution or attachment has been made against all or any part of the Metered Parking System or the Concessionaire Interest as a result of any Encumbrance (other than a Permitted City Encumbrance) created, incurred, assumed or suffered to exist by the City 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 60 Days, unless such levy resulted from actions or omissions of the Concessionaire or its Representatives or if all or a material part of the Metered Parking System shall be subject to a condemnation or similar taking by the Authority, the City or any agency of the City;

(iv) if the City (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 United States Bankruptcy Code, or if such petition is filed against it and an order for relief is entered, or if the City files any petition or answer seeking, consenting to or acquiescing in any reorganization, arrangement,

composition, readjustment, liquidation, dissolution or similar relief under the present or any future United States bankruptcy code or any other present or future applicable Law, or shall seek or consent to or acquiesce in or suffer the appointment of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of the City, or of all or any substantial part of its properties (in each case, to the extent applicable to a municipality), or (D) takes any action in furtherance of any action described in this Section 16.2(b)(iv); or if within 90 Days after the commencement of any proceeding against the City seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future United States bankruptcy code or any other present or future applicable Law, such proceeding has not been dismissed, or if, within 90 Days after the appointment, without the consent or acquiescence of the City, of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of the City or of all or any substantial part of its properties (in each case, to the extent applicable to a municipality), such appointment has not been vacated or stayed on appeal or otherwise, or if, within 90 days after the expiration of any such stay, such appointment has not been vacated;

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

(vi) if a “City Default” (as defined in the Facilities Agreement) shall have occurred and be continuing; or

(vii) if (A) a court of competent jurisdiction enters a final and unappealable judgment order against the City in any action, suit or proceeding brought against the City, which action, suit or proceeding was not brought by or supported in any way by the Concessionaire, any Operator, any Representative, any Collateral Assignee or any other Person acting on behalf of any of the foregoing or any other Person having an pecuniary interest in this Agreement, and (B) as a result of such final and unappealable judgment order (i) it becomes unlawful for the City to comply with or observe any material obligation, covenant, agreement, term or condition in this Agreement or (ii) any material obligation, covenant, agreement, term or condition of the City under this Agreement becomes unenforceable against the City; and (C) the Parties, acting in good faith and within a reasonable time, are unable to reform this Agreement to conform to the requirements of such judgment order; *provided* that the entry of such judgment order shall not constitute a City Default if, within 270 days following the entry of such judgment order, (i) a Law is enacted that validates or confirms the lawful authority of the City, or grants to the City the lawful authority, to perform its contractual obligations under this Agreement notwithstanding such judgment order or otherwise remedies the City Default and (ii) the City reimburses the Concessionaire for any unreimbursed Losses attributable to such judgment order and accrued during the period from the date of entry of such judgment order to the date of enactment of such Law;

(c) *Remedies of Concessionaire Upon Authority Default.* Upon the occurrence of an Authority Default, the Concessionaire may by notice to the Authority and the City declare the Authority to be in default and may, subject to the provisions of Article 19, do any or all of the following as the Concessionaire, in its discretion, shall determine:

(i) the Concessionaire may seek specific performance, injunction or other equitable remedies, it being acknowledged that damages are an inadequate remedy for an Authority Default;

(ii) the Concessionaire may seek to recover its Losses caused by the Authority Default 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

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

(d) *Remedies of Concessionaire Upon City Default.* Upon the occurrence of an City Default, the Concessionaire may by notice to the City and the City declare the City to be in default and may, subject to the provisions of Article 19, do any or all of the following as the Concessionaire, in its discretion, shall determine:

(i) the Concessionaire may terminate this Agreement by giving 60 Days' prior notice to the Authority and the City; *provided, however*, that the City shall be entitled to cure a City Default pursuant to Section 16.2(b)(i) by (A) agreeing within such 60-Day period to pay any Losses sustained as a result of such City Default or (B) providing the Concessionaire with a written work plan within such 60-Day period outlining the actions by which the City will ensure future compliance with either (x) the obligation, covenant, agreement, term or condition in this Agreement or (y) the requirements or directives of the issued final award in accordance with Article 19 that the City failed to perform or observe, which work plan is approved by the Concessionaire (which approval shall not be unreasonably withheld, delayed or conditioned), but any failure of the City to comply in any material respect with such approved work plan following 60 days' notice of such failure from the Concessionaire to the Authority and the City shall be deemed to be a City Default described in Section 16.2(b)(i) and the entitlement of the City to cure such City Default by the delivery of an approved work plan shall not apply thereto; and upon such termination the City shall be obligated to pay to the Concessionaire the Parking Facilities System Concession Value plus, without duplication, the reasonable out-of-pocket and documented costs and expenses incurred by the Concessionaire as a result of such termination;

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

(iii) the Concessionaire may seek to recover its Losses caused by the City Default 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) the Concessionaire may exercise any other rights and remedies provided for hereunder or available at law or equity.

(e) *Termination of the Authority.* Upon the termination of the Authority and the transfer of the property of the Authority to the City pursuant to Section 5514 of the Parking Authority Law or as otherwise provided by Law, each Authority Default under Section 16.2(a) shall without amendment of this Agreement constitute a City Default with the effect of granting to the Concessionaire all of the remedies against the City that were available against the Authority under Section 16.2(c) prior to the termination of the Authority.

Section 16.3. Letters of Credit.

(a) The Concessionaire shall deliver no later than the first day of the Concession Year that is five years prior to the final Concession Year of the Term, a Letter of Credit in the amount then to be calculated equal to the amount that the City reasonably determines is appropriate to cover all costs of capital improvements for the remainder of the Term as set forth in the Concessionaire's capital improvement program required pursuant to the Operating Standards.

(b) Such Letter of Credit shall be replaced on every anniversary of such Concession Year until the date that is two years after (i) the expiration of the Term and (ii) such time as there being no unresolved disputes with respect to the Concessionaire complying with, performing or observing any obligation, covenant, agreement, term or condition in this Agreement with a Replacement Letter of Credit in the amount of the undrawn balance of such Letter of Credit plus the amount of interest that would have been earned on such balance if invested for the next 12-month period at the Bank Rate. Subject to Approval, the required amount of any Letter of Credit with respect to a Concession Year (but only with respect to such Concession Year) may be reduced from time to time (at intervals that may be shorter than one year) by the amount that the City reasonably determines is appropriate such that the amount of the Letter of Credit remains sufficient to cover all costs of capital improvements for the remainder of the Term in light of the condition of the Metered Parking System (including the City's assessment of the present and future condition of the Metered Parking System, and all costs and expenses of capital improvements to be performed in connection therewith, during the remaining years of the Term) and the Concessionaire's compliance with this Agreement in connection therewith. Upon the occurrence of a Concessionaire Default (or if there is a dispute as to the occurrence of a Concessionaire Default, upon the final decision of the arbitral panel pursuant to Article 19 that a Concessionaire Default has occurred), the City shall have the right (in addition to all other rights and remedies provided in this Agreement, but with the understanding that any other monetary damages that the City may recover will be reduced by the amount so drawn, and without the City's exercise of such right being deemed a waiver or a cure of the Concessionaire's failure to perform and whether or not this Agreement is thereby terminated), with three Business Days' prior notice to the Concessionaire, to draw against such Letter of Credit or any replacement thereof, upon presentation of a sight draft and a certificate confirming that the City has the right to draw under such Letter of Credit in the amount of such sight draft, up to the amount due to the City with respect to such Concessionaire Default.

(c) The Concessionaire shall replace each Letter of Credit with a replacement Letter of Credit (the "Replacement Letter of Credit") at least 30 Days prior to the expiry

date of a Letter of Credit which is expiring. If the Concessionaire does not deliver to the City a Replacement Letter of Credit within such time period, the City shall have the right (in addition to all other rights and remedies provided in this Agreement and without the City's exercise of such right being deemed a waiver or a cure of the Concessionaire's failure to perform and whether or not this Agreement is thereby terminated) to immediately draw the full amount of the Letter of Credit upon presentation of a sight draft and a certificate confirming that the City has the right to draw under such Letter of Credit in the amount of such sight draft. After the Concessionaire delivers to the City a Replacement Letter of Credit complying with the provisions of this Agreement, the City shall deliver in accordance with the Concessionaire's reasonable instructions the Letter of Credit being replaced (except to the extent that at such time no sight draft under such Letter of Credit is outstanding and unpaid). Any Replacement Letter of Credit shall be upon the same terms and conditions as the Letter of Credit replaced and satisfy the requirements for a Letter of Credit, but in any event (i) the amount of each Replacement Letter of Credit, except as provided in Sections 16.3(a) and (b), shall equal or exceed the amount of the Letter of Credit being replaced at the time of replacement and (ii) the date of the Replacement Letter of Credit shall be its date of issuance. The expiry date of the Replacement Letter of Credit, as referred to in the opening paragraph of such Replacement Letter of Credit, shall be not earlier than one year later than the expiry date of the Letter of Credit being replaced.

(d) If this Agreement is terminated by a Government Party prior to the expiration of the Term as a result of a Concessionaire Default, the City shall have the right (in addition to all other rights and remedies provided in this Agreement and without the City's exercise of such right being deemed a waiver or a cure of the Concessionaire's failure to perform), with three Business Days' prior notice to the Concessionaire, to draw against any Letter of Credit, upon presentation of a sight draft and a certificate confirming that the City has the right to draw under such Letter of Credit in the amount of such sight draft, up to the amount due to the City pursuant to the terms of this Agreement.

(e) The City will accept the Letters of Credit to be delivered pursuant to this Section 16.3 (and pursuant to Section 2.3) as security for the Concessionaire's obligations under this Agreement, in place of a cash deposit in the same amount, with the understanding that the Letters of Credit are to be the functional equivalent of a cash deposit. The Concessionaire's sole remedy in connection with the improper presentment or payment of sight drafts drawn under the Letter of Credit shall be the right to obtain from the City a refund of the amount of any sight draft the proceeds of which were drawn inappropriately or misapplied and the reasonable costs incurred by the Concessionaire as a result of such inappropriate draw or misapplication; *provided, however*, that at the time of such refund, the Concessionaire increases the amount of the Letter of Credit to the amount (if any) then required under the applicable provisions of this Agreement. The Concessionaire acknowledges that the presentment of sight drafts drawn under the Letter of Credit could not under any circumstances cause the Concessionaire injury that could not be remedied by an award of money damages, and that the recovery of money damages would be an adequate remedy therefor. The Concessionaire shall not request or

instruct the issuer of the Letter of Credit to refrain from paying any sight draft drawn under a Letter of Credit.

