

**PARKING OPERATION
AND SERVICES AGREEMENT
(Mississippi Flats)**

THIS PARKING OPERATION AND SERVICES AGREEMENT (hereinafter referred to as the "Agreement") is made by and between the **HOUSING AND REDEVELOPMENT AUTHORITY OF THE CITY OF SAINT PAUL, MINNESOTA**, a public body corporate and politic (hereinafter referred to as the "HRA"), and Imperial Parking (U.S.), Inc. a Delaware corporation (hereinafter referred as the "Operator") this 1st day of January, 2010 (hereinafter referred to as the "Effective Date").

WHEREAS, the HRA is the owner of that certain real property located at 240 Spring St in the City of Saint Paul, Minnesota (the "Premises"); and

WHEREAS, the Operator has agreed to provide services at the parking facility presently situated upon the Premises on behalf of the HRA, and

WHEREAS, the Operator and the HRA have agreed that it is beneficial to both parties that the Operator, by reason of its experience and expertise in operating and managing parking lots, perform the services as described herein, relating to the operation of the Premises as a public parking facility; and

WHEREAS, the parties intend that this Agreement will and does comply with the provisions of Minnesota Statute 469.040 so that the Premises remain exempt from real estate taxes.

NOW, THEREFORE, in consideration of the premises, covenants and agreements made herein, the HRA and the Operator hereby agree as follows:

**ARTICLE I
SERVICES, RATES AND CHARGES**

Section 1.00 Term; Extension. Except as terminated earlier as provided herein, this Agreement shall commence on the Effective Date and shall terminate on April 30, 2011 (hereinafter referred to as the "Term"). Upon the expiration of the Term of this Agreement or any sooner termination as provided herein, the Operator shall immediately leave the Premises to HRA in as good as condition and order as the Premises were delivered to Operator. Nothing contained in this Agreement shall be construed as providing Operator with any leasehold rights in the Premises. By subsequent mutual written agreement of the parties, the Term may be extended from May 1, 2011 to April 30, 2012.

Section 1.01 Compensation.

A. Payment of Fees. The Operator shall collect and apply the gross receipts

arising from the use of the Premises as a public parking facility as follows:

1. All gross receipts received and/or collected by the Operator arising from the use of the Premises as a public parking facility shall be regularly and first deposited into Operator's bank account. Operator shall provide the HRA with copies of all bank documents, including but not limited to bank statements and deposit slips, evidencing the Operator's deposit of the above-referenced gross receipts, no later than three (3) business days following the HRA's request for such documents. Operator shall first deduct from said gross receipts and remit to the proper authority the following: (a) all taxes and other levies which it may be or become obligated by law to collect on behalf of any taxing authority from the customers of Premises or which shall be or become required to be added to, or collected with, the parking charges made or to be made by Operator, whether directly or indirectly, or which are or may be imposed on gross receipts from parking or storing automobiles on the Premises in accordance with this Agreement; and (b) any amounts due and payable to any parties that have provided services to ready the Premises for its intended use as a public parking facility.

Operator shall obtain the written approval from the HRA prior to retaining or contracting with any party to provide the services described in Section 1.01 A. 1 (a) and (b) of this Agreement.

Operator shall provide the HRA with documents evidencing the obligation to collect the above-described taxes and other levies, prior to deducting any such amounts from the gross receipts.

Owner shall have the right, from time to time during the Term to inspect any records supporting Operator's "gross receipts" calculation related to the Premises for the purpose of examination and study thereof, and Owner shall have the right, from time to time during the Term at any and all reasonable times, and at Owner's expense to audit, or have audited, such part of any of the aforesaid records as may directly relate to the "gross receipts" derived from the Premises.

"Gross Receipts" as used in this Agreement shall mean all sums received and/or collected by Operator arising from the use of the Premises as a public parking facility, determined on a cash basis, whether on an hourly, daily, weekly, or monthly basis, less: (a) all refunds, discounts and allowances made by Operator to its customers, as approved by HRA in advance in HRA's sole discretion, (b) any sales, use, excise, occupancy, gross receipts, parking tax, or any other tax or charge collected by Operator on behalf of and payable to the taxing authority and (c) credit card fees. Expressly excluded from gross receipts are any receipts from telephone or vending machines located in or about Premises except to the extent of commissions received there from by Operator, and any rental received by Owner for non-automobile parking use of the Premises or any part thereof.

2. Commencing on the tenth (15th) day of the first calendar month following the opening of the Premises for parking purposes and each subsequent tenth (15th) day of each month thereafter (hereinafter referred to as the "Payment Dates"), the Operator shall be entitled to an amount equal to twenty-five percent (25%) of the Gross Receipts of the Premises received during the preceding calendar month (the "Operator's Fee"); provided that in the event the tenth (10th) day of the first month following the Effective Date is more or less than a full calendar month the Operator's Fee shall be twenty-five percent (25%) of the amount of Gross Receipts, received during such time period. Operator shall remit all Gross Receipts (excluding the Operator's Fee and the operating expenses set out in section 2.02) to HRA on the Payment Date.

