PARKING FACILITY MANAGEMENT AGREEMENT
ANN ARBOR DOWNTOWN DEVELOPMENT AUTHORITY

THIS AGREEMENT, to be effective as of July 1, 2017, between the Ann Arbor Downtown Development Authority, a Michigan Municipal Corporation, herein called ("the DDA") and Republic Parking System, hereinafter called ("Manager.").

WITNESSETH:

1. The DDA entered a contract with the City of Ann Arbor (the "City"), which expires in 2033, whereby the DDA manages the City-owned parking system.

2. The DDA hereby contracts with Manager under the terms, conditions, and provisions hereinafter set out for Manager to operate its parking system located in Ann Arbor, Michigan, known as the DDA System; hereinafter referred to as the "System".

3. The term of this Agreement shall commence on July 1, 2017 and shall continue in effect for a period of twelve (12) months from the said commencement date. At the expiration of the term, the Agreement shall automatically be renewed for up to four (4) additional one-year (1) terms unless the DDA hereto should elect to terminate the Agreement after giving no less than ninety (90) days written notice prior to the commencement of the applicable renewal period.

4. The System shall be operated by Manager as a municipal System and shall be used for no other purpose without prior written approval of DDA. Manager shall manage, operate, and promote the use of the System in accordance with all laws and governmental regulations.

5. Manager agrees to set aside the necessary parking spaces to protect any previous or future commitments made by the DDA or the City, and Manager agrees to honor any allocations of parking space that the DDA deems necessary. Manager agrees to operate the System in a manner consistent with satisfying, as efficiently as possible, the operating requests, and expectations of the DDA.

6. Manager shall provide the DDA with an annual budget (the "Budget"), no later than six (6) months prior to the beginning of the fiscal year; defined as July 1st through June 30th. The Budget and any significant changes shall be approved by the DDA.

7. This Agreement shall not be assigned nor subcontracted by Manager in whole or in part without the prior written consent of the DDA.
I. **Relationship and Management Fee**

A. The Manager shall operate the System at the direction of the DDA.

B. The “System” shall include all off-street parking structures and surface parking lots, as well as all on-street parking spaces, curb space, and related signage within the DDA parking area. Schedule D, attached herewith, includes a map of system current at the signing of this Agreement.

C. The Manager shall be reimbursed for all direct operating expenses, as established in the approved Budget. Schedule A (attached herewith) provides a list of acceptable operating expenses.

D. The Manager shall be eligible for an annual base management fee equal to $125,000.00 (one hundred twenty-five thousand).

   (1) For each month, commencing with the date of this Agreement, the Manager shall be paid the monthly portion of the base management fee equal to $10,416.67 per month.

In addition to the base management fee, Manager shall be eligible for an annual Performance Based Incentive Fee of up to $50,000.00 (fifty thousand). The Performance Based Incentive Fee shall be predicated upon, but not limited to the Manager’s performance in the following areas:

   i. Level of customer satisfaction, as measured by a survey sampling of System end-users.

   ii. Increase in the net operating income compared to a target level set jointly by the Manager and DDA.

   iii. Cleanliness and maintenance of the System, as measured by the DDA.

   iv. Reduction and control of “Dead Tickets” by the Manager.

   v. Completion of Special tasks or initiatives set jointly by the DDA and/or the Manager.

   vi. General satisfaction of the Manager’s performance.

The Performance Based Incentive Fee shall be paid at the end of each contract year, and the award of a Performance Based fee shall be made at the sole discretion of the DDA.

E. In performing its responsibilities pursuant to this Agreement, it is understood and agreed that Manager is acting as an independent contractor, and the Manager is not a partner, joint-venture partner, or employee of the DDA or the City of Ann Arbor. It is expressly agreed that Manager will not for any purpose be deemed an agent, ostensible
or apparent agent, or servant of the DDA. Manager agrees to take such action as may be reasonably requested by the DDA or the City of Ann Arbor to inform the public, patrons of the System, and others utilizing the services of Manager of such fact. Manager acknowledges and agrees that neither it, nor its employees or agents have any right, power or authority to incur and will not incur any financial obligation, legal obligation or liability, or other obligation on behalf of, or binding upon the DDA or the City of Ann Arbor. Nothing herein shall diminish the right of Manager to receive reimbursement from DDA for the direct Operating Expenses set forth in this Contract, but DDA shall have no obligation to any third party, directly or otherwise, to pay for Operating Expenses.