(f) If the City desires to assign its rights and obligations in accordance with Section 17.2 of this Agreement, the Concessionaire shall cooperate so that concurrently with the effectiveness of such assignment, either Replacement Letters of Credit as described in Section 16.3(c) for, or appropriate amendments to, the Letters of Credit then held by the City, in either case identifying as beneficiary the appropriate party after the assignment becomes effective, shall be delivered to the City, at no cost to the Concessionaire.

(g) The Concessionaire shall obtain and furnish all Letters of Credit and Replacement Letters of Credit at its sole cost and expense and shall pay all charges imposed in connection with the City's presentation of sight drafts and drawing against the Letters of Credit or Replacement Letters of Credit.

(h) In lieu of any Letter of Credit to be provided by the Concessionaire pursuant to the terms of this Section 16.3, the Concessionaire shall, at the Concessionaire's sole discretion, have the option to deposit with a Depository for the benefit of the City, as collateral security, cash or Eligible Investments in an amount equal to the amount of such Letter of Credit at the time of such deposit. Such Depository shall invest and reinvest such amounts in Eligible Investments at the direction of the City, *provided* that earnings thereon shall be paid to the Concessionaire not less frequently than quarterly. If, at any time during the Term, the City would have the right to draw any amount on a Letter of Credit for which the Concessionaire has substituted cash or Eligible Investments pursuant to this Section 16.3(h), the Depository shall pay such amount to the City from such cash deposit or Eligible Investments in accordance with the terms of this Section 16.3 and all rights and remedies of the City and the Concessionaire with respect to such cash deposits or Eligible Investments, if any, shall be the same as those provided in this Section 16.3 with respect to any Letter of Credit; provided, however, that the certification that would have been provided by the City with the sight draft had cash or Eligible Investments not been so substituted shall be made to the Depository and delivered to the Depository together with the City's written demand for payment.

(i) If Letters of Credit shall not in the future be available at commercially reasonable terms and rates or shall not be a commercially reasonable form of security in similar transactions, the Concessionaire shall furnish the City with comparable security instruments or Eligible Investments that then are commonly used in similar transactions and which are Approved; and if no such comparable security instruments shall be available, the Concessionaire shall deposit with the City cash as security.

Section 16.4. Consequences of Termination or Reversion. Upon the termination or expiration of this Agreement, notwithstanding any claims the Parties may have against each other and subject to Section 16.1(b)(v), Section 16.2(c)(ii), Section 16.2(d)(iii) and Article 18, the following provisions shall apply:

(a) the Concessionaire shall, without action whatsoever being necessary on the part of the Government Parties, well and truly surrender, transfer and deliver to the City the Metered Parking System (including all improvements to the Metered Parking System), the Metered Parking System Assets and all tangible and intangible personal property of the Concessionaire (including inventories) that is included in the Metered Parking System and used in connection with the Metered Parking System Operations (subject, however, as to any intellectual property included in the Metered Parking System, to any restrictions or prohibitions to disclosure, transfer or sharing thereof and any other rights of third parties with respect thereto), in good order, condition and repair (reasonable wear and tear excepted), determined reasonably in accordance with the then applicable Operating Standards, free and clear of all Encumbrances other than (w) Permitted Concessionaire Encumbrances set forth in clause (iv), clause (vii) and clause (viii) as it pertains to clauses (iv) and (vii) of the definition of that term, (x) Permitted City Encumbrances, (y) those created by or suffered to exist or consented to by the City or any Person claiming through it, and (z) with respect to any property added to the Metered Parking System after the Time of Closing, title defects affecting such property in existence on the date such property is added to the Metered Parking System;

(b) the Concessionaire hereby waives any notice now or hereafter required by Law with respect to transfer of the Metered Parking System on the Reversion Date;

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

(d) the Concessionaire shall be liable for all costs, expenses and other amounts for which it is liable or responsible hereunder incurred up to but not including the Reversion Date, and the Government Parties shall be liable for all costs, expenses and amounts incurred in connection with the Metered Parking System Operations on and after the Reversion Date;

(e) the City shall have the option by providing notice to the Concessionaire of requiring that the Concessionaire assign, without warranty or recourse to the Concessionaire, 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 Operating Agreements then in effect and all Authorizations to the City or the Authority for the remainder of their respective terms; *provided, however,* that if the City exercises such option, the right, title and interest of the Concessionaire in, to and under such Operating Agreements and Authorizations shall be assigned to the City and the Authority as of the Reversion Date and the Concessionaire shall surrender the Metered Parking System to the City and shall cause all Persons claiming under or through the Concessionaire to do likewise, and the City shall assume in writing, pursuant to an assumption agreement satisfactory to the Concessionaire, the Concessionaire's obligations under the Operating Agreements that arise in respect of, or relate to, any period of time falling on and after the Reversion Date; *provided further* that if the City does not exercise such option, the Concessionaire shall, unless the City has granted to a Collateral Assignee or its nominee a new concession agreement containing

the same provisions as are contained in this Agreement, take such steps as are necessary to terminate the Operating Agreements to the extent permitted thereunder and in accordance with the terms thereof;

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

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

(h) the Concessionaire shall assist the Government Parties in such manner as the Government Parties may require to ensure the orderly transition of control, operation, management, maintenance and rehabilitation of the Metered Parking System, and shall, if appropriate and if requested by a Government Party, take all steps as may be necessary to enforce the provisions of the Operating Agreements pertaining to the surrender of the Metered Parking System;

(i) the Parties shall make appropriate adjustments, including adjustments relating to any Operating Agreements assigned to the City or the Authority, Metered 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 180 Days following the Reversion Date; *provided, however*, that the Parties acknowledge that certain adjustments or readjustments may have to be made when a third party provides to the City, the Authority or the Concessionaire a final adjustment amount in respect of a matter, and for such matters the adjustment and readjustment date shall each be correspondingly extended; and

(j) if this Agreement is terminated as a result of an Adverse Action or a Reserved Powers Adverse Action, the payment to the Concessionaire of the amounts required under Article 14 or Article 19 shall constitute full and final settlement of any and all Claims the Concessionaire may have against the Government Parties for and in respect of the termination of this Agreement and upon such payment, the Concessionaire shall execute and deliver all such releases and discharges as the Government Parties may reasonably require to give effect to the foregoing.

This Section 16.4 shall survive the expiration or any earlier termination of this Agreement.

Section 16.5. Termination Other Than Pursuant to Agreement. If this Agreement is terminated by the City or the Authority other than pursuant to Section 16.1 or is canceled, rescinded or voided during the Term for any reason over the objection and

without action by the Concessionaire, any Collateral Assignee and their respective Affiliates, the City shall pay to the Concessionaire the Metered Parking System Concession Value as of the date of such termination, cancellation, rescinding or voiding, plus, without duplication, the reasonable out-of-pocket and documented costs and expenses incurred by the Concessionaire as a direct result of such termination, cancellation, rescinding or voiding. The Government Parties hereby acknowledge and agree that they may only terminate this Agreement in accordance with the express terms hereof and shall not, in any event, have the right to terminate this Agreement for convenience.

ARTICLE 17 RESTRICTIONS ON TRANSFERS

Section 17.1. Transfers by the Concessionaire.

(a) The Concessionaire shall not Transfer, or otherwise permit the Transfer of, any or all of the Concessionaire Interest to or in favor of a Transferee, unless (i) the City has Approved (based upon a determination in accordance with Section 17.1(b)) such proposed Transferee (unless it is a Collateral Assignee permitted under Article 18) and (ii) the proposed Transferee (unless it is a Collateral Assignee permitted under Article 18) enters into an agreement with the Government Parties in form and substance satisfactory to the Government Parties, acting reasonably, wherein the Transferee acquires the rights and assumes the obligations of the Concessionaire and agrees to perform and observe all of the obligations and covenants of the Concessionaire under this Agreement. Any Transfer made in violation of the foregoing provision shall be null and void ab initio and of no force and effect.

(b) Approval of a proposed Transferee may be withheld if the City reasonably determines that (i) such proposed Transfer is prohibited by applicable Law, (ii) such proposed Transferee's entering into this Agreement with the Government Parties is prohibited by Law, (iii) such proposed Transfer would result in a violation of Law, (iv) such proposed Transfer would result in a Tax liability to a Government Party (unless a Government Party shall have received indemnification, as determined in the Government Party's discretion, with respect thereto) or (v) such proposed Transferee is not capable of performing the obligations and covenants of the Concessionaire under this Agreement, which determination shall be based upon and take into account the following factors: (a) the financial strength and integrity of the proposed Transferee, its direct or indirect beneficial owners, any proposed managers or operating partners and each of their respective Affiliates; (b) the experience of the proposed Transferee or the Operator to be engaged by the proposed Transferee in operating metered parking systems and performing other relevant projects; (c) the background and reputation of the proposed Transferee, its direct or indirect beneficial owners, any proposed managers or operating partners, each of their respective officers, directors and employees and each of their respective Affiliates (including the absence of criminal, civil or regulatory claims or actions against any such Person and the quality of any such Person's past or present

performance on other projects); and (d) the Operator engaged by the proposed Transferee, including the ability of the Operator to meet the operating standards.

(c) No Transfer of all or any of the Concessionaire Interest (except a Transfer to a Collateral Assignee or its nominee upon its exercise of remedies under its Collateral Assignment and a subsequent transfer to the transferee of the Collateral Assignee that has been Approved under Section 17.1(b)) shall be made or have any force or effect if, at the time of such Transfer there has occurred a Concessionaire Default that has not been remedied or an event that with the lapse of time, the giving of notice or otherwise would constitute a Concessionaire Default.

(d) A Change in Control of the Concessionaire shall be deemed to be a Transfer of the Concessionaire Interest for purposes of the foregoing provisions.

