AGREEMENT BETWEEN
DOWNTOWN PARKING L.L.C.
AND
THE ANN ARBOR DOWNTOWN DEVELOPMENT AUTHORITY
FOR CONSULTANT SERVICES FOR PARKING FACILITY INSPECTION

The Ann Arbor Downtown Development Authority, a Michigan municipal corporation, having its offices at 100 North Fifth Avenue, Ann Arbor, Michigan 48104 ("DDA") and, Downtown Parking a Michigan, Legal Liability Company having its offices at 4281 W. Liberty Road, Ann Arbor, MI 48103 ("INSPECTOR"), agree as follows:

The Inspector agrees to provide services to the DDA under the following terms and conditions:

I. DEFINITIONS

Contract Administrator means Joseph Morehouse or whomever the Contract Administrator may from time to time designate.

Inspector means Jim Stein who is responsible for overseeing the compliance of the parking contract between the DDA and its parking operator concerning the maintenance and operation of the parking facilities under DDA control.

II. DURATION

This agreement shall become effective on January 1, 2002, and shall remain in effect until satisfactory performance of all services or December 31, 2003, whichever occurs first, unless terminated for breach or as provided in this agreement.

III. SERVICES

A. General Scope: The Inspector agrees to provide general consulting services as described in Exhibit A incorporated herein.

B. Quality of Services: The Inspector's standard of service under this agreement shall be of the level of quality performed by experts regularly rendering this type of service. Determination of acceptable quality shall be made solely by the Contract Administrator.

C. Compliance with Applicable Law: The Inspector shall perform its services under this agreement in compliance with all applicable laws, ordinances and regulations.
D. **Location:** The Inspector shall provide services to the DDA at locations to be determined by the Contract Administrator.

IV. **RELATIONSHIP OF PARTIES**

A. The parties to this agreement agree that it is not a contract of employment but is a contract to accomplish a specific result. Inspector is an independent contractor performing services for the DDA. Nothing contained in this agreement shall be deemed to constitute any other relationship between the DDA and the Inspector.

B. The Inspector certifies that it has no personal or financial interest in the project other than the fee it is to receive under this agreement. The Inspector further certifies that it shall not acquire any such interest, direct or indirect, which would conflict in any manner with the performance of services under this agreement. Further, Inspector agrees and certifies that it does not and will not employ or engage any person with a personal or financial interest in this agreement.

C. Inspector does not have any authority to execute any contract or agreement on behalf of the DDA, and is not granted any authority to assume or create any obligation or liability on the DDA's behalf, or to bind the DDA in any way.

V. **COMPENSATION OF INSPECTOR**

A. The Inspector shall be paid on the basis of reasonable time spent and materials used at the rates and prices specified in Exhibit B. The total fee to be paid the Inspector for the services shall not exceed $35,000 and expenses shall not exceed $5,000. Payment shall be made monthly following receipt of the bills submitted by the Inspector and approved by the Contract Administrator. Inspector will be reimbursed for reasonable and necessary expenses incurred in connection with the agreement according to the schedule of rates in Exhibit A. It is understood and agreed between the parties that the compensation stated above is inclusive of any and all remuneration to which the Inspector may be entitled.

B. The Inspector shall keep complete records of time spent and materials used in providing the contract services so that the Administering Department may verify bills submitted by the Inspector. The records shall be made available to the DDA upon request and submitted in summary form with each bill.
VI. INSURANCE/INDEMNIFICATION

A. The Inspector shall procure and maintain during the life of this Contract, such insurance policies, including those set forth below, as will protect itself from all claims for bodily injuries, death or property damage which may arise under this Contract; whether the acts were made by the Inspector or by any subcontractor or anyone employed by them directly or indirectly. The following insurance policies are required:

1. Commercial General Liability Insurance equivalent to, as a minimum, Insurance Services Office form CG 00 01 07 98. The DDA shall be an additional insured. There shall be no added exclusions or limiting endorsements including, but not limited to: Products and Completed Operations, Explosion, Collapse and Underground coverage or Pollution. Further, the following minimum limits of liability are required:

   - $500,000 Each occurrence as respect Bodily Injury Liability or Property Damage Liability, or both combined.
   - $1,000,000 Per Job General Aggregate
   - $1,000,000 Personal and Advertising Injury

2. Motor Vehicle Liability Insurance, including Michigan No-Fault Coverages, equivalent to, as a minimum, Insurance Services Office form CA 00 01 07 97. The DDA shall be an additional insured. There shall be no added exclusions or limiting endorsements. Coverage shall include all owned vehicles, all non-owned vehicles and all hired vehicles. Further, the limits of liability shall be $500,000 for each occurrence as respects Bodily Injury Liability or Property Damage Liability, or both combined.

