

Attachment H

**DECLARATION
OF
PARKING OPERATIONS
FOR
DC USA OPERATING CO., LLC**

Date: October 31, 2008

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DECLARATION OF PARKING OPERATIONS

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

RECITALS

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

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

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

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

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

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

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

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

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

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

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

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

1. Incorporation of Recitals/Defined Terms.

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

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

2. Running With the Land.

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

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

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

3. Parking Unit Layout and Operations.

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

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

(B) *Changes to Parking Layout Plan.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. Parking Operator.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(18) Towing procedures;

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

(20) Accounting and records retention policies;

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

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

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

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

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

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

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

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

(F) *Action by Parking Operations Committee.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(F) *Parking Operations Committee Actions.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7. Parking Rates/Budget.

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

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

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

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

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