F. The DDA and Manager agree that during the term of this Agreement all personnel employed by Manager to operate the System shall be solely the employees of Manager and shall have no contractual relationship with the DDA.

G. Manager shall be responsible for payment of income taxes, unemployment taxes, and payroll related taxes, if any, for all such employees.

H. Manager shall have full responsibility for hiring, firing and managing its employees and/or agents. However, should the DDA request the removal of any non-union personnel for any reason, Manager shall remove such employee as soon as possible, but in any event no more than three (3) working days from the DDA’s request, and replace such employee with another qualified employee. In addition, the DDA agrees during the term of this Agreement that it shall not enter into any negotiations, communications, or other actions which have as their intended consequence to induce any such person employed by Manager to enter the employ of the DDA in any capacity whatsoever.

Manager shall comply with all applicable federal, state, and local laws and regulations. The Manager shall procure and keep in force all permits and licenses required by such laws and regulations. These laws and regulations include, but are not necessarily limited to; the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Americans with Disabilities Act, Fair Labor Standards Act, Family and Medical Leave Act, unemployment compensation laws and regulations, and workers’ compensation laws and regulations.

II. Revenue

A. "Gross Revenue" shall include all revenue received by Manager related to the operation of the System. Included in "Gross Revenue" shall be all revenue sources including, but not limited to vending machine receipts, irregular payments for special events, and any other sources that may occur from time to time throughout the term of the contract.

B. Manager covenants that it will collect or cause to be collected all the Revenue due
the DDA from the operation and use of the System.

C. All receipts collected by the Manager shall be deposited by the Manager in a bank account designated by the DDA. The DDA will provide the Manager with deposit slips and re-order forms, and Manager shall be responsible for making deposits in a timely manner.

D. In the event of a loss or theft of funds, the Manager shall immediately notify the DDA. The amount of theft or loss shall be paid to the DDA by the Manager within 30 days.

E. The Manager will account for all permit parking income on an accrual basis. All permit receipts will be remitted to an Ann Arbor address and deposited into the DDA's bank account. The Manager will follow the collection policy of the DDA and twice per year the Manager will present to the DDA a list of uncollectible permit accounts for approval to be written off.

F. The Manager will submit for DDA approval, all revenue and cash handling procedures. The Manager will strive to maximize revenues, but not at the expense of customer service or facility maintenance.

G. In addition to the routine audits/reviews performed by the Manager's local staff, the Manager shall have the following audits/reviews performed by personnel not involved with the System on a routine basis; the findings of which, shall be provided to the DDA.

(1) Perform a financial audit of the System after any change in General Manager or Administrative Manager/Controller that would entail comparison of the daily revenue reports to the monthly operating reports and the bank statement for the month in question.
(2) Perform a bi-annual comparison of the permit cards with access to the System, to the monthly billings for the same period, and review accounts receivable, aging and any billing adjustments.
(3) Bi-annually, compare five randomly selected daily revenue reports to the tickets pulled during that day.
(4) Compare the revenues and collections of all the automated pay stations on a bi-annual basis.
(5) Compare monthly ticket reports to the tickets issued for the month on a quarterly basis.

III. Operating Expenses

A. The DDA will reimburse only for those direct operating expenses that have been previously approved by the DDA through the budget process, or approved after the
budget process is completed.

B. "Operating Expenses" shall include all ordinary direct operating expenses incurred by the Manager for the operation of the System covered by this contract and included in Schedule A. Operating Expenses shall not include those items of a capital cost nature as included in Schedule B.

C. Manager agrees that it will keep complete and accurate record of all receipts and disbursements pertaining to the operation of the System.

D. The DDA will advance the Manager $450,000.00 at the beginning of this contract to be used to pay for the operating costs incurred managing the System. Any portions of said advance remaining at the expiration of this contract, including renewal periods, if any, shall be returned to the DDA within 60 days.

E. For the purchase of any goods or services up to $10,000.00 annually from the same vendor, the Manager shall verify he/she has obtained oral bids from three independent sources for such items. For the purchase of any goods or services expected to be in excess of $10,000.00 annually from the same vendor, the Manager shall verify it has obtained written bids from three independent sources for such items. If the Manager elects to select the vendor that is not the lowest bidder, a written request shall be made to the DDA for approval. For the purchase of any goods or services over $25,000.00 a written request shall be made to the DDA for approval. All bids over $36,000.00 per annual service contract must be pre-approved by the DDA. For reimbursement, all expenses that are not purchased specifically for the System, or are invoiced by the Manager, shall contain a copy of the original supplier’s invoice. If the goods or service is for multiple contracts there shall also contain the written method of allocation. The DDA reserves the right to refuse group-purchased items through the Manager, such as group health insurance, and have those goods or services purchased specifically for the DDA’s operations.