(e) Nothing contained in the foregoing shall be deemed to prohibit or limit the Concessionaire from changing its organizational form or status (including a change from a limited liability company to a corporation or limited partnership), *provided* that such change in organizational form or status does not result in a Change of Control of the Concessionaire.

(f) Neither (i) a change of ownership that is attributable to a concession, management agreement, operating agreement or other similar arrangement that is subject and subordinate in all respects to the rights of the Government Parties under this Agreement, nor (ii) the creation of a trust or any other transaction or arrangement that is solely a transfer of all or part of the Concessionaire's economic interest under this Agreement to another entity shall be deemed to be a Transfer of the Concessionaire Interest for purposes of Section 17.1(a).

Section 17.2. Assignment by the City. The City shall have the right to Transfer any or all of the City's interest in the Metered Parking System and this Agreement, *provided* that it shall be jointly and severally liable with the Transferee for the performance and observance of the obligations and covenants of the City under this Agreement and any agreement entered into by the City under this Agreement (including agreeing directly with any Collateral Assignee to be bound by the agreement entered into in accordance with Section 18.3) and that any such Transfer by the City shall not materially limit or reduce any of the Concessionaire's other rights, benefits, remedies or privileges under this Agreement.

Section 17.3. **Assignment by the Authority.** The Authority shall have the right to Transfer any or all of the Authority's interest in the Metered Parking System and this Agreement, *provided* that it shall be jointly and severally liable with the Transferee for the performance and observance of the obligations and covenants of the Authority under this Agreement and any agreement entered into by the Authority under this Agreement (including agreeing directly with any Collateral Assignee to be bound by the agreement entered into in accordance with Section 18.3) and that any such Transfer by the Authority shall not materially limit or reduce any of the Concessionaire's other rights, benefits, remedies or privileges under this Agreement.

ARTICLE 18
LENDER'S RIGHTS AND REMEDIES

Section 18.1. Collateral Assignments. The Concessionaire shall have the right, at its sole cost and expense, to execute and deliver one or more (subject to Section 18.7) Collateral Assignments, if at the time any such Collateral Assignment is executed and delivered to the Collateral Assignee, no Concessionaire Default exists unless any such Concessionaire Default will be cured pursuant to Section 18.3 in connection with entering into such Collateral Assignment, and upon and subject to the following terms and conditions:

(a) a Collateral Assignment may not cover any property of, or secure any debt issued or guaranteed by, any Person other than the Concessionaire (including any debt guaranteed by the Concessionaire in accordance with Section 3.6), but may cover shares or equity interests in the capital of the Concessionaire and any cash reserves or deposits held in the name of the Concessionaire;

(b) no Person other than an Institutional Lender shall be entitled to the benefits and protections accorded to a Collateral Assignee in this Agreement; *provided, however*, that lenders to the Concessionaire (and lenders to the Collateral Assignee as successor in interest to the Concessionaire under this Agreement) may be Persons other than Institutional Lenders so long as any Collateral Assignment securing the loans made by such Persons is held by an Institutional Lender acting as collateral agent or trustee;

(c) no Collateral Assignment or other instrument purporting to pledge, encumber, or create a lien, charge or security interest on or against any or all of the Concessionaire Interest shall extend to or affect the Authority's interest hereunder or, the City's interest hereunder or the City's reversionary interest and estate in and to the Metered Parking System or any part thereof;

(d) the Government Parties shall have no liability whatsoever for payment of the principal sum secured by any Collateral Assignment, or any interest accrued thereon or any other sum secured thereby or accruing thereunder, and, except for violation by a Government Party of express obligations set forth herein, the Collateral Assignee shall not be entitled to seek any damages or other amounts against a Government Party for any or all of the same;

(e) the Government Parties shall have no obligation to any Collateral Assignee in the enforcement of the rights and remedies of the Government Parties under this Agreement herein and by Law provided, except as expressly set forth in this Agreement and unless such Collateral Assignee has provided the City with notice of its Collateral Assignment in accordance with the Collateral Assignee Notice Requirements;

(f) each Collateral Assignment shall provide that if the Concessionaire is in default under the Collateral Assignment and the Collateral Assignee gives notice of such default to the Concessionaire, then the Collateral Assignee shall give notice of such default to the City;

(g) subject to the terms of this Agreement, all rights acquired by a Collateral Assignee under any Collateral Assignment shall be subject and subordinate to all of the provisions of this Agreement and to all of the rights of the Government Parties hereunder;

(h) while any Collateral Assignment is outstanding, the Government Parties shall not agree to any amendment or modification of this Agreement that could reasonably be expected to have a material adverse effect on the rights or interests of the Collateral Assignee or agree to a voluntary surrender or termination of this Agreement by the Concessionaire without the consent of the Collateral Assignee;

(i) notwithstanding any enforcement of the security of any Collateral Assignment, the Concessionaire shall remain liable to the Government Parties for the payment of all sums owing to the Government Parties under this Agreement and the performance and observance of all of the Concessionaire's covenants and obligations under this Agreement; and

(j) a Collateral Assignee shall not, by virtue of its Collateral Assignment, acquire any greater rights or interest in the Metered Parking System than the Concessionaire has at any applicable time under this Agreement, other than such rights or interest as may be granted or acquired in accordance with Section 18.2, 18.3, 18.4 or 18.5; and each Collateral Assignee, the City, the Authority and the Concessionaire shall enter into a consent agreement in a form acceptable to all parties; *provided* that such consent agreement shall be in a customary form and shall include the rights and protections provided to the Collateral Assignees in this Agreement.

Section 18.2. Notices and Payments to Collateral Assignees. Whenever a Collateral Assignment exists as to which the Government Parties has been provided notice in accordance with the Collateral Assignee Notice Requirements, the Government Parties shall, simultaneously with providing the Concessionaire any required notice under this Agreement, provide a copy of such notice to such Collateral Assignee, and no such notice to the Concessionaire shall be effective against the Collateral Assignee until a copy thereof is duly provided to such Collateral Assignee at its address specified in its notice given to the Government Parties in accordance with the Collateral Assignee Notice Requirements (or any subsequent change of address notice given to the Government Parties pursuant to the requirements of Section 20.1). With respect to a Collateral Assignment regarding which the Government Parties has been provided notice in accordance with the Collateral Assignee Notice Requirements, unless the Collateral Assignee has otherwise advised the Government Parties in writing, all payments to the Concessionaire to be made by the Government Parties under this Agreement shall be made to the institution acting as the collateral agent or depository under the financing secured by such Collateral Assignment.

Section 18.3. Collateral Assignee's Right to Cure. The Collateral Assignee shall have a period of 60 Days with respect to any Concessionaire Default beyond any cure period expressly provided to the Concessionaire herein, in which to cure or cause to be cured any such Concessionaire Default; *provided, however*, that such 60-Day period shall be extended if the Concessionaire Default may be cured but cannot reasonably be cured within such period of 60 Days, and the Collateral Assignee begins to cure such

default within such 60-Day period (or, if possession is necessary in order to effect such cure, the Collateral Assignee commences appropriate lawful action (pursuant to judicial process or otherwise) to take possession or transfer possession (subject to the provisions of Article 17) of the Metered Parking System within 60 Days) and thereafter proceeds with all due diligence to cure such Concessionaire Default (including by proceeding with all due diligence to take possession or effect such transfer) within a reasonable period of time acceptable to the Government Parties, acting reasonably; *provided further* that if a Collateral Assignee's right to cure a Concessionaire Default has not expired, and the Collateral Assignee is acting to cure such Concessionaire Default in accordance with this Section 18.3 then the Government Parties shall not exercise their right to terminate this Agreement by reason of such Concessionaire Default. In furtherance of the foregoing, the Government Parties shall permit the Collateral Assignee and its Representatives the same access to the Metered Parking System as is permitted to the Concessionaire hereunder. The Government Parties shall accept any such performance by a Collateral Assignee as though the same had been done or performed by the Concessionaire. Any payment to be made or action to be taken by a Collateral Assignee hereunder as a prerequisite to keeping this Agreement in effect shall be deemed properly to have been made or taken by the Collateral Assignee if such payment is made or action is taken by a nominee, agent or assignee of the rights of such Collateral Assignee.

Section 18.4. Rights of the Collateral Assignee.

(a) Subject to the provisions of this Agreement including, but not limited to, the Reserved Powers, a Collateral Assignee may (i) enforce its Collateral Assignment in any lawful way, (ii) acquire the Concessionaire Interest in any lawful way or (iii) take control of in any lawful way and manage the Metered Parking System. Upon exercise of any contractual or statutory power of sale or possession under such Collateral Assignment and subject to the provisions of Article 17 (applied to the Collateral Assignee as if it were the Concessionaire), a Collateral Assignee may Transfer the Concessionaire Interest; *provided, however*, that no Transfer by a Collateral Assignee shall be effective unless the Transfer is made in accordance with Section 17.1. Any Person to whom the Collateral Assignee Transfers the Concessionaire Interest (including such Collateral Assignee) shall take the Concessionaire Interest subject to any of the Concessionaire's obligations under this Agreement.

(b) Except as provided in Section 18.3, unless and until a Collateral Assignee (i) forecloses upon or has otherwise taken ownership of the Concessionaire Interest or (ii) has taken possession or control of the Concessionaire Interest, whether directly or by an agent or a receiver or receiver and manager has taken possession or control of the Concessionaire Interest by reference to the Collateral Assignment, the Collateral Assignee shall not be liable for any of the Concessionaire's obligations under this Agreement or be entitled to any of the Concessionaire's rights and benefits contained in this Agreement, except by way of security. If the Collateral Assignee itself or by an agent or a receiver or a receiver and manager is the owner, or is in control or possession of, the Concessionaire Interest, it shall be bound by all liabilities and obligations of the Concessionaire under this Agreement (including the obligation to engage an Operator). Once the Collateral Assignee goes out of ownership, possession or control of the Concessionaire Interest or Transfers the Concessionaire Interest to another Person in

accordance with the provisions of this Agreement, the Collateral Assignee shall cease to be liable for any of the Concessionaire's obligations under this Agreement accruing thereafter and shall cease to be entitled to any of the Concessionaire's rights and benefits contained in this Agreement, except, if the Collateral Assignment remains outstanding, by way of security.

