Reviewed for Code Compliance
Inspections Division
Approved with Conditions
Date: 09/30/16

PARKING MANAGEMENT AGREEMENT

THIS PARKING MANAGEMENT AGREEMENT (the "Agreement") is made and entered into as of the ____ day of June, 2015, by and between North River IV LLC, a Delaware Limited Liability Company ("Owner"), and Unified Parking Partners Maine and New Hampshire LLC, a Maine limited liability company ("Manager"):

WITNESSETH

WHEREAS, Owner is the fee-simple owner of that certain real property located at One Portland Square in Portland, Maine and depicted on Tax Map _____ as Lot 038-G-001-001 (the "Property"), on which Property is located a parking lot area with approximately two hundred thirty-four (234) parking spaces and related parking facilities, as depicted on **Exhibit A**; and

WHEREAS, Owner wishes to retain the services of Manager as the exclusive manager of parking services on the Property, and Manager is willing to provide such services on the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the foregoing and of the full and faithful performance of Manager and Owner of all the terms, conditions, and obligations imposed hereunder, the parties hereto agree as follows:

1. APPOINTMENT OF MANAGER

(a) Manager. Owner hereby appoints Manager as the exclusive parking manager for purposes of managing the parking services provided on the Property, with the responsibilities and upon the terms and conditions set forth herein, and Manager, by its execution hereof, does hereby accept such appointment.

(b) Tax Identification. Manager's tax identification number is **46-0893471**. Owner's tax identification number is **47-3059807**.

2. PARKING MANAGEMENT SERVICES OF MANAGER; OWNER RESPONSIBILITIES

2.1 Parking Management. Manager shall devote its commercially reasonable efforts to serve Owner as parking manager of the Property through a "pay and display" parking system and other systems as to be agreed upon between manager and owner.

2.2 Obligations of Manager. Without limiting the obligations of Manager under any other provisions of this Agreement, Manager shall devote its commercially reasonable efforts to perform the following parking management, operation, and services during the term of this Agreement:

(a)(i) Monies Collected. Manager shall collect all payments from persons parking vehicles on the Property during the hours approximately Monday-Thursday 5:00pm to 2:00am and Friday-Sunday 5:00pm to 2:00am. Owner authorizes Manager to request, demand, collect, receive, and receipt for all such parking services. Manager shall be responsible for the collection, disbursement, handling, and holding of the monies collected to the extent that a normal, reasonable, and prudent business person would be responsible for such collection, disbursement, handling and holding of monies. Monies shall be deposited in Gorham Savings Bank on it bank account # 6100028130 at 172 Commercial Street, Portland, Maine 04101.

(a)(ii) Manager shall staff and also collect parking fees for certain transient and validation coupons during regular business hours as agreed to by Owner for the upper parking lot of One Portland Square. Manager shall collect such parking fees for Owner and promptly pay Owner such collections monthly.

(b) Repairs and Maintenance. Manager shall advise Owner as to the need for repairs or maintenance of the Property to keep the same in good and functioning condition for parking services, such as restriping, resurfacing, pothole and other pavement repair, lighting repair, and fencing and guardrail repair. Owner shall have the right to repair in its sole discretion.

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(c) Equipment Installation. Manager may make all arrangements at Manager's sole cc the installation on the Property of the "pay and display" equipment and related signage (together, the "Equipment"). Manager shall have the right to install the Equipment in locations as determined by Manager in consultation with and approval from Owner. Included with the right to install the Equipment on the Property is the right to do all work necessary to install a concrete pad approximately 3' x 3' in size and install bollards surrounding such pad subject to Owner's approval. All equipment installation by Manager shall be done in compliance with applicable ordinances and codes. Manager shall maintain equipment in good working order at Manager's cost. Manager will cause the equipment to recognize owners Tenants and not charge Owners tenants or Owners parking. Any liability due to Manager attempting to collect from Owner's tenants and Owners parking shall be Manager's responsibility and Manager shall indemnify Owner. nager's responsibility and Manager shall indemnify Owner.