F. On or before the fifteenth day of each month, Manager shall, render to the DDA a complete and accurate accounting of all receipts and reimbursable disbursements for the preceding month. Any receipt or disbursement item that cannot be easily attributed to a facility will be allocated by number of parking spaces in the facilities involved or other mutually agreed upon arrangement.

G. The Manager will use the accrual method of accounting for reporting to the DDA. All reports will be delivered electronically in Excel and Adobe PDF format. The Manager’s books and records relating to the System shall be kept at the local office of the Manager and shall be available for inspection, audit, and copying at all reasonable times by DDA or its duly authorized representatives. Vouchers, receipts, or other records shall support disbursements for all direct operating expenses. Such reports will be in a form mutually agreed upon by the DDA and Manager. The DDA reserves the right to modify all reports furnished by the Manager. A listing of
required monthly report content is included in Schedule C. The Monthly Report shall be delivered to the DDA by the end of the month following the month being reported.

(1) After the completion of a calendar month operations the DDA will initiate an expense wire transfer of the following amount: i) the amount of the approved reimbursable expenses, and ii) the monthly portion due for the base Management Fee.

H. The Manager will submit to the DDA a draft annual budget (the “Budget”) six months prior to the beginning of the DDA’s fiscal year with supporting documentation for any non-routine or large expenses. The DDA may request additional supporting documentation. The DDA may request changes be made to the Budget. The final draft Budget will be incorporated into the DDA’s budget. Changes made to the DDA’s budget during the approval process that impact line items used to fund parking operations will necessitate a change in the Budget. The Budget may be changed prior to or during the budget year by the DDA.

IV. Operations

A. Manager agrees to operate the System in a high-quality and efficient manner following industry standard best practices.

B. Manager agrees to operate the facilities on DDA determined days and hours of operation. For all other hours, Manager shall ensure the System shall be open for business or available free of charge on an unattended basis. The days and hours the system is not operational will be determined by the DDA upon conference with Manager. At this time, free parking is provided to the public on Sundays and holidays. The Manager shall regularly recommend to the DDA suggested changes to the operating hours of any facility to generate a greater net profit or to benefit the community goals of economic vitality and vibrancy.

C. Manager shall employ honest, competent, and courteous personnel who are adequately trained and capable of performing the duties assigned to them in accordance with this Agreement. Manager shall provide adequate staffing levels needed to afford acceptable levels of customer service. This may include, but not be limited to additional staff needed to accommodate special events and/or other special circumstances. All staff shall present themselves in a professional manner, maintain good hygiene, and wear neat and clean uniforms. Manager shall utilize nameplates on the exterior of all parking booths to clearly identify the cashier on duty (when applicable).

D. Manager shall provide appropriate job skills and customer service training to all employees on an on-going basis throughout the term of the Agreement.
E. Manager agrees that the fees charged for parking in the System shall be set by the DDA. The Manager will be given thirty (30) days written notice of any changes.

F. Manager shall ensure at least quarterly visits to Ann Arbor by a Regional Manager employed by the Manager. The purpose of the quarterly visits shall be to meet with the DDA to discuss operations and maintain client satisfaction.

G. Manager shall provide monthly a series of reports compiled into one electronic PDF report. The required reports listed in Schedule C are subject to change and shall be made available in their original file format, upon request by the DDA.

H. During the initial six (6) months of operation, the Manager shall develop a Policies and Procedures Operating Manual for the System and submit the Manual to the DDA for final review, comment, and approval. The approved Manual shall be used in the operation of the System and for ongoing training of staff. The Manager shall annually amend the Manual to address new operating conditions and/or operating methodologies associated with the System.

I. During the initial six (6) months of operation, the Manager shall develop and submit to the DDA an Inventory of System equipment and components. The Inventory shall include equipment and components in excess of $5,000.00 per item (or group of associated items) with a product lifespan greater than twelve months. The Inventory shall be kept current and submitted to the DDA annually in January and at time of contract expiration.

J. Manager shall promptly notify the DDA of any issues that impact System operation or customer service, including but not limited to, equipment malfunction or outage and personnel issues. Examples include entrance lanes, exit lanes, or an elevator out of service. Reporting shall include details on expected duration of impact. Manager shall also notify DDA when the issue has been resolved.