Section 18.5. Termination of this Agreement; New Agreement.

(a) Without prejudice to the rights of a Collateral Assignee under Section 18.3, if this Agreement is terminated prior to the expiration of the Term due to a Concessionaire Default (in which case the City shall notify the Collateral Assignee of such termination) or if this Agreement is rejected or disaffirmed pursuant to any bankruptcy Law or proceeding or other similar Law or proceedings affecting creditors' rights generally with respect to a bankruptcy proceeding relating to the Concessionaire or otherwise, the Government Parties agree to enter into a new concession and services agreement of the Metered Parking System with the Collateral Assignee (or its designee or nominee, *provided* that such designee or nominee either is controlled by the Collateral Assignee or is Approved by the City as Transferee under Section 17.1) for the remainder of the original stated Term upon all of the covenants, agreements, terms, provisions and limitations of this Agreement (the "New Agreement"), effective as of the date of such termination, but only on and subject to the satisfaction of all of the following requirements and conditions: (i) such Collateral Assignee commits in writing to the Government Parties, in a notice delivered to the Government Parties, within 30 Days after the City delivers the termination notice to the Collateral Assignee (or, if later, upon the termination of any cure period granted to the Collateral Assignee pursuant to Section 18.3) or within 30 Days after the effective date of such rejection or disaffirmance, as the case may be, that the Collateral Assignee (or its designee or nominee) will enter into the New Agreement, which notice is accompanied by a copy of such New Agreement, duly executed and acknowledged by the Collateral Assignee (or its designee or nominee); (ii) provided the City notifies the Collateral Assignee in advance, the Collateral Assignee (or its designee or nominee) pays or causes to be paid to the each Government Party, at the time of the execution and delivery of the New Agreement, all amounts which, at the time of the execution and delivery thereof, would have been past-due or due and payable to that Government Party in accordance with the provisions of this Agreement but for such termination; (iii) provided the City furnishes a statement or invoice for such costs the Collateral Assignee pays or causes to be paid to each Government Party all reasonable costs and expenses (including legal fees), Taxes, fees, charges and disbursements paid or incurred by such Government Party in connection with such defaults and termination, the recovery of possession from the Concessionaire, and in connection with the preparation, execution and delivery of the New Agreement and related agreements and documents specified in such statement or invoice; and (iv) such Collateral Assignee (or its designee or nominee), at the time of such written request, cures all defaults under this Agreement (curable by the payment of money) existing immediately prior to the termination of this Agreement, or, if such defaults cannot be cured by the payment of money, such Collateral Assignee (or its designee or nominee) commits to the Government Parties in the New Agreement to proceed both promptly and diligently, upon the execution of the New Agreement, to cure all such other defaults and,

if possession is necessary in order to cure such other Concessionaire Defaults, to proceed both promptly and diligently to obtain the possession required to cure any such other defaults (and such cure shall be a covenant in the New Agreement).

(b) Nothing contained in this Section 18.5 shall be deemed to limit or affect the City's interest in and to such Metered Parking System upon the expiration of the Term of the New Agreement. The provisions of this Section 18.5 shall survive the termination of this Agreement and shall continue in full force and effect thereafter to the same extent as if this Section 18.5 were a separate and independent contract made by the City, the Authority, the Concessionaire and the Collateral Assignee and, if the Collateral Assignee satisfies the conditions to a New Agreement from the effective date of such termination of this Agreement to the date of execution and delivery of the New Agreement, the Collateral Assignee may operate the concession created by this Agreement without hindrance by the Government Parties, but only on and subject to the terms and provisions of this Agreement.

(c) If the circumstances described in Section 18.5(a) occur and a Government Party 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 Government Parties and the Collateral Assignee could violate applicable provisions of the Laws of the Commonwealth governing procurement by the Authority or the City then, in lieu of entering in a New Agreement and in satisfaction of their obligations under this Section 18.5, the Government Parties agree to enter into an Assignment and Assumption Agreement pursuant to Section 18.9.

Section 18.6. Right to Arbitration. In each case specified in this Agreement in which resort to arbitration is authorized, the Collateral Assignee shall have the right and privilege if an event of default under the Collateral Assignment then exists and notice has been given to each Government Party as contemplated by Section 18.1(f), in the Concessionaire's name, place and stead, to obtain and participate in such arbitration upon notice to the Government Parties in accordance with Section 20.1, provided that the Collateral Assignee agrees to be bound by the decision of the arbitration panel.

Section 18.7. Recognition of Collateral Assignee. If there is more than one Collateral Assignee, only that Collateral Assignee, to the exclusion of all other Collateral Assignees, whose notice was earliest received by the City pursuant to the Collateral Assignee Notice Requirements, shall have the rights as a Collateral Assignee under this Article 18, unless such Collateral Assignee has designated in writing another Collateral Assignee to exercise such rights.

Section 18.8. City's Right to Purchase Indebtedness Secured by Collateral Assignment.

(a) If any default by the Concessionaire has occurred under a Collateral Assignment, or any act, condition or event has occurred which would permit a Collateral Assignee to declare all or part of the indebtedness secured by a Collateral Assignment to be immediately due and payable, then the City shall have 30 Days after the date on which such Collateral Assignee shall serve notice upon the City in writing ("Collateral

Assignee's Notice”) that such Collateral Assignee intends to commence proceedings to exercise its rights or remedies under the Collateral Assignment (stating the calculation of the purchase price pursuant Section 18.8(c)), during which 30-Day period the City shall have the right and option (the “City's Option”) to purchase from all Collateral Assignees the indebtedness secured by all Collateral Assignments, upon the terms and subject to the conditions contained in this Section 18.8.

(b) The City's Option shall be exercised by notice served upon the Concessionaire and all Collateral Assignees within such 30-Day period. Time shall be of the essence as to the exercise of the City's Option. If the City's Option is duly and timely exercised, the City shall purchase on the date which is 60 Days after the date on which a Collateral Assignee's Notice is served upon the City. The closing shall take place at a mutually convenient time and place.

(c) The purchase price payable by the City shall be equal to the aggregate amounts secured by such Collateral Assignments (including principal, interest, fees, premiums, breakage and other costs, expenses (including attorneys' fees) and any other amounts secured thereby) 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. The purchase price shall be paid by the City to each respective Collateral Assignee, to be applied by the Collateral Assignee to the indebtedness secured by the Collateral Assignment owed to such Collateral Assignee, subject to the priorities of the security interests created by such Collateral Assignments.

(d) At the closing and upon payment in full of the purchase price each Collateral Assignee shall assign its Collateral Assignment to the City, together with any security interest held by it in the Concessionaire Interest, without recourse, representations, covenants or warranties of any kind, *provided* that such Collateral Assignments and security interests shall be deemed modified to secure the amount of the aggregate purchase price paid by the City to all Collateral Assignees (rather than the indebtedness theretofore secured thereby) payable on demand, with interest and upon the other items referred to in this Section 18.8(d). The Government Parties shall be responsible for paying any Taxes payable to any Governmental Authority upon such assignment.

(e) Any Collateral Assignment shall contain an agreement of the Collateral Assignee to be bound by the provisions of this Section 18.8.

(f) The City shall have the right to receive all notices of default under any Collateral Assignment, but the City shall not have the right to cure any default under any Collateral Assignment, except to the extent provided in this Section 18.8.

Section 18.9. Assignment and Assumption Agreement.

(a) The provisions of this Section 18.9 shall be in effect whenever either (i) a Government Party has made the determination contemplated by Section 18.5(c) or (ii) the Government Parties, with the written consent of the Collateral Assignee, have determined to proceed under this Section 18.9 in lieu of under Section 18.5.

(b) Without prejudice to the rights of a Collateral Assignee under Section 18.3, if either (i) the Government Parties have given a notice of termination of this Agreement due to Concessionaire 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 Concessionaire or otherwise, the Government Parties agree to cooperate with a Collateral Assignee in order to effectuate such Collateral Assignee's rights under the Collateral Assignment to step-in, assume or assign this Agreement, in accordance with the procedures, terms and conditions of this Section 18.9.

(c) Upon notification and satisfaction of all of the conditions and requirements in Section 18.9(d), the Government Parties agree that this Agreement shall not be deemed terminated, but may be assumed by a Collateral Assignee or by a designee or nominee of such Collateral Assignee who is either controlled by the Collateral Assignment or is Approved by the Authority as Transferee under Section 17.1, for the remainder of the original stated Term of this Agreement, and as evidence of such assignment and assumption the Government Parties agree to execute an amended and restated concession and services agreement for the Metered Parking System upon all of the covenants, agreements, terms, provisions and limitations of this Agreement (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 Collateral Assignee must commit in writing to the Government Parties, in a notice delivered to the Government Parties within the later of 30 days after the Authority delivers the termination notice to Collateral Assignee or upon the termination of any cure period granted to such Collateral Assignee pursuant to Section 18.3, or within 30 Days after the effective date of any rejection or disaffirmance of this Agreement in a bankruptcy proceeding, as the case may be, that such Collateral Assignee (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 Collateral Assignee (or its designee or nominee).

(ii) Such Collateral Assignee (or its designee or nominee) shall pay or cause to be paid to each Government Party, at the time of the execution and delivery of the Assignment and Assumption Agreement, all amounts which, at the time of the execution and delivery thereof, would have been past-due or due and payable to that Government Party in accordance with the provisions of this Agreement.

(iii) Such Collateral Assignee (or its designee or nominate) shall pay or cause to be paid to each Government Party all reasonable costs and expenses (including legal fees), Taxes, fees, charges and disbursements paid or incurred by such Government Party in connection with such defaults and notice of termination, the recovery of possession from the Concessionaire, and in connection with the preparation, execution

and delivery of the Assignment and Assumption Agreement and related agreements and documents. The Government Parties shall provide an invoice to such Collateral Assignee of such costs, and the Collateral Assignee or its designee or nominee shall pay such invoiced costs within five days of the receipt of such invoice.