3. Umbrella/Excess Liability Insurance shall be provided to apply excess of the Commercial General Liability, Employers Liability and the Motor Vehicle coverage enumerated above, for each occurrence and for aggregate in the amount of $1,000,000.

B. Insurance required under VI.A.1 and VI.A.2 of this Contract shall be considered primary as respects any other valid or collectible insurance that the DDA may possess, including any self-insured retentions the DDA may have; and any other insurance the DDA does possess shall be considered excess insurance only and shall not be required to contribute with this insurance. Further, the Contractor agrees to waive any right of recovery by its insurer against the DDA.
C. In the case of all Contracts involving on-site work, the Inspector shall provide to the DDA before the commencement of any work under this Contract documentation demonstrating it has obtained the above mentioned policies. Documentation must provide and demonstrate an unconditional 30 day written notice of cancellation in favor of the DDA of Ann Arbor. Further, the documentation must explicitly state the following: (a) the policy number; name of insurance company; name and address of the agent or authorized representative; name and address of insured; project name; policy expiration date; and specific coverage amounts; (b) any deductibles or self-insured retentions which shall be approved by the DDA, in its sole discretion; (c) that the policy conforms to the requirements specified. An original certificate of insurance may be provided as an initial indication of the required insurance, provided that no later than 21 calendar days after commencement of any work the Inspector supplies a copy of the endorsements required on the policies. Upon request, the Inspector shall provide within 30 days a copy of the policy(ies) to the DDA. If any of the above coverages expire by their terms during the term of this Contract, the Inspector shall deliver proof of renewal and/or new policies to the DDA at least ten days prior to the expiration date.

D. Any insurance provider of Inspector shall be admitted and authorized to do business in the State of Michigan.

E. To the fullest extent permitted by law, for any loss not covered by insurance under this contract, the Inspector shall indemnify, defend and hold the DDA, its officers, employees and agents harmless from all suits, claims, judgments and expenses including attorney's fees resulting or alleged to result, to its proportionate extent, from any negligent, grossly negligent, reckless and/or intentional wrongful or tortious acts or omissions by the Inspector or its employees and agents occurring in the performance of this agreement.

VII. WARRANTIES BY INSPECTOR

A. The Inspector warrants that it has all the skills and experience necessary to perform the services it is to provide pursuant to this agreement. The Inspector may rely upon the accuracy of reports and surveys provided to it by the DDA except when defects should have been apparent to a reasonably competent Inspector or when it has actual notice of any defects in the reports and surveys.

B. The Inspector warrants that it has available, or will engage, at its own expense, sufficient trained employees to provide the services specified in this agreement.
VIII. TERMINATION OF AGREEMENT; RIGHTS ON TERMINATION

A. This agreement may be terminated by either party in the case of a breach of this agreement by the other party, if the breaching party has not corrected the breach within 15 days after notice of termination is given in conformance with the terms of this agreement.

B. The DDA shall have the privilege, with or without cause, to cancel and annul this agreement at any time on 30 days written notice to the Inspector in accordance with the notice provisions contained in this agreement. If consulting services are terminated for reasons other than the breach of the agreement by the Inspector, the Inspector shall be compensated for reasonable time spent and reasonable quantities of materials used prior to notification of termination.

IX. OBLIGATIONS OF THE DDA

A. The DDA agrees to give the Inspector access to staff and DDA owned properties as required to perform the necessary services under the agreement.

B. The DDA shall notify the Inspector of any defects in the services of which the DDA has actual notice.

X. ASSIGNMENT

A. The Inspector shall not subcontract or assign any portion of the services without prior written consent from the DDA. Notwithstanding any consent by the DDA to any assignment, Inspector shall at all times remain bound to all warranties, certifications, indemnifications, promises and performances, however described, as are required of it under the Agreement unless specifically released from the requirement, in writing, by the DDA.

B. The Inspector shall retain the right to pledge payment(s) due and payable under the agreement to third parties.

XI. NOTICE

All notices and submissions required under the agreement shall be by personal delivery or by first-class mail, postage prepaid, to the address stated in this agreement or such other address as either party may designate by prior written notice to the other. Notice shall be considered delivered under this agreement when personally delivered to the Contract Administrator or to a representative of the Inspector.
XII. EXTENT OF AGREEMENT

This agreement represents the entire understanding between the DDA and the Inspector and it supersedes all prior representations or agreements whether written or oral. Neither party has relied on any prior representations in entering into this agreement.