K. Manager shall notify DDA promptly of any unusual condition or situation which develops in the course of Manager’s management of the System, such as, but not limited to, theft, impropriety, fire, flood, breakage and casualty, damage to property or injury to persons.

L. During design, planning and construction processes, the DDA may ask Manager to provide expertise and advise on how to achieve maximum operational efficiencies.

V. Facility Maintenance

A. Manager agrees to keep the System clean, presentable, attractive, and in a safe and sanitary condition throughout the term of the Agreement.
B. Manager shall not permit anything thereon that violates any insurance provisions contained in the Agreement.

C. Manager shall perform (as a minimum) all housekeeping and preventive maintenance functions as outlined and detailed in the latest edition of the National Parking Association Parking Facility Maintenance Manual.

D. Manager shall implement a maintenance plan to address both daily and seasonal maintenance tasks such as general maintenance, landscaping, sweeping, power washing, and snow removal throughout the System.

E. Manager shall be responsible for the daily and ongoing maintenance requirements of all mechanical systems including but not limited to the elevators, generators, fire suppression, and storm water systems.

F. Manager shall be responsible for actively managing all warranties and bringing to DDA attention when warranties end.

G. The Manager and DDA shall conduct at least one annual walk-through of the System and create a maintenance and repair list for the year. Time and date of the annual walk-through shall be determined by the DDA.

H. Manager and DDA shall notify each other of any structural, mechanical, electrical, or other installations, or alterations to the System required by statutes or regulations pertaining to air quality, environmental protection, provisions for persons with disabilities or other similar governmental requirements in writing. DDA may request the Manager to make such installations or alterations with either its own staff or by a third-party contractor under their supervision. Any costs associated with such installations or alterations shall be considered a direct reimbursable operating expense.

I. DDA shall be responsible for all major repairs (over $10,000.00) to the System. All minor repairs (under $10,000.00) including, but not limited to electrical, plumbing, pavement repair, painting of the exterior of a structure, replacement of lighting fixtures, window and glass repairs, repairs to the walls and floors, and maintenance of ventilation systems, elevators and signs shall be either completed by the Manager or a third-party contractor under the Manager's supervision, the cost of which shall be considered as a reimbursable operating expense.

J. Manager shall use reasonable diligence in the care and protection of the System during the term of the Agreement, and shall surrender said premises at the termination of the Agreement in as good condition as received; ordinary wear and tear accepted.

K. During design, planning and construction processes, the DDA may ask Manager to
provide expertise and advice on how to achieve maximum maintenance effectiveness and extend the durability of parking facility and equipment.

VI. **Information Technology**

A. Manager shall employee an in-house IT team with the technical competency and experience to create and maintain both effective and user-friendly customer and client facing IT applications, including but not limited to web-based payment and request systems, a System website, mobile payment applications, and other parking solutions.

B. Manager shall perform routine and preventative maintenance on all parking and information technology equipment with a goal of keeping all equipment up and running effectively.

C. Manager shall have the staff, capability, and capacity to recommend, procure, and implement new technologies to the System as requested. As new technologies are considered or added to the System, the Manager shall provide the DDA with project planning details that include cost estimates, timelines, and schedule for implementation.

D. Manager shall abide by data ownership and access, PCI compliance and system security requirements as outlined in Schedule E. DDA shall retain all rights and access to the parking data generated from the System.

VII. **Insurance**

The Manager, and any of their subcontractors, shall not commence work under this Agreement until they have obtained the insurance required under this paragraph, and shall keep such insurance in force during the entire term of the Agreement. All coverage shall be with insurance companies licensed and admitted to do business in the State of Michigan, with a Best’s rating of A-7, and acceptable to the DDA. The requirements below should not be interpreted to limit the liability of the Manager. All deductibles and self-insured retentions are the responsibility of the Manager.

Premiums with respect to such policies required to be carried by the Manager shall be paid by Manager and shall constitute a reimbursable operating expense upon the submission of the original invoice and written evidence of how it was allocated to the System. Such policies shall be subject to the approval of DDA for adequacy, form and protection. If the insurance coverage provided by the Manager is deemed to have been canceled or not in force by the DDA, the DDA reserves the right to obtain coverage and cease reimbursement to the Manager for its insurance cost. Manager is responsible for maintaining all risk property insurance for the System and equipment contained therein naming both DDA and the City of Ann Arbor and Manager as insured.