(iv) Such Collateral Assignee (or its designee or nominee), at the time of the notice provided under Section 18.9(b)(i), shall cure all defaults 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 16.1(b), or, if such defaults cannot be cured by the payment of money, such Collateral Assignee (or its designee or nominee) shall commit to the Government Parties in the Assignment and Assumption Agreement to proceed both promptly and diligently, upon the execution of the Assignment and Assumption Agreement, to cure all such other defaults and, if possession is necessary in order to cure such other Concessionaire Defaults, to proceed both promptly and diligently 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).

(e) If a Collateral Assignee gives the Government Parties a notice as provided in Section 18.9(d)(i), the Government Parties and Collateral Assignee agree to cooperate with respect to taking any appropriate actions required to regain and transfer possession of the Metered Parking System and the Metered Parking System Assets, 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 ownership, possession or control of the Concessionaire Interest and assume the Concessionaire's position as provided in Section 18.4 of this Agreement; *provided* that any costs incurred by the Government Parties under this provisions shall be reimbursed by the Collateral Assignee (or its designee or nominee) as provided in Section 18.9(d)(iii).

ARTICLE 19 DISPUTE RESOLUTION

Section 19.1. Scope. Any dispute arising out of, relating to, or in connection with this Agreement, including any question as to whether such dispute is subject to arbitration, shall be resolved as set forth in this Article 19.

Section 19.2. Informal Dispute Resolution Procedures. The Parties shall attempt in good faith to resolve such dispute within 15 Business Days following receipt by the other Parties of notice of such dispute. If the Parties are unable to resolve the dispute within such period of 15 Business Days, and upon notice by a Party to the other Parties, the dispute shall be referred to the Designated Senior Person of each Party. The Designated Senior Persons shall negotiate in good faith to resolve the dispute, conferring as often as they deem reasonably necessary. Statements made by representatives of the Parties during the dispute resolution procedures set forth in this Section 19.2 and in Section 19.3 and documents specifically prepared for such dispute resolution procedures

shall be considered part of settlement negotiations and shall not be admissible as evidence in any arbitration or other litigation proceeding between the Parties without the mutual consent of the Parties.

Section 19.3. **Mediation.** Mediation of a dispute under this Agreement may not be commenced until the earlier of: (i) such time as all of the Designated Senior Persons, after following the procedures set forth in Section 19.2, conclude in good faith that amicable resolution through continued negotiation of the matter does not appear likely; or (ii) 15 Business Days after the notice referring the dispute to the Designated Senior Persons pursuant to Section 19.2 has been received by both Designated Senior Persons. If, after such time period, the dispute remains unresolved, the Parties shall attempt to resolve the dispute through mediation administered by the AAA under its Commercial Mediation Procedures before resorting to binding arbitration, as provided by Section 19.4. The Parties agree that any period of limitation applicable to the assertion of a claim shall be deemed tolled during the conduct of informal dispute resolution under Section 19.2 and mediation under this Section 19.3, and that any claim of any Party shall be deemed not to have accrued until the mediation is terminated.

Section 19.4. **Arbitration.**

(a) *Arbitration Process.* If the procedures described in Sections 19.2 and 19.3 do not result in resolution of the dispute within 30 Business Days following a reference to mediation, the dispute shall be resolved by arbitration in accordance with the AAA Rules then in effect. Any Party may initiate the arbitration, as provided in the AAA Rules. Any arbitration conducted pursuant to this Section 19.4 shall be governed by the statutory arbitration provisions of the Arbitration Act. The place of arbitration shall be Pittsburgh, Pennsylvania unless the Parties agree otherwise. The arbitral panel shall determine the rights and obligations of the Parties in accordance with the substantive laws of the Commonwealth of Pennsylvania and without regard to conflicts of laws principles thereof. Except as agreed by the Parties, the arbitral panel shall have no power to alter or modify any terms or provisions of this Agreement, or to render any award that, by its terms or effects, would alter or modify any term or provision of this Agreement. The Parties shall be entitled to reasonable production of relevant, non-privileged documents, carried out expeditiously. If the Parties are unable to agree upon same, the arbitral panel shall have the power, upon application of any Party, to make all appropriate orders for production of documents by any Party. At the request of any Party, the arbitral panel shall have the discretion to order the examination by deposition of any witness to the extent the arbitral tribunal deems such examination appropriate or necessary. The arbitral panel shall be composed of three arbitrators, one to be selected by the City, one to be selected by the Concessionaire and the third (who shall act as chairman of the panel) to be selected by the two previously-selected arbitrators. If, within 15 Business Days, the two previously-selected arbitrators cannot agree on the selection of the third arbitrator, then the third arbitrator shall be selected by the AAA pursuant to the AAA Rules. Once the arbitral panel has been composed, the arbitrators shall act as neutrals and not as party arbitrators, and no Party shall engage in any *ex parte* communication with any member of the arbitral panel. Each Party shall bear its own attorney fees, expenses, and costs. Any award of monetary damages shall include interest at the Bank Rate from the date of any breach or violation of this Agreement or the incurring of any obligation as determined in

the arbitral award until paid in full. Any award of monetary damages shall be in writing and state the reasons upon which it is based. The award shall be final and binding on the Parties, subject only to such review and other proceedings as provided by the Arbitration Act. Judgment on the award may be entered by any court with competent jurisdiction in accordance with the Arbitration Act.

(b) *Remedy of Arbitration Not Available.* If it is determined by a final and unappealed order of a tribunal of competent jurisdiction or by written agreement of the Parties that arbitration pursuant to the Arbitration Act cannot provide a remedy for or resolution of a dispute for any reason relating to a lack of jurisdiction or a constraint arising from an immunity (“Determination”), then the Parties agree to present the dispute to such court or other tribunal of competent jurisdiction or other applicable dispute resolution process which possesses jurisdiction and the power to afford relief not limited by immunity. The presentation to the other forum may be accomplished by transfer order in connection with a Determination or by a submission by a Party or Parties in which case the submission shall be deemed timely if so submitted within sixty (60) Business Days of any such Determination. Irrespective of whether the subsequent presentation is accomplished by transfer or submission by a Party or Parties, the Parties agree that any applicable period of limitation shall be deemed tolled during the conduct of arbitration or any proceedings relating to the arbitration or to the rendering of the Determination, and the Parties further waive the defense of the application of any period of limitation with respect to the submission in the subsequent forum. For clarification, it is the intent of the Parties that no Party shall be precluded from presenting a claim on the basis of timeliness (and the Parties hereby waive any defenses relating to timeliness) arising from the need to present the dispute in a different forum as provided for and subject to the conditions of this Section 19.4.

Section 19.5. Provisional Remedies. No Party shall be precluded from initiating a proceeding in a court of competent jurisdiction for the purpose of obtaining any emergency or provisional remedy to protect its rights that may be necessary and that is not otherwise available under this Agreement, including temporary and preliminary injunctive relief and restraining orders and the appointment of a receiver or receiver and manager in connection with the collection and retention of Metered Parking Revenues.

Section 19.6. Tolling. If a Party receiving a notice of default under this Agreement contests, disputes or challenges the propriety of such notice by making application to the dispute resolution procedure in this Article 19, any cure period that applies to such default shall be tolled for the time period between such application and the issuance of a final award or determination.

Section 19.7. Technical Arbitration.

(a) *Informal Dispute Resolution by Consultant.* The Parties may agree to submit any technical dispute under this Agreement, including any technical dispute with respect to Article 7 that is submitted pursuant to Section 7.12 to the Consultant, which submission may be made without submitting the technical dispute to technical arbitration pursuant to Section 19.7(b) or to the dispute resolution process described in Section 19.2, Section 19.3 and Section 19.4 and once such technical dispute has been submitted to the

Consultant then the time limits set out in Section 19.2, Section 19.3 and Section 19.4 shall no longer apply. The Consultant shall determine any unresolved disputed items within three Business Days of the submission of such dispute to the Consultant, unless the Consultant has good cause to extend such date for determination. The submission shall be in the form of written statements of position by one or more of the Parties, which statements shall be provided to all Parties and the Consultant, with each Party having an opportunity to respond to such written statements of the other Parties and any requests for statements or information by the Consultant, including in-person meetings. The Parties shall each bear their own costs with respect to the submission of such dispute to the Consultant and shall bear equally the cost of the Consultant with respect to such dispute. The Consultant's award shall be in writing and state the reasons upon which it is based. The decision of the Consultant shall be final and binding on the Parties, unless a Party expressly reserves the right to submit the dispute to technical arbitration pursuant to Section 19.7(b) or to the dispute resolution process described in Section 19.2, Section 19.3 and Section 19.4. Within three Business Days after its receipt of the decision, any Party may request the Consultant to interpret the decision or to correct any clerical, typographical or computation errors therein. The other Parties shall have a right to comment within three Business Days of its receipt of the requesting Party's request for interpretation and/or correction. If the Consultant considers the request justified, it shall comply with such request within three Business Days after its receipt of such request. The correction and/or interpretation of the decision shall take the form of an addendum and shall constitute part of the decision.