Section 1.02 Service and Rates.

1. At the commencement of this Agreement, Operator shall perform the services as herein provided, subject to the right of the HRA, at all times, to enter onto the Premises as owner, for any purpose not inconsistent with this Agreement. The Premises at all times during the term of this Agreement, shall be used as a public parking facility, and not for any other related or incidental purpose except as directed by the HRA. All income derived from any related or incidental purpose shall be considered part of the Gross Receipts from the operation of the Premises.

2. All rates and charges and hours regarding the Operator's usage and operation of the Premises shall be set by the HRA or its duly authorized agent to meet the combined needs of people using the Premises, and shall be consistent with current fair market rental charges for equivalent parking spaces as may reasonably be determined from time to time.

The HRA at any time and without prior approval of the Operator may revise the rates and charges, subject to the foregoing condition, and hours of the operation, or any other matter or thing relating to the operation and maintenance of the Premises as a public parking facility; provided the HRA will use its best efforts to allow the Operator adequate time to implement any such revision.

3. The Operator agrees that it will faithfully and promptly enforce all covenants and agreements under this Agreement, that it will not permit without approval of the HRA, or its duly authorized agent, use of any of the parking spaces free of charge, that it will not designate specific parking spaces for individuals or groups unless so directed in writing by the HRA, and it will cause to be posted and collected, as herein provided, such rates and charges, and hours of operation for the use of the Premises.

ARTICLE II OPERATION, TAXES, AND INSURANCE

Section 2.01 Operation .

1. Operator shall provide the following services at the Premises during the Term:

- (a) administration of monthly parking; and
- (b) periodic patrol of the Premises during hours of operation to enforce compliance with posted terms and conditions and issuance of violation notices.

2. The Operator shall not be responsible for the general management of the Premises (including any equipment of the Premises) its physical condition, repair, maintenance, compliance with applicable laws, or the cost of any utilities servicing the Premises.

The parties acknowledge that Mississippi Flats Condo Association (“Association”) is responsible to keep the Premises and all parts thereof in a safe operating condition and repair, and the exit and entrance for the Premises, in a clean and safe condition, free of accumulation of dirt, rubbish, snow and ice. The contact for the Association is Brenda Thomas, phone 952-277-2713.

3. Operator agrees to comply with the assumptions and agreements contained on the attached pro forma for 2009-2010, to the extent that it is possible for the Operator to do so, and such pro forma is made a part of this Agreement.

4. The HRA acknowledges that the Operator shall have no responsibility for guarding or protecting the Premises, its customers or their personal property against theft, vandalism or other intentional acts of third parties, and the HRA shall determine at its sole discretion whether and to what extent security measures or services may be required.

Section 2.02 Operating Expenses. Operator shall be reimbursed for the following operating expenses:

- 1. Any premium and deductible required to be paid to an insurer in order for the Operator to carry and maintain all insurance required by the HRA under this Agreement including claims costs;
- 2. Estimated start up costs of \$800.00;
- 3. Patrol costs of \$125.00 per month; and
- 4. Employee incentive paid to Operator in the amount of \$250 when 50% occupancy of the Premises is achieved, \$500.00 when 100% occupancy of the Premises is achieved.

Section 2.03 Taxes.

1. Operator will cause to be paid when due all sales, and other excise taxes and any taxes levied upon or with respect to rentals, income, or profits, from the Premises, or any part thereof, which, if not paid, would become a lien thereon.

Section 2.04 Insurance. Operator shall obtain and maintain throughout the term of this Agreement, a comprehensive general liability insurance policy, naming the City of Saint Paul, Minnesota, a municipal corporation (hereinafter referred to as the "City") and HRA as additional insureds. The above-described policy shall not be a "claims made" policy, but rather such policy shall provide defense against and indemnification of claims, actions and damages for or resulting from injury to person (including death) and property arising out of the Operator's use and operation of the Premises and its use as a parking facility for automobiles and other vehicles with no substantive exclusions (and not containing XCU exclusions), and providing coverage of at least up to \$2 million (\$2,000,000.00) per occurrence (combined single limit) for both property and personal injury. Operator shall provide a certificate of insurance to the HRA which shows that the City and HRA are named as additional insureds, and that the insurer shall endeavor to provide at least thirty (30) days written notice to the HRA in the event the policy is cancelled or terminated. . The City and the HRA are not liable for any claims made against them or against the Operator in the event that the above-described insurance coverage is not in place or has been canceled.

Section 2.05 Indemnification. Operator agrees to defend, indemnify, save and hold harmless the HRA and the City and their officers, agents, and employees from any and all losses or damages of any kind (including attorney fees) arising from any action, suit or claim attributable to the Operator's negligence or willful misconduct in the performance of the services at the Premises or compliance with the terms of this Agreement. The indemnification provided hereunder shall survive the expiration of this Agreement.