Manager shall carry liability insurance in such amounts as shown below, pay all the premiums
thereon when due and to cause such insurance to name the DDA, and the City of Ann Arbor as additional insured thereunder:

**Worker’s Compensation Insurance**, including Employers’ Liability Coverage, in accordance with all applicable statutes of the State of Michigan.

Workers' Compensation Policy Limits:  
Coverage A - Statutory  
Coverage B - $ 500,000.00

DDA acknowledges that all insurance coverage except Workers Compensation is subject to a deductible amount not to exceed one thousand dollars ($1,000.00) and that the payment of the deductible amount(s) will be considered as a reimbursable direct operating expense of the System. Any losses not covered by the above insurance shall constitute expenses of DDA provided that such loss did not arise in whole or in part by the negligence or willful misconduct of Manager, its agents or employees.

**Commercial General Liability Insurance**, on an “Occurrence Basis” with limits of liability not less than $1,000,000.00 per occurrence, and $10,000,000.00 in annual aggregate.

$1,000,000.00 combined single limit (which shall include coverage for each occurrence for bodily injury and dishonest acts of Manager's employees and agents and property damage).

**Umbrella Coverage**, liability insurance limit of $10,000,000.00 (Umbrella Form) over the insurance required herein.

Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent, if not already included; (E) Deletion of all Explosion, Collapse, and Underground (XCU) Exclusions, if applicable.

**Automobile Liability**, including Michigan No-Fault Coverages, with limits of liability not less than $3,000,000.00 per occurrence combined single limit for Bodily Injury, and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.

**Crime**, crime insurance coverage of not less than $100,000.00 covering acts of fraud, mysterious disappearance or theft of money, check alteration and forgery, computer fraud, funds transfer fraud, money order and counterfeit money crimes, employee theft and burglary, and including third-party crime endorsement.

**Additional Insured**, Commercial General Liability and Automobile Liability, as described above, shall include an endorsement stating the following as additional insureds: the Ann Arbor Downtown Development Authority, the City of Ann Arbor, and all elected or appointed officials, employees, volunteer board members or agents of either of the foregoing
entities. It is understood and agreed by naming the foregoing additional insureds that coverage under this policy is primary, and any insurance any additional insured may have in effect shall be considered secondary and/or excess.

In the event of work performed by third parties within the System, either on behalf of DDA or Manager, such third parties will provide insurance coverage in the forms and amounts shown above, or other coverage as the DDA may reasonably require, naming both DDA, City of Ann Arbor, and Manager as additional insureds.

**Cancellation Notice:** Certificates evidencing all insurance coverage listed above shall be furnished by the Manager to DDA and such certificates shall contain an endorsement requiring the insurance carrier to provide at least thirty (30) days written notice in the event of cancellation or material change. Advance Written Notice of Cancellation, Non-Renewal, Reduction, and/or Material Change shall be sent to: Ann Arbor Downtown Development Authority 150 South Fifth Ave., Suite 301 Ann Arbor MI 48104.

**Forest Avenue Parking Structure:** As it relates to the Forest Avenue Parking Structure, the Manager, and any of its subcontractors, shall not commence work under this Agreement until they have obtained the insurance required above, except the amounts indicated below, if different from the amounts indicated above, shall apply in the case of the Forest Avenue Parking Structure. Such insurances shall be kept in force during the entire term of the Agreement. The Manager shall be required to name the City, the DDA and the University of Michigan as additional insureds in the general liability and motor vehicle insurances.

- General liability insurance on an occurrence basis in the amount of $3,000,000.00 per occurrence and $10,000,000.00 annual aggregate.
- Motor vehicle liability insurance in the amount of $3,000,000.00 each occurrence combined single-limit bodily injury and property damage.
- Workers compensation to statutory requirements.
- Employers liability insurance in the amount of $500,00.00 each accident with a $500,000.00 disease policy limit and $500,000.00 disease each employee.
- $100,000.00 per occurrence blanket fidelity bond and $35,000.00 per loss broad form money and securities.
- Garage keepers liability insurance in the amount of $2,000,000.00 per occurrence.

**VIII. Indemnification**

Manager shall defend, indemnify, and hold DDA and the City of Ann Arbor harmless from and against all actions, costs, claims, losses, expenses, and/or damages, sustained by DDA attributable to the recklessness, carelessness, intentional wrong doing or negligence of Manager or any of its agents, servants, or employees from any cause, including, without limitation by specification, property damage and/or injury or death to any person or persons.