(b) *Technical Arbitration.* The Parties may agree to submit any technical dispute under this Agreement to technical arbitration, which submission may be made without submitting the technical dispute to the Consultant pursuant to Section 19.7(a) or to the dispute resolution process described in Section 19.2, Section 19.3 and Section 19.4. Such technical arbitration shall be conducted by a Consultant, serving as an independent technical arbitrator, acceptable to the City and the Concessionaire (and if the Parties fail to agree upon the independent technical arbitrator within five Business Days after the Parties agree to submit the dispute to technical arbitration, then the City and the Concessionaire shall each appoint an independent technical arbitrator and both such arbitrators shall be instructed to select a third independent technical arbitrator to conduct the technical arbitration). If the Party-appointed technical arbitrators are unable to agree upon a third technical arbitrator within five Business Days after they are instructed by the Parties to select a third arbitrator, the Consultant shall select the independent technical arbitrator to conduct the technical arbitration as soon as possible. Such submission shall be in the form of written statements of position by one or more of the Parties, which statements shall be provided to the other Parties and the independent technical arbitrator, with each Party having an opportunity to respond to such written statements of the other Parties and any requests for statements or information by the independent technical arbitrator, including in-person meetings; *provided, however*, that all such submissions by a Party shall be made within 10 Business Days of appointment of the independent technical arbitrator and, notwithstanding any provision herein to the contrary, any unresolved disputed items shall be determined by the independent technical arbitrator within seven Business Days of receipt by the independent technical arbitrator of the Parties' submissions of information unless such independent technical arbitrator has good

cause to extend such date for determination. The Parties shall each bear their own costs with respect to the arbitration of any such technical dispute and shall bear equally the cost of retaining such independent technical arbitrator. The independent technical arbitrator's award shall be in writing and state the reasons upon which it is based. Within one Business Day after its receipt of the decision, any Party may request the independent technical arbitrator to interpret the decision or to correct any clerical, typographical or computation errors therein. The other Parties shall have a right to comment within one Business Day of its receipt of the requesting Party's request for interpretation and/or correction. If the independent technical arbitrator considers the request justified, it shall comply with such request within three Business Days after its receipt of such request. The correction and/or interpretation of the decision shall take the form of an addendum and shall constitute part of the decision. The independent technical arbitrator's award shall be final and binding on the Parties, except in the event of fraud, partiality, or manifest error, or if the independent technical arbitrator has exceeded its mandate or otherwise lacked jurisdiction. Any Party that wishes to challenge the award must initiate arbitration in accordance with Section 19.4 within seven Business Days of its receipt of the award and the arbitral panel must accept such matter for arbitration. The submission must set forth one or more of the limited grounds set out in this provision as the basis for its challenge in its request for arbitration, failing which the award shall be final and binding. In the event an arbitral panel composed pursuant to Section 19.4 decides that the award is not final and binding because of one or more grounds set out in this provision, it may proceed to determine the underlying issue *de novo* and its award shall constitute a final and binding determination of the dispute. Except in the event of a challenge to the award in accordance with this provision, each Party shall give effect to the award starting as of the eighth Day of its receipt of the award, including by paying the amount, if any, which becomes payable as a result of the award. If the amount payable as a result of the award is not so paid, interest will accrue on that amount at the Bank Rate. Judgment on the award may be entered in any court with competent jurisdiction. The independent technical arbitrator's award shall be final and binding on the Parties.

Section 19.8. City and Authority Liability and Further Remedies.

(a) All obligations of the Authority hereunder (including, without limitation, any payment obligations of the Authority) shall be construed to be the obligations of the City, on a joint and several basis, with the Authority. Any obligation set forth in this Agreement of the Authority to pay any amount shall be deemed to be, and construed as, including the City as a joint and several obligor of such obligations.

(b) The City and the Authority shall take any and all actions necessary, including, without limitation, using their best efforts to lease City or Authority assets or to borrow funds, in order to finance any obligation to pay the Metered Parking System Concession Value or any other amounts due and payable to the Concessionaire arising from this Agreement; *provided*, that in connection with any borrowing, the City and the Authority shall not adversely impact any of the rights and remedies of the Concessionaire hereunder unless this Agreement shall have been terminated in accordance with the terms hereof. The term "best efforts" means all legally permissible actions that a prudent person, acting in good faith and desirous of achieving the result, would use to achieve that result as expeditiously as possible, including the expeditious undertaking and diligent

prosecution of any applications or submissions required to obtain necessary approvals from any other Governmental Authority or Person. Without limiting the generality of the foregoing, in the exercise of such “best efforts” to the extent necessary to raise required funds, the City covenants to take any and all actions allowed or required under the applicable law (including the Local Government Unit Debt Act, 53 Pa.C.S. §8001 *et seq.* (“LGUDA”)), to approve and issue any debt required to pay and satisfy the Metered Parking System Concession Value or other amounts due and payable to the Concessionaire arising under this Agreement, including but not limited to presentation and diligent prosecution of a petition to the appropriate courts for the incurrence of “unfunded debt” as defined under the LGUDA. Nothing in this Section 19.8(b) shall diminish or release the City or the Authority from their obligations under this Agreement, or alter or modify any of their obligations under this Agreement, to pay the Metered Parking System Concession Value or any other amounts arising hereunder, notwithstanding their inability to lease or borrow any funds.

ARTICLE 20
MISCELLANEOUS

Section 20.1. 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 addressed as follows:

(a) in the case of the Authority:

Attention: _____

with a copy to:

Attention: _____

(b) in the case of the City:

Attention: _____

with a copy to:

Attention: _____

(c) in the case of the Concessionaire:

Attention: _____

with a copy to:

Attention: _____

or such other persons or addresses as a Party may from time to time designate by notice to the other Parties. 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 communication or approval shall be deemed to have been sent and received on the next Business Day, or (ii) on the fourth Business Day after mailing if sent by United States registered or certified mail.

Section 20.2. 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 Parties.

Section 20.3. Amendment. This Agreement may be amended, changed or supplemented only by a written agreement signed by the Parties.

Section 20.4. 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 20.5. 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. If the Parties cannot agree on an appropriate amendment, either Party may refer the matter for determination pursuant to the dispute resolution procedure in Article 19. If, by means of the dispute resolution procedure, the Parties are unable, as a result of applicable Law, to resolve the matter in a manner that effectively entitles a Government Party to have the same rights after the aforesaid determination of invalidity or unenforceability as before, the Government Party shall have the right to enact, and cause to come into force, any Law to provide for the same or substantially the same rights as were determined to be invalid or unenforceable.

Section 20.6. Governing Law. This Agreement shall be governed by, and interpreted and enforced in accordance with, the laws in force in the Commonwealth of Pennsylvania (excluding any conflict of laws rule or principle which might refer such interpretation to the laws of another jurisdiction).

Section 20.7. **Submission to Jurisdiction.** Subject to Article 19, any action or proceeding against any Party relating in any way to this Agreement may be brought and enforced in the federal or state courts in the Commonwealth of Pennsylvania in the County of Allegheny, and each of the Parties 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 on the Authority may be made, either by registered or certified mail addressed as provided for in Section 20.1 or by personal delivery on the Chair of the Authority. Service of process on the City may be made, either by registered or certified mail addressed as provided for in Section 20.1 or by personal delivery on the City Clerk of the City. Service of process on the Concessionaire may be made either by registered or certified mail addressed as provided for in Section 20.1 or by delivery to the Concessionaire's registered agent for service of process in the Commonwealth of Pennsylvania. If the Concessionaire is presented with a request for Documents by any administrative agency or with a *subpoena duces tecum*

regarding any Documents which may be in its possession by reason of this Agreement, the Concessionaire shall give prompt notice to the Authority and to the City. The Government Party may contest such process by any means available to it before such Documents are submitted to a court or other third party; *provided, however*, that the Concessionaire shall not be obligated to withhold such delivery beyond that time as may be ordered by the court or administrative agency or required by Law, unless the *subpoena* or request is quashed or the time to produce is otherwise extended.

Section 20.8. 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 Parties in order to cure any defect in the execution and/or delivery of this Agreement.

Section 20.9. Costs. Except as otherwise provided in this Agreement, each Party shall be responsible for its own costs and expenses incurred in connection with performing and observing its obligations and covenants under this Agreement.

Section 20.10. Interest. Any amount payable under this Agreement and not paid when due shall bear interest at a variable nominal rate per annum equal on each day to the Bank Rate then in effect, from the date such payment is due until payment and both before and after judgment.

Section 20.11. 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 20.12. No Partnership or Third Party Beneficiaries. Except as expressly provided herein to the contrary (including with respect to such rights as are expressly granted to each Collateral Assignee pursuant to this Agreement), nothing contained in this Agreement shall constitute or be deemed to create a partnership, joint venture or principal and agent relationship between or among any of the Parties, nor shall any term or provision hereof be construed in any way to grant, convey or create any rights or interests to any Person not a party to this Agreement.

Section 20.13. Cumulative Remedies. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by Law.

Section 20.14. Non-Liability of Public Officials. The Concessionaire and any assignee or Contractor may not charge any official, officer, employee, advisor or consultant of a Government Party personally with any liability or expenses of defense or hold any official, officer, employee, advisor or consultant of a Government Party personally liable to them under any term or provision of this Agreement or because of the Government Party's execution, attempted execution or any breach of this Agreement.

Section 20.15. Charter Limitations and Appropriations. This Agreement is subject to the City of Pittsburgh Home Rule Charter, and the liability of the City under this Agreement is limited to the amounts which have been or may be, from time to time, appropriated therefore by the City.

Section 20.16. Counterparts; Facsimile Execution. This Agreement may be executed in any number of counterparts which, taken together, shall constitute one and the same agreement. This Agreement shall be effective when it has been executed by each Party and delivered to all Parties. To evidence the fact that it has executed this Agreement, a Party may send a copy of its executed counterpart to the other Parties by facsimile transmission. Such Party shall be deemed to have executed and delivered this Agreement on the date it sent such facsimile transmission. In such event, such Party shall forthwith deliver to the other Parties an original counterpart of this Agreement executed by such Party.

(Intentionally Left Blank)

IN WITNESS WHEREOF, the Authority has caused this Agreement to be duly executed on its behalf by its _____ pursuant to due authorization of the Board; the City has caused this Agreement to be duly executed on its behalf by its Mayor pursuant to due authorization of the its City Council and the Concessionaire has caused this Agreement to be duly executed pursuant to due authorization, all as of the day and year first above written.

PUBLIC PARKING AUTHORITY OF PITTSBURGH

By: _____

CITY OF PITTSBURGH

By: _____
Mayor

[CONCESSIONAIRE]

By: _____
(Name)
(Title)

SCHEDULE 1

Metered Parking System Contracts

SCHEDULE 2

Required Capital Improvements

SCHEDULE 3
Operating Standards

SCHEDULE 4

Metered Parking System Assets

SCHEDULE 5

Metered Parking System

SCHEDULE 6

Article 7 Methodology

SCHEDULE 7

Concession Metered Parking Spaces

SCHEDULE 8

Reserve Metered Parking Spaces

SCHEDULE 9

Initial Parking Fees

SCHEDULE 9
INITIAL PARKING FEES

The following on-street metered parking fees per hour are enforceable from the hours of 8:00 A.M. to 10:00 P.M. Eastern, Monday through Saturday, and 1:00 P.M. to 10:00 P.M. Eastern on Sunday.