ARTICLE III TERMINATION OF AGREEMENT

Section 3.01 Termination of Agreement. This Agreement may be terminated with or without cause, by either party by the terminating party providing the other party with thirty (30) calendar days written notice of the desire to terminate same. The termination of this Agreement or an action for payment of fees earned under this agreement will be the sole remedies available to the Operator for a default by the HRA hereunder.

Section 3.02 Remedies of HRA. In the event that Operator fails or neglects to comply with Section 1.01 of this Agreement, the HRA may, in addition to those remedies permitted under Section 3.01 of this Agreement, seek any other remedies of relief, including, but not

limited to claims for restitution, reimbursement, specific performance, injunctive relief, and money damages available to the HRA in law or equity. The HRA shall be entitled to recover its reasonable attorney's fees and costs of collection associated with enforcing its rights hereunder.

**ARTICLE IV
GENERAL**

Section 4.01 Notices. All notices, certificates, or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by first class mail, postage prepaid, with property address as indicated below unless otherwise provided by the respective parties:

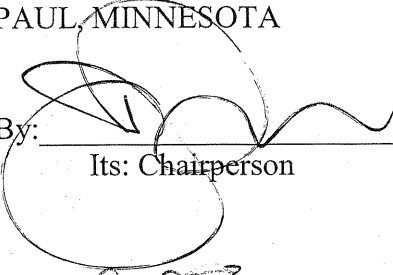
To Operator: Imperial Parking (U.S.), Inc.
150 South 5th St, Suite 360
Minneapolis, Mn 55402
Attn: General Manager

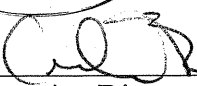
With a copy to:
General Counsel
Imperial Parking Corp
300-601 W. Cordoba St.,
Vancouver, British Columbia V6B 1G1

To HRA: Gary Grabko
Department of Planning and Economic Development
1400 City Hall Annex
25 West Fourth Street
Saint Paul, Minnesota 55102

IN WITNESS WHEREOF, the HRA and Operator have caused this Agreement to be executed and attested by their duly authorized officers, all as of the date first above written.

HOUSING AND REDEVELOPMENT
AUTHORITY OF THE CITY OF SAINT
PAUL, MINNESOTA

By: 
Its: Chairperson

By: 
Its: Executive Director

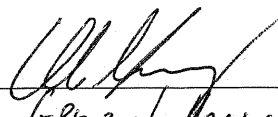
By: 
Its: Director of Financial Services

FORM APPROVED BY:



Assistant City Attorney

Imperial Parking (U.S.), Inc.

By: 
Its: General Manager

City House
2009 - 2010 Pro Forma

	<u>Per Month</u>	<u>Annually</u>
REVENUES (Net of Tax)	<u>\$ 2,229.97</u>	<u>\$ 26,759.64</u>
*\$50.00 per stall * 48 stalls		
OPERATING EXPENSES		
Insurance	\$ 47.00	\$ 564.00
Patrol	\$ 125.00	\$ 1,500.00
Employee Incentive	\$ -	\$ 750.00
TOTAL OPERATING EXPENSES	<u>\$ 172.00</u>	<u>\$ 2,814.00</u>
BASES MANAGEMENT PERCENTAGE	<u>\$ 557.49</u>	<u>\$ 6,689.91</u>
25%		
NET OPERATING INCOME	<u><u>\$ 1,500.48</u></u>	<u><u>\$ 17,255.73</u></u>

START UP COSTS

- * Signs & Supplies will occur during the first month of operation and will be \$800.00 (2 Windmaster signs at \$300.00 ea. \$200 for flyers, printing, etc.)

ASSUMPTIONS

- * 2 Patrols per day
- * No up-front equipment costs: Logic - keep garage as is but issue violations for none-displaying contract vehicles.
- * Employee Incentive will be as follows: \$250.00 if garage is 1/2 full, \$500.00 as soon as garage is 100% full.
- * Impark will not make any money unless we perform proactively and accordingly.
- * Impark will market directly to Mississippi Flat condo owners through flyers, their website, attending condo meetings, and working closely with association representatives like, Brenda Thomas, condo's management firm.
Impark will then expand our marketing campaign outwards to local businesses like Caribou and Anytime Fitness while also marketing to area condo owners and renters.
- * Impark will make the garage available to City of Saint Paul, Parks and Recreation on an as needed basis for the purpose of serving special events at City House. Impark will contact Gary Korum, (651)266-6408 and /or Paul Prior (651)266-6370 regarding event scheduling and will need 2 weeks advance notice of events in order to properly notify contract parkers that the facility will be unavailable on those dates.



5/21/10 14 cars @ \$30/month
year 1 \$500/month incl. they paid 30
2 events in 2010 Kate