It is agreed that any actions, costs, claims, losses, expenses, and/or damages resulting from
design or structural faults or defects shall not be the responsibility of Manager.

Notwithstanding anything to the contrary contained elsewhere in this Agreement, neither the DDA nor Manager shall be liable to the other or to any insurance company (by way of subrogation or otherwise) insuring the other party for any loss or damage to any building, structure or other property or any resulting loss of income, or losses under workers’ compensation laws and benefits, even though such loss or damage might have been occasioned by the negligence of such party, its agents or employees, if, and to the extent that, any such loss or damage is covered by insurance which is maintained by either party, and such insurance does not prohibit the foregoing waiver of subrogation.

**Forest Avenue Parking Structure:** As it relates to the Forest Avenue Parking Structure the Manager shall defend, indemnify, and hold DDA, City of Ann Arbor and the University of Michigan harmless from and against all actions, costs, claims, losses, expenses, and/or damages, attributable to the recklessness, carelessness, intentional wrong doing or negligence of Manager or any of its agents, servants, or employees from any cause, including, without limitation by specification, property damage and/or injury or death to any person or persons.

It is agreed that any actions, costs, claims, losses, expenses, and/or damages resulting from design or structural faults or defects shall not be the responsibility of Manager.

Notwithstanding anything to the contrary contained elsewhere in this Agreement, neither the DDA nor Manager shall be liable to the other or to any insurance company (by way of subrogation or otherwise) insuring the other party for any loss or damage to any building, structure or other property or any resulting loss of income, or losses under workers’ compensation laws and benefits, even though such loss or damage might have been occasioned by the negligence of such party, its agents or employees, if, and to the extent that, any such loss or damage is covered by insurance which is maintained by either party, and such insurance does not prohibit the foregoing waiver of subrogation.

IX. **Health and Safety**

Manager agrees that Manager has been retained by the DDA for reasons which include Manager’s expertise regarding the safety and health hazards associated with the System and services to be performed by the Manager. Manager agrees that it has and will have sole responsibility for the health, safety and welfare of its employees and all other persons performing services for the System. At all times while performing services, Manager will also comply with all applicable health, safety, security and environmental procedures, policies, and guidelines of the DDA.

X. **Penalties and Termination**

A. In the event Manager shall fail to abide to this Agreement fully and faithfully, DDA shall have the right to forthwith terminate the Agreement immediately, regain immediate
possession of the System, and hold Manager liable for any damages resulting to DDA.

B. The DDA may cancel this agreement if the City cancels its management contract with the DDA.

C. If it shall become impossible on account of Force Majeure for Manager or DDA to fulfill its obligations under the Agreement, such party shall be excused from the performance of said obligation for the period that said performance is impossible. The term "Force Majeure" as used in this paragraph shall include: 1) fire, earthquake, flood, tornados, acts of God, strike or other labor disturbance beyond the reasonable control of Manager, riot or civil commotion, failure of power, law or regulation which prohibits performance, court order, insurrections, war or any other matter or situation of a like nature (including hostility, with or without formal declaration of war. 2) Any law regulation or order of any government authority prohibiting the performance of the obligations set forth in this Agreement.

D. If the Manager fails to perform any of the requirements of the Agreement, the DDA has at its discretion the right to make monetary deductions from the Manager’s base management fee. The following are monetary deductions applicable to breaches, but shall not be deemed an exclusive list of the monetary deductions the DDA may impose.

<table>
<thead>
<tr>
<th>Infraction</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Failure to maintain facility hours of operations</td>
<td>$5,000.00/incident</td>
</tr>
<tr>
<td>Failure to follow DDA’s Collection Policy</td>
<td>$1,000.00/incident</td>
</tr>
<tr>
<td>Failure to correct a situation pointed out by DDA staff or</td>
<td></td>
</tr>
<tr>
<td>Contractor in a reasonable period</td>
<td>$1,000.00/ incident</td>
</tr>
<tr>
<td>Failure to follow NPA, Parking Garage Maintenance Manual Guidelines, such as:</td>
<td>$2,000.00/incident</td>
</tr>
<tr>
<td>Failure to properly wash down all structures bi-annually;</td>
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<tr>
<td>Use of non-approved chemicals for de-icing within the structures;</td>
<td></td>
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<tr>
<td>Use of non-rubber blade snow plow on a Neoguarded surfaces; and</td>
<td></td>
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<tr>
<td>Failure to winterize water supply lines in a structure</td>
<td></td>
</tr>
</tbody>
</table>

Enacting fines upon the Manager does not prevent the DDA from holding the Manager financially liable for any lost revenues or increased operating expenses due to their negligence.