This agreement may be altered, amended or modified only by written amendment signed by the Inspector and the DDA.

XIII. OWNERSHIP OF DOCUMENTS

Upon completion or termination of this agreement, all documents prepared by the Inspector, including tracings, drawings, estimates, specifications, field notes, investigations, studies and reports shall become the property of, and, at the option of the DDA, be delivered to, the DDA. The DDA acknowledges that the documents are prepared only for the contracted services. Prior to completion of the contracted services the DDA shall have a recognized proprietary interest in the work product of the Inspector.

XIV. SEVERABILITY OF PROVISIONS

Whenever possible, each provision of this agreement will be interpreted in a manner as to be effective and valid under applicable law. However, if any provision of this agreement or the application of any provision to any party or circumstance will be prohibited by or invalid under applicable law, that provision will be ineffective to the extent of the prohibition or invalidity without invalidating the remainder of the provisions of this agreement or the application of the provision to other parties or other circumstances.

XV. CHOICE OF LAW

This agreement shall be construed, governed, and enforced in accordance with the laws of the State of Michigan. By executing this agreement, the Inspector and the DDA agree to venue in a court of appropriate jurisdiction sitting within Washtenaw County for purposes of any action arising under this agreement.
FOR DOWNTOWN PARKING, L.L.C.  

By: [Signature]

James E. Stein, President

FOR THE DDA OF ANN ARBOR

By: [Signature]

Susan N. Pollay, Executive Director
EXHIBIT A
SCOPE OF SERVICES

This contractor will be responsible for overseeing the compliance of the parking contract between the DDA and its parking operator concerning the maintenance and operation of the parking facilities under DDA control.

Requirements: The organizational skills to maintain a thorough knowledge of the day-to-day activities required to operate parking facilities and on street meters. The ability to communicate with DDA members and staff, its parking operator representative and parking stakeholders. The ability to communicate with the users of the parking system and to gather their input on the quality of the services they receive from the parking operator and other operation issues of concern. A thorough knowledge of Downtown Ann Arbor issues along with the ability to maintain an up-to-date knowledge of downtown events and calculate their impact upon the parking facilities so that the parking operator can be apprised of events, which may result in, increased or decreased parking usage. The ability to work independently and flexibly to insure that all aspects of the parking operations are reviewed.

Examples of Duties:

- Perform regular and thorough visual inspections of parking facilities ensuring that the parking customers are receiving quality service, each facility should be inspected at least once per month and a written evaluation completed for each facility bi-monthly.
- Investigate and document customer complaints to verify their accuracy and recommend actions to avoid future complaints.
- Advise the DDA and Republic on the operation and procedures used in the collection and repair of the parking meters.
- Perform regular and thorough visual inspections of the parking meters ensuring that the meters inspected are fully operational and legal.
- Monitor parking system stakeholders by making regular contact and being able to update them on parking system changes and improvements.
- Monitor parking facility equipment to make sure it is properly functioning and maintained by use of random spot checks. Document and inform the parking operator of these failures and follow up to insure that repairs were completed.
- Ensure that the parking facilities are clean and well maintained, document and report any problems to the parking contractor, follow up using the documentation to make sure the situation is resolved.
- Monitor the removal of snow and ice from parking surfaces and facility walkways, document and report to the parking operator any unsafe situations.
- Monitor parking contractor to make sure that the warranties are maintained on facility improvements such as deck coating.
• In working cooperation with the parking contractor establish a written yearly maintenance schedule, then monitor and document the effective completion of such schedule.
• Inspect and recommend minor repairs and regular maintenance of sidewalks located in the DDA district.
• Maintain and share with the Parking Operator an updated calendar of downtown events so that the parking system can be prepared for the events.
• Keep updated in modern parking facility management through regular attendance at trade seminars and conventions and the reading of trade publications.

Skills:

Ability to communicate effectively both written and verbally
Ability to organize multiple groups to achieve a united goal
Ability to keep abreast of downtown information, which may have an impact on the parking system
Exhibit B

Fee Schedule

Compensation:

$2,917.00 per month.

Expenses to be paid by the DDA:

IRS standard mileage reimbursement
Travel to one parking seminar or convention per year
Reimbursement for any auto insurance cost increase for business auto use

Services be provided by the DDA:
Office
Cell phone
Computer with E-mail
Office supplies