(d) **Personnel.** Manager may employ such personnel at such times as are necessary in order to manage and operate the parking services on the Property, including without limitation to check for parking violators, to verify that the Equipment is functioning and to service the Equipment, and to inspect for items needing attention by Owner. All such on-site inspection persons shall be employees of Manager. Manager shall comply with all laws relating to the employment by Manager of its employees. The costs and expenses of such employees shall be Manager's responsibility and if Owner requests manager will change personnel.

(e) **Insurance Coverage.** Manager shall, at its sole expense, cause to be placed and kept in force comprehensive or commercial general liability insurance, on an occurrence (not claims made) form, in an amount not less than $3,000,000 each occurrence, which insurance may be obtained by blanket or umbrella coverage with respect to Manager's operations generally. Manager shall provide Owner with a certificate of insurance or copy of the insurance policy upon request of Owner. Manager shall name Owner and Owner's property Manager as an additional insured on Manager's commercial general liability insurance policy.

2.3 Obligations of Owner.

(a) **Maintenance and Repairs.** Owner agrees to promptly perform or cause others to perform, at Owner's own expense, all maintenance and repairs identified by Manager as provided in Section 2.2(b) above to the extent that Owner agrees to carry out such maintenance and repairs. Owner shall be responsible, at its own expense, for having the Property cleared of snow and sanded promptly after snowfall and continuously cleared of snow during heavy snowfall to keep the parking spaces and drive lanes reasonably passable for vehicles.

(b) **Compliance with Laws; Payment of Taxes.** Owner shall comply with all statutes, ordinances, rules and regulations governing the Property and the business conducted therein, other than the "pay and display" parking business managed and operated by Manager pursuant to this Agreement. Owner shall be solely responsible for paying all real estate taxes, ad valorem taxes, special or betterments assessments, and downtown or special district taxes levied against the Property.

2.4 **Waiver of Claims.** Owner and Manager hereby waive and release the other party of, and from, any and all right of recovery, claim, action, or cause of action against such party, and its principals, managers, members, agents, officers, directors and employees, for any loss or damage that may occur to the Property, improvements to the Property, or personal property within the Property (including the Equipment), by reason of fire or the elements, or other casualty or commonly insured peril, regardless of cause or origin, including negligence of such party, and its principals, managers, members, agents, officers, directors and employees.

3. REVENUE SPLIT; RECORDS

3.1 **Revenue Split.** The parties have agreed that, from the Gross Revenue (as such term is defined below) collected by Manager each month for the Property, the following payments shall be made in order of priority:

(a) Payment to Owner of twenty percent (20%) and Manager of eighty percent (80%) of the fees collected by Manager for the removal of wheel clamps/vehicle boot immobilizers from unauthorized parkers; and

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(b) Payment to Owner of sixty percent (60%) and Manager forty percent (40%) of the remaining Gross Revenue (after deducting therefrom the expenses described in subsection (c) and (d) below).

Payments due under subsections (a), and (b) above shall be made by Manager on the 15th day of each month during the term of this Agreement. Late payment will incur a 10% late fee of the average payment to owner.

(c) The term "Gross Revenue," as used in this Agreement, shall include any and all revenues obtained by Manager from the "pay and display" equipment to be installed on the Property by Manager pursuant to this Agreement and from fees paid to Manager for the removal by Manager of vehicle wheel clamps/boot immobilizers installed on vehicles parking without authorization and valet parking as further described in this Agreement. Manager shall deduct only staffing wages during certain special occasions as determined by Owner and Manager (the current hourly wage is $10.00/hr and not to exceed $12.00/hr). Manager shall not deduct any other cost from gross revenue for purposes of profit split calculation.

(d) Manager shall employ staffing for upper parking lot of One Portland Square at a cost not to exceed $60,000.00 annually and such staff shall work within Owner provided booth on-site from approximately Monday-Friday 7:00 a.m. to 6:00 p.m. and during certain special occasions as determined by Owner and Manager. Manager shall deduct these staffing cost. Manager shall not deduct any other cost from gross revenue for purposes of profit split calculation.