XI. Other

A. DDA shall have the right to enter and inspect any facility, or part of a System facility at all times throughout the term of the Agreement. Manager shall provide an all access key to the DDA to allow access 24/7.

B. It is understood and agreed that this Agreement shall be binding upon and inure to the
benefits of the heirs, personal representatives, successors and assigns of the parties. The
previous sentence notwithstanding, no assignment of or subcontracting under this
Agreement or the rights and obligations of Manager shall be valid without the prior written
consent of DDA and any attempt to assign or subcontract without such prior written consent
shall be void.

C. Notwithstanding all provisions of this Agreement, it is mutually understood between the
parties hereto, that this Agreement shall not in any way be construed to be a lease but is
merely a recitation of contract provisions.

D. If any section of this Agreement is found unlawful or illegal or becomes so, the remainder
of the contracted terms shall remain in full force and effect.

E. The terms of this Agreement shall be modified only by a written addendum signed by both
the DDA and Manager.

F. DDA has the right to temporarily shut down part or all of the System for repair at its sole
discretion. In this case all fees and contractual obligations shall remain fully intact.

G. DDA has the right to add or remove spaces, facilities or services, to the System in a
permanent way, at its sole discretion. In this case all fees and contractual obligations for
any deletions or additions to the System shall be mutually negotiated.

XII. Notification

Notice to both the DDA and Manager shall be sent using overnight courier service;
signature required for delivery, or by certified mail, return receipt requested; to the
following addresses:

To DDA:
Ann Arbor DDA
150 S. Fifth Avenue, Suite 301
Ann Arbor, MI 48104

To Manager:
Republic Parking System- Brian Kern
225 E 16th Ave., Suite B-80
Denver, CO 80203

This Agreement shall be construed and governed according to the laws of the State of Michigan,
without giving effect to its conflict of laws provision. Any suit, action, or proceeding with respect to
this Agreement, shall be brought in the Courts of the State of Michigan, or in the United States courts
located in the State of Michigan and the parties hereby submit to the jurisdiction of such courts for
the purpose of any such suit, action, or proceeding.
IN WITNESS WHEREOF, DDA has caused this instrument to be executed in its corporate name by its duly authorized officer and Manager has hereunto set his hand the day and date written.

ATTEST: ANN ARBOR DOWNTOWN DEVELOPMENT AUTHORITY

BY:

Rishi Narayan, DDA Board Chair

DATE: 6/7/17

BY:

Susan Pollay, DDA Executive Director

DATE: 

ATTEST: REPUBLIC PARKING SYSTEM

BY:

Scott Titmus, President Republic Parking

DATE: 5/23/17

BY:

Brian Kern, Vice President Republic Parking

DATE: 5/25/17
IN WITNESS WHEREOF, DDA has caused this instrument to be executed in its corporate name by its duly authorized officer and Manager has hereunto set his hand the day and date written.

ATTEST: ANN ARBOR DOWNTOWN DEVELOPMENT AUTHORITY OPERATIONS COMMITTEE

BY: [Signature]
    Keith Orr, DDA Operations Committee Co-Chair

DATE: 7-5-17

BY: [Signature]
    John Splitt, DDA Operations Committee Co-Chair

DATE: 7/5/17
SCHEDULE "A"
Operating Expenses – Manager (subject to addition and/or deletion)

1. Reasonable and allowable direct cost of the wages for all personnel assigned to the System (subject to the City’s Living Wage ordinance) which shall include payroll taxes, reasonable fringe benefits, such as workers’ compensation insurance at the State mandatory rate for parking attendants, unemployment insurance, social security, hospital, and sickness insurance.

2. Reasonable and allowable business telephone expenses for staff assigned to the System.

3. Reasonable and allowable costs for licenses and permits necessary to operate the System.

4. Reasonable and allowable costs for employee recruitment ads.

5. The itemized direct cost of Insurance to the extent required of Manager in this Agreement.

6. Reasonable and allowable costs for sundry items such as uniforms, tickets, and janitorial supplies for the System.

7. Reasonable and allowable data processing expenses related solely to the processing of financial transactions and revenue and expense data for the System to be paid to the Manager with the monthly cost reimbursement.