Location	October 1, 2010	October 1, 2011	October 1, 2012	October 1, 2013	October 1, 2014
Downtown	2.50	3.00	3.50	4.00	4.50
Oakland - Zones 1, 2 and 4	1.00	1.50	2.00	2.50	3.00
Shadyside	1.00	1.50	2.00	2.50	3.00
Strip District	1.00	1.50	2.00	2.50	3.00
North Shore	1.00	1.50	2.00	2.50	3.00
Oakland - Zone 3	0.75	1.00	1.25	1.50	2.00
South Side	0.75	1.00	1.25	1.50	2.00
Squirrel Hill	0.75	1.00	1.25	1.50	2.00
Bloomfield / Garfield	0.75	1.00	1.25	1.50	2.00
North Side	0.75	1.00	1.25	1.50	2.00
Uptown	0.75	1.00	1.25	1.50	2.00
Brookline	0.75	1.00	1.25	1.50	2.00
Mount Washington	0.75	1.00	1.25	1.50	2.00
East Liberty	0.50	0.75	0.75	1.00	1.00
Lawrenceville	0.50	0.75	0.75	1.00	1.00
Mellon Park Area	0.50	0.75	0.75	1.00	1.00
Carrick	0.50	0.75	0.75	1.00	1.00
Beechview	0.50	0.75	0.75	1.00	1.00
Allentown	0.50	0.75	0.75	1.00	1.00
West End	0.50	0.75	0.75	1.00	1.00

SCHEDULE 10

Revenue Value

SCHEDULE 10
REVENUE VALUE

		2009 Actual System Operating Revenue					
Description	Name	Rate / Hr	# of Spaces	Hours / Year	Utilization Rate	Rate-to-Fine	Actual Revenue
Existing	Downtown	2.00	674	3,120	19.7%	100.0%	829,875
New	Additional Locations	0.00	13	3,120	19.7%	100.0%	0
Existing	Oakland 1	0.50	223	3,120	55.7%	100.0%	193,921
New	Additional Locations	0.00	179	3,120	55.7%	100.0%	0
Existing	Oakland 2	0.50	359	3,120	68.7%	100.0%	384,495
New	Additional Locations	0.00	87	3,120	68.7%	100.0%	0
Existing	Oakland 3	0.50	579	3,120	39.9%	100.0%	360,023
New	Additional Locations	0.00	45	3,120	39.9%	100.0%	0
Existing	Oakland 4	0.70	436	3,120	75.9%	100.0%	724,695
Existing	South Side	0.50	621	3,120	41.1%	100.0%	398,309
New	Additional Locations	0.00	10	3,120	41.1%	100.0%	0
New	South Side Works Immediate	0.00	24	3,120	41.1%	100.0%	0
Existing	Squirrel Hill	0.50	376	3,120	42.8%	100.0%	251,257
Existing	Bloomfield/Garfield	0.50	563	3,120	28.0%	100.0%	245,498
New	Additional Locations	0.00	7	3,120	28.0%	100.0%	0
Existing	Shadyside	0.50	277	3,120	56.1%	100.0%	242,389
Existing	North Side	0.50	654	3,120	22.9%	100.0%	233,408
Existing	Strip District	0.50	299	3,120	49.6%	100.0%	231,169
New	Additional Locations	0.00	338	3,120	49.6%	100.0%	0
Existing	Uptown	0.50	552	3,120	19.3%	100.0%	166,507
Existing	East Liberty	0.50	446	3,120	10.7%	100.0%	74,431
Existing	North Shore	0.50	97	3,120	44.2%	100.0%	66,894
New	Additional Locations	0.00	161	3,120	44.2%	100.0%	0
Existing	Brookline	0.50	197	3,120	19.8%	100.0%	60,999
Existing	Mount Washington	0.50	64	3,120	15.6%	100.0%	15,589
Existing	Lawrenceville	0.50	118	3,120	8.0%	100.0%	14,713
New	Additional Locations	0.00	89	3,120	8.0%	100.0%	0
Existing	Mellon Park Area	0.50	85	3,120	9.1%	100.0%	12,018
Existing	Carrick	0.50	71	3,120	8.8%	100.0%	9,728
Existing	Beechview	0.50	113	3,120	4.3%	100.0%	7,527
Existing	Allentown	0.50	91	3,120	2.4%	100.0%	3,449
Existing	West End	0.50	42	3,120	3.9%	100.0%	2,571

SCHEDULE 10
REVENUE VALUE

		Revenue Value - Existing Hours of Operation					
Description	Name	Proposed Rate / Hr	# of Spaces	Hours / Year	Utilization Rate	Rate-to-Fine	Revenue Value
Existing	Downtown	2.50	674	3,120	19.7%	100.0%	1,037,344
New	Additional Locations	2.50	13	3,120	19.7%	100.0%	20,008
Existing	Oakland 1	1.00	223	3,120	55.7%	100.0%	387,842
New	Additional Locations	1.00	179	3,120	55.7%	100.0%	311,317
Existing	Oakland 2	1.00	359	3,120	68.7%	100.0%	768,990
New	Additional Locations	1.00	87	3,120	68.7%	100.0%	186,357
Existing	Oakland 3	0.75	579	3,120	39.9%	100.0%	540,035
New	Additional Locations	0.75	45	3,120	39.9%	100.0%	41,972
Existing	Oakland 4	1.00	436	3,120	75.9%	100.0%	1,032,572
Existing	South Side	0.75	621	3,120	41.1%	100.0%	597,464
New	Additional Locations	0.75	10	3,120	41.1%	100.0%	9,621
New	South Side Works Immediate	0.75	24	3,120	41.1%	100.0%	23,090
Existing	Squirrel Hill	0.75	376	3,120	42.8%	100.0%	376,886
Existing	Bloomfield/Garfield	0.75	563	3,120	28.0%	100.0%	368,247
New	Additional Locations	0.75	7	3,120	28.0%	100.0%	4,579
Existing	Shadyside	1.00	277	3,120	56.1%	100.0%	484,778
Existing	North Side	0.75	654	3,120	22.9%	100.0%	350,112
Existing	Strip District	1.00	299	3,120	49.6%	100.0%	462,338
New	Additional Locations	1.00	338	3,120	49.6%	100.0%	522,643
Existing	Uptown	0.75	552	3,120	19.3%	100.0%	249,761
Existing	East Liberty	0.50	446	3,120	10.7%	100.0%	74,431
Existing	North Shore	1.00	97	3,120	44.2%	100.0%	133,788
New	Additional Locations	1.00	161	3,120	44.2%	100.0%	222,060
Existing	Brookline	0.75	197	3,120	19.8%	100.0%	91,499
Existing	Mount Washington	0.75	64	3,120	15.6%	100.0%	23,384
Existing	Lawrenceville	0.50	118	3,120	8.0%	100.0%	14,713
New	Additional Locations	0.50	89	3,120	8.0%	100.0%	11,097
Existing	Mellon Park Area	0.50	85	3,120	9.1%	100.0%	12,018
Existing	Carrick	0.50	71	3,120	8.8%	100.0%	9,728
Existing	Beechview	0.50	113	3,120	4.3%	100.0%	7,527
Existing	Allentown	0.50	91	3,120	2.4%	100.0%	3,449
Existing	West End	0.50	42	3,120	3.9%	100.0%	2,571

SCHEDULE 10
REVENUE VALUE

		Revenue Value - Expanded Hours of Operation (Monday to Saturday)					
Description	Name	Proposed Rate / Hr	# of Spaces	Hours / Year	Utilization Rate	Rate-to-Fine	Revenue Value
Existing	Downtown	2.50	674	1,248	9.8%	100.0%	205,394
New	Additional Locations	2.50	13	1,248	9.8%	100.0%	3,962
Existing	Oakland 1	1.00	223	1,248	27.6%	100.0%	76,793
New	Additional Locations	1.00	179	1,248	27.6%	100.0%	61,641
Existing	Oakland 2	1.00	359	1,248	34.0%	100.0%	152,260
New	Additional Locations	1.00	87	1,248	34.0%	100.0%	36,899
Existing	Oakland 3	0.75	579	1,248	8.8%	100.0%	47,523
New	Additional Locations	0.75	45	1,248	8.8%	100.0%	3,694
Existing	Oakland 4	1.00	436	1,248	37.6%	100.0%	204,449
Existing	South Side	0.75	621	1,248	9.0%	100.0%	52,577
New	Additional Locations	0.75	10	1,248	9.0%	100.0%	847
New	South Side Works Immediate	0.75	24	1,248	9.0%	100.0%	2,032
Existing	Squirrel Hill	0.75	376	1,248	9.4%	100.0%	33,166
Existing	Bloomfield/Garfield	0.75	563	1,248	6.1%	100.0%	32,406
New	Additional Locations	0.75	7	1,248	6.1%	100.0%	403
Existing	Shadyside	1.00	277	1,248	27.8%	100.0%	95,986
Existing	North Side	0.75	654	1,248	5.0%	100.0%	30,810
Existing	Strip District	1.00	299	1,248	24.5%	100.0%	91,543
New	Additional Locations	1.00	338	1,248	24.5%	100.0%	103,483
Existing	Uptown	0.75	552	1,248	4.3%	100.0%	21,979
Existing	East Liberty	0.50	446	1,248	1.0%	100.0%	2,866
Existing	North Shore	1.00	97	1,248	21.9%	100.0%	26,490
New	Additional Locations	1.00	161	1,248	21.9%	100.0%	43,968
Existing	Brookline	0.75	197	1,248	4.4%	100.0%	8,052
Existing	Mount Washington	0.75	64	1,248	3.4%	100.0%	2,058
Existing	Lawrenceville	0.50	118	1,248	0.8%	100.0%	566
New	Additional Locations	0.50	89	1,248	0.8%	100.0%	427
Existing	Mellon Park Area	0.50	85	1,248	0.9%	100.0%	463
Existing	Carrick	0.50	71	1,248	0.8%	100.0%	375
Existing	Beechview	0.50	113	1,248	0.4%	100.0%	290
Existing	Allentown	0.50	91	1,248	0.2%	100.0%	133
Existing	West End	0.50	42	1,248	0.4%	100.0%	99