3.2 **Records.** Manager shall maintain its standard comprehensive system of office records, books, and accounts, which shall belong to Manager. Owner and others designated by Owner shall have at all reasonable times access to such records, accounts, and books pertaining directly to the Property and Manager's parking services under this Agreement. The records are maintained at 409 Congress Street, Portland, Maine 04101

3.3 **Monthly Reports.** On or before the 15th day of each month during the term of this Agreement, Manager shall deliver to Owner an income statement representing the parking operations of the Property by Manager for the prior month. Manager shall use Manager's standard chart of accounts format in preparing the foregoing. Attached as exhibit B.

4. TERM AND TERMINATION

4.1 **Term.** Subject to the provisions of Section 4.2 and 4.3 below, this Agreement shall be for a term of one (1) year, commencing on or about, August 1, 2015 and terminating at midnight on the anniversary of such date.

4.2 **Termination by Owner.** Owner may terminate this Agreement at any time during the term upon thirty (30) days prior written notice.

4.3 **Termination by Manager.** Manager may terminate this Agreement at any time during the term upon ninety (90) days prior written notice, with or without cause, or if the Property is sold.

4.4 **Obligations After Termination.** Upon the termination of this Agreement as provided above, the Manager shall:

(a) **Removal of Equipment.** The Manager shall, at its cost and expenses, remove all Equipment and replace and restore any damage resulting therefrom. The Equipment shall remain the sole property of Manager at all times, including following the expiration or any early termination of this Agreement, and Manager may enter upon the Parking Project at any time to remove such Equipment.

(b) **Termination of Obligations; Right to Compensation.** Upon any termination pursuant to this Section 4, the obligations of the parties hereto shall cease as of the date specified in the notice of termination, except those obligations that expressly or by their nature survive the termination of this Agreement; and, provided further

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that Manager and Owner shall be entitled to receive any payments which may be due hereunder at the time of termination or expiration.

5. **NO AGENCY**

Manager shall be responsible for the actions of its employees, for the supervision of all persons performing services in connection with the operation of the Property for parking purposes, and for determining the manner and time of performance of all parking services. Nothing herein contained shall be construed to establish Manager as an employee of the Owner.

6. **VALET PARKING**

Manager shall have the right to partner with local hotel and other establishments for the purpose of valet parking and park cars at Owner's Property at a rate agreed to by Owner and Manager.

7. **NOTICES; MISCELLANEOUS**

(a) **Notices.** Unless otherwise specifically provided, all notices, demands, statements, and communications required or desired to be given hereunder shall be in writing and shall be sent by U.S. Postal Service first class registered or certified mail, if intended for Owner, addressed to:

North River IV LLC
14 Maine Street
Brunswick, Maine 04011

And if intended for Manager, addressed to:

Unified Parking Partners Maine and New Hampshire LLC
496 Congress Street, Unit 2B
Portland, Maine 04101

or to such other address as shall from time to time have been designated by written notice by either party to the other party as herein provided.

(b) **Miscellaneous.** The captions of this Agreement are inserted only for the purposes of convenient reference and do not define, limit, or prescribe the scope or intent of this Agreement or any part hereof. Words used herein shall include both the plural and singular, and the masculine shall include the feminine and neuter genders. This Agreement shall be construed in accordance with the laws of the State of Maine, without application of choice of law principles. Owner and Manager hereby each represent and warrant to the other that the execution and delivery of this Agreement is authorized by all necessary entity action. The person signing below on behalf of Owner and Manager respectively represent that he/she is authorized to execute and deliver this Agreement on behalf of Owner and Manager respectively and to contractually bind Owner and Manager respectively. This Agreement embodies the entire understanding of the parties and there are no further agreements or understanding, written or oral, in effect between the parties relating to the subject matter hereof.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

OWNER:
NORTH RIVER IV LLC

By: Christoph Pachios
Its duly-authorized Partner:

MANAGER:
UNIFIED PARKING PARTNERS
MAINE AND NEW HAMPSHIRE LLC

By: Daniel McNutt
Its duly-authorized Manager

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EXHIBIT A

[Attach Plan of Property]