8. Reasonable and allowable costs for normal maintenance and repairs to the System including snow removal, repainting of stall markings, replacement or repair of signs, revenue control equipment, light bulb replacement, painting and cleaning.

9. Reasonable and allowable legal or audit charges directly attributable to the operation of the System other than those performed by the staff of DDA or Manager except to the extent covered below, if approved in advance by the DDA.

10. Reasonable and allowable costs of special audits as required by DDA to be performed from time to time by Manager’s staff auditor for the mutual benefit of DDA and Manager; provided, however, that the time and manner of the taking of the audit are approved in writing by DDA in advance. Special audit costs qualifying as Operating Expenses shall be limited to a mutually agreed upon per diem rate and the actual out-of-pocket expenses of the auditor during the period of an approved special audit.

11. The cost of the insurance deductible amounts as agreed upon. A copy of all claims will be forwarded to DDA. The DDA shall approve the settlement of any claim over the limit of the policies.

Any changes to the costs listed above shall be approved by the DDA prior to being incurred.
SCHEDULE "B"
Operating Expenses - DDA (subject to addition and/or deletion)

1. Real and personal property taxes of DDA's properties leased for parking facilities.

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

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

4. Costs of legal and auditing fees of DDA.

5. Salaries and wages of all DDA employees, and costs incurred by DDA in the supervision of the Manager.

6. Costs for maintaining elevators, sprinkler and ventilation systems over $10,000.

7. System utility expenses including gas, electricity, and water.

8. Capital expenditures, improvements, alterations, additions and all new equipment, including all architectural and engineering fees in connection therewith.
SCHEDULE "C"
Monthly Report Content
(Subject to Change)

Off Street Summary
Off Street Revenue Report
Off Street Bank Reconciliation
Stamp Sales Report
Ticket Summary
Permit Activity Report
Payroll Labor Distribution
Valet Report
Check Register
Payables Copies
Remote Monitoring
Special Projects Report
On Street Summary
On Street Bank Reconciliation
On Street A/R Aging Summary
Meters In System
Meter Monthly Revenue Report
Meter Cash Card Revenue;
ePark Revenue
Meter Revenue by Lot
Free Meter Bag Report.
General Ledger For Each Parking Facility
Management Summary For Each Parking Facility
Accounts by Rate Code For Each Parking Facility
Aged Balances For Each Parking Facility
SCHEDULE "E"
System Data Access and Security Requirements

All the direct and indirect costs of the labor, equipment, and other materials necessary for performing the functions as set forth in this document and in keeping with industry standards shall be included in the annual budgeting process.

Data Ownership
DDA shall retain all rights and access to the parking data generated from the Parking System. It is the intent of the DDA to continue to use the data after the contract is terminated. The Manager agrees that the DDA will own the data and must agree to provide data upon termination of the contract to the DDA in a readable electronic form agreed upon by both parties.

Manager shall be responsible for data retention and security compliance issues.

Back-up Files
The Manager will ensure all parking system data is backed up daily to ensure any data loss due to system or equipment failure or data breeches is minimal.

Document Storage and Retrieval
The Manager shall store all documents relating to operations for a minimum of five (5) years. Stored documents must be capable of being retrieved within 48 hours. Documents shall be stored in the Ann Arbor area.

Upon request, Manager shall explain in detail the system they intend to use store documents and how the system shall ensure that documents are retained in usable condition at all times and not misfiled or misplaced.

PCI Certification
Upon request, Manager must be able to provide documentation that System equipment is PCI compliant and meeting payment card security requirements for Visa, MasterCard, American Express, and Discover, including, but not limited to PCI DSS (Payment Card Industry Data Security Standards), PA DSS (Payment Application Data Security Standards) and PABP (Payment Application Best Practices) requirements and other requirements as they are adopted by Visa, MasterCard, American Express and Discover.

Security
Security includes the protection of physical items such as records, files, communications networks, cash, checks and citations. Security shall also include guarding non-physical items such as the confidentiality of data, prevention of abuse, and limiting access to only personnel with proper authorization.
The Manager shall fully cooperate with regular audits by DDA staff and implement internal audits that shall be performed to review control policies and procedures, both physical and non-physical security, and provide any sample testing that shall be provided to ensure security. The results of internal audits performed by the Manager shall be reported quarterly to the DDA.

Upon request, Manager shall describe the physical and non-physical security measures that will be in place.