SCHEDULE 10
REVENUE VALUE

Description	Name	Revenue Value - Expanded Hours of Operation (Sunday)						Revenue Value Aggregate	
		Proposed Rate / Hr	# of Spaces	Hours / Year	Utilization Rate	Rate-to-Fine	Revenue Value	Proposed Revenue	
Existing	Downtown	2.50	674	468	4.9%	100.0%	38,511	1,281,249	
New	Additional Locations	2.50	13	468	4.9%	100.0%	743	24,713	
Existing	Oakland 1	1.00	223	468	13.8%	100.0%	14,399	479,033	
New	Additional Locations	1.00	179	468	13.8%	100.0%	11,558	384,516	
Existing	Oakland 2	1.00	359	468	17.0%	100.0%	28,549	949,799	
New	Additional Locations	1.00	87	468	17.0%	100.0%	6,919	230,174	
Existing	Oakland 3	0.75	579	468	4.4%	100.0%	8,911	596,468	
New	Additional Locations	0.75	45	468	4.4%	100.0%	693	46,358	
Existing	Oakland 4	1.00	436	468	18.8%	100.0%	38,334	1,275,355	
Existing	South Side	0.75	621	468	4.5%	100.0%	9,858	659,898	
New	Additional Locations	0.75	10	468	4.5%	100.0%	159	10,626	
New	South Side Works Immediate	0.75	24	468	4.5%	100.0%	381	25,503	
Existing	Squirrel Hill	0.75	376	468	4.7%	100.0%	6,219	416,270	
Existing	Bloomfield/Garfield	0.75	563	468	3.1%	100.0%	6,076	406,729	
New	Additional Locations	0.75	7	468	3.1%	100.0%	76	5,057	
Existing	Shadyside	1.00	277	468	13.9%	100.0%	17,997	598,761	
Existing	North Side	0.75	654	468	2.5%	100.0%	5,777	386,699	
Existing	Strip District	1.00	299	468	12.3%	100.0%	17,164	571,045	
New	Additional Locations	1.00	338	468	12.3%	100.0%	19,403	645,529	
Existing	Uptown	0.75	552	468	2.1%	100.0%	4,121	275,860	
Existing	East Liberty	0.50	446	468	0.5%	100.0%	537	77,834	
Existing	North Shore	1.00	97	468	10.9%	100.0%	4,967	165,245	
New	Additional Locations	1.00	161	468	10.9%	100.0%	8,244	274,272	
Existing	Brookline	0.75	197	468	2.2%	100.0%	1,510	101,060	
Existing	Mount Washington	0.75	64	468	1.7%	100.0%	386	25,827	
Existing	Lawrenceville	0.50	118	468	0.4%	100.0%	106	15,386	
New	Additional Locations	0.50	89	468	0.4%	100.0%	80	11,604	
Existing	Mellon Park Area	0.50	85	468	0.4%	100.0%	87	12,567	
Existing	Carrick	0.50	71	468	0.4%	100.0%	70	10,173	
Existing	Beechview	0.50	113	468	0.2%	100.0%	54	7,871	
Existing	Allentown	0.50	91	468	0.1%	100.0%	25	3,607	
Existing	West End	0.50	42	468	0.2%	100.0%	19	2,689	
								9,977,779	

SCHEDULE 10
REVENUE VALUE

Description	Name	Initial Revenue Value					Revenue Value
		Proposed Rate / Hr	# of Spaces	Hours / Year	Utilization Rate	Rate-to-Fine	
Existing	Downtown	2.50	674	4,836	15.7%	100.0%	1,281,249
New	Additional Locations	2.50	13	4,836	15.7%	100.0%	24,713
Existing	Oakland 1	1.00	223	4,836	44.4%	100.0%	479,033
New	Additional Locations	1.00	179	4,836	44.4%	100.0%	384,516
Existing	Oakland 2	1.00	359	4,836	54.7%	100.0%	949,799
New	Additional Locations	1.00	87	4,836	54.7%	100.0%	230,174
Existing	Oakland 3	0.75	579	4,836	28.4%	100.0%	596,468
New	Additional Locations	0.75	45	4,836	28.4%	100.0%	46,358
Existing	Oakland 4	1.00	436	4,836	60.5%	100.0%	1,275,355
Existing	South Side	0.75	621	4,836	29.3%	100.0%	659,898
New	Additional Locations	0.75	10	4,836	29.3%	100.0%	10,626
New	South Side Works Immediate	0.75	24	4,836	29.3%	100.0%	25,503
Existing	Squirrel Hill	0.75	376	4,836	30.5%	100.0%	416,270
Existing	Bloomfield/Garfield	0.75	563	4,836	19.9%	100.0%	406,729
New	Additional Locations	0.75	7	4,836	19.9%	100.0%	5,057
Existing	Shadyside	1.00	277	4,836	44.7%	100.0%	598,761
Existing	North Side	0.75	654	4,836	16.3%	100.0%	386,699
Existing	Strip District	1.00	299	4,836	39.5%	100.0%	571,045
New	Additional Locations	1.00	338	4,836	39.5%	100.0%	645,529
Existing	Uptown	0.75	552	4,836	13.8%	100.0%	275,860
Existing	East Liberty	0.50	446	4,836	7.2%	100.0%	77,834
Existing	North Shore	1.00	97	4,836	35.2%	100.0%	165,245
New	Additional Locations	1.00	161	4,836	35.2%	100.0%	274,272
Existing	Brookline	0.75	197	4,836	14.1%	100.0%	101,060
Existing	Mount Washington	0.75	64	4,836	11.1%	100.0%	25,827
Existing	Lawrenceville	0.50	118	4,836	5.4%	100.0%	15,386
New	Additional Locations	0.50	89	4,836	5.4%	100.0%	11,604
Existing	Mellon Park Area	0.50	85	4,836	6.1%	100.0%	12,567
Existing	Carrick	0.50	71	4,836	5.9%	100.0%	10,173
Existing	Beechview	0.50	113	4,836	2.9%	100.0%	7,871
Existing	Allentown	0.50	91	4,836	1.6%	100.0%	3,607
Existing	West End	0.50	42	4,836	2.6%	100.0%	2,689
							9,977,779

SCHEDULE 11

Form of Legal Opinion of the Authority and the City

[Letterhead of Counsel to Authority and City]

[Closing Date]

[to be provided by K&L Gates]

Ladies and Gentleman:

Very truly yours,

[K&L Gates]

SCHEDULE 12

Form of Legal Opinion of the Concessionaire

[Letterhead of Counsel to the Concessionaire]

[Closing Date]

[PPAP]

[City]

Ladies and Gentlemen:

We have acted as special counsel to _____, a _____ (the “Concessionaire”), in connection with the grant of the right to operate the Metered Parking System, from the Authority and the City to the Concessionaire pursuant to the Pittsburgh Metered Parking System Concession and Services Agreement, dated as of _____, 2010 (the “Agreement”), by and between the City and Concessionaire. This opinion is being delivered to you pursuant to Section 2.4(b) of the Agreement. Capitalized terms used and not otherwise defined herein shall have the respective meanings set forth in the Agreement.

We have examined originals or copies, certified or otherwise identified to our satisfaction, of (i) the Agreement; and (ii) such other records and writings as we have deemed necessary as the basis for the opinions set forth below. In connection with such examination, we have assumed the genuineness of all signatures, the legal capacity of all natural persons, the authenticity of all documents submitted to us as originals, the conformity to authentic, original documents of all documents submitted to us via facsimile or otherwise as certified, conformed or photostatic copies, and the completeness of all records of corporate proceedings provided to us.

We express no opinion as to the applicability or effect of the laws of any state or jurisdiction other than the laws of the State of [•].

Based on and subject to the foregoing and the qualifications referred to below, we are of the opinion that, on the date hereof:

1. The Concessionaire is duly organized, validly existing and in good standing as a limited liability company under the laws of the State of _____.
2. The Concessionaire has the power and authority to enter into the Agreement and to do all acts and things and execute and deliver all other documents as are required under the Agreement to be done, observed or performed by the Concessionaire in accordance with the terms thereof.
3. The Concessionaire has duly authorized, executed and delivered the Agreement, and the Agreement constitutes a valid and legally binding obligation of the Concessionaire, 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 the general principles of equity.

This opinion is rendered solely for your information in connection with the transaction described above and may not be relied upon by you in any other capacity or for any other purpose and may not be used or relied upon by any other Person for any purpose without our express prior written consent.

Very truly yours,

[Counsel to the Concessionaire]

SCHEDULE 13

Supplemental Financial Information

SCHEDULE 14

Exempt Persons Statistical Sampling Methodology

In determining Exempt Persons Annual Loss, the Concessionaire will utilize statistical sampling in accordance with the standards and the methodology set forth below. Certain defined terms used herein shall have the meanings ascribed to such terms in the Concession Agreement and in this Schedule.

- Exempt Person Annual Loss will be calculated quarterly.
- Proportion of Exempt Persons to Paying Parkers will be multiplied by actual revenue collected to determine the Exempt Person Annual Loss.
 - For example, at the start of the Term, Exempt Person Annual Loss = actual revenue * (Exempt Persons / Paying Parkers)
- The Proportion of Exempt Persons to Paying Parkers will be determined through a survey taken on:
 - One weekday during the quarter;
 - One weekend day during the quarter.
- The Proportion of Exempt Persons to Paying Parkers will be the weighted average of the results of the two samples (5 days for the weekday sample and 2 days for the weekend sample).
- Survey procedures:
 - At least 10% of the Concession Metered Parking Spaces are to be randomly selected and surveyed.
 - Each surveyed block within the selected area is to be observed four times during the survey day with at least 2 hours between the observation times.
 - Surveyor shall record:
 - The total number of vehicles parked on block;
 - The total number of vehicles parked on block that have validly paid for parking (paying Parkers);
 - The total number of vehicles parked on block that display an Exempt Person placard (such as a disabled parking placard).
 - With respect to each Exempt Person any information as requested by the Authority including but not limited to, plate and placard numbers and expiration dates.

EXHIBIT A

Metered Parking System Ordinance

EXHIBIT B

Metered Parking System Resolution

EXHIBIT C

Parking Authority Term Ordinance

EXHIBIT D

Metered Parking Revenues Custody Agreement