

LEASE

PARKING LOTS:

**1801 NORTH FARWELL AVENUE
1816 EAST LAFAYETTE PLACE**

THIS INDENTURE made between the City of Milwaukee, a municipal corporation organized and existing under the laws of the State of Wisconsin, hereinafter called the "Lessor", and Downtown Auto Parks, Inc., hereinafter called the "Lessee".

WITNESSETH:

I. Leased Premises. Lessor does hereby lease, demise and let unto Lessee the following described premises, to-wit:

A. The West half of lots numbered 11 to 16 inclusive in Block 236, continuation of A.L. Kane's Subdivision, in the NE 1/4 of Section 21, Township 7 North, Range 22 East, located in the City of Milwaukee, State of Wisconsin,

said premises also known as 1801 North Farwell Avenue (capacity - 36 unmetered self-parking spaces).

B. Lots 4 and 5, the southeasterly 5' of Lot 1 and the northwesterly 15' of Lots 7 and 8, in Dean's Subdivision, in the NW 1/4 of Section 22 and the NE 1/4 of Section 21, Township 7 North, Range 22 East, located in the City of Milwaukee, State of Wisconsin,

said premises also known as 1816 East Lafayette Place (capacity 30 self-parking spaces); and

II. Term. This lease shall be on a monthly basis until such time that the City has sold and transferred these properties to a private buyer for redevelopment purposes.

III. Rental. Lessee agrees to pay to Lessor as rent for said premises:

1. 1801 NORTH FARWELL AVENUE: \$3,725.00 per month
2. 1816 EAST LAFAYETTE PLACE: \$1,050.00 per month

Four Thousand Seven Hundred and Seventy-Five Dollars and No Cents (\$4,775.00)

per month, payable either in person or by mail to:

Department of Public Works
Administration Division
Parking Section
841 North Broadway, Room 516

Milwaukee, Wisconsin 53202.

Checks should be made payable to the City of Milwaukee.

IV. Due upon Execution and Delivery of Lease Documents:

- A. Lessee agrees to pay to the City of Milwaukee upon execution and delivery of the lease the monthly payment as bid for the first month of the lease;
- B. Lessee shall deliver to Lessor at the time of or prior execution of this lease a Letter of Credit or a Performance Bond in the amount Five Thousand Dollars (\$5,000), approved as to surety, form and substance, and execution by the Office of the City Attorney of the City of Milwaukee. Said Performance Bond or Letter of Credit shall be conditioned upon the full and faithful performance by Lessee of each and every covenant, promise, term, condition, undertaking and agreement set forth in this lease.

The Performance Bond or Letter of Credit shall be maintained in full force and effect during the term of this lease agreement and for ninety (90) days thereafter.

The Performance Bond or Letter of Credit shall further provide that in case of default of Lessee, such sums as are charged against the Performance Bond or Letter of Credit by the Commissioner of Public Works as liquidated and ascertained damages in accordance with the terms of the lease shall be paid to Lessor.

The Performance Bond or Letter of Credit shall be retained by Lessor during the term of this agreement. If at the termination of the lease by Lessor or the expiration of the lease, whichever comes first, Lessee is not in default with respect to any term and condition of this agreement and the Commissioner of Public Works has not charged any sum against the Performance Bond or Letter of Credit as liquidated and ascertained damages, the full Performance Bond or Letter of Credit shall be returned to Lessee.

- V. Late Rent Interest. Lessee shall pay interest at the maximum allowed by law on sums past due and owing under the lease terms.

- VI. Use of Premises. The premises are to be used exclusively as passenger automobile parking lots. Dead storage or repair of automobiles are not to be permitted. All parked automobiles must be mobile under their own power. Parking in the aisles will only be permitted with an attendant on duty. If Lessee does not intend to have an attendant on the lots, then the lots must be limited to the following number of customer self-parking spaces:

1801 North Farwell Avenue - 36 spaces (Reserved spaces only)
1816 East Lafayette Place - 30 spaces

- VIII. Operation by Other Party. The premises are not to be operated by anyone but the named Lessee without prior written consent of the Commissioner of Public Works.

- IX. Use by General Public. As these parking lots are owned by the City, they shall be operated for the use and convenience of the general public. All persons will be provided with parking spaces according to the rate schedule enumerated in Paragraph 14, upon application, if space is available, without discrimination by Lessee and upon a fair and equitable basis. Lessee shall not permit any vehicle to park free of charge.
- X. Monthly Parking. Monthly parking shall be provided to applicants, upon request, to the capacity of the lot and only excess spaces shall be used for daily parking. Lessee must ensure all monthly parkers that a space is made available to them at all times.

In the lot located at 1801 North Farwell Avenue, Lessee must rent **reserved spaces** to monthly tenants. If, due to the presence of excess authorized or unauthorized vehicles in the lot, a monthly parker is unable to park due to not having enough spaces available, Lessee must refund the parker for the unavailable space on a prorated daily basis. Upon notification to Lessee that a problem exists with unauthorized vehicles being parked in the lot, Lessee must enforce the lot and tow the unauthorized vehicles to make room for the monthly parkers.

A deposit not to exceed one month's rent may be charged to monthly parkers. Upon a two week written notice of the intent not to continue parking by the regular parker to Lessee, Lessee must return one hundred (100%) percent of the deposit to the parker provided all invoices by Lessee to the parker have been paid.

- XI. Waiting List. Lessee shall keep a list of prospective parkers for each parking lot to enable the public to know the availability of parking spaces. The waiting list must be submitted to the City on a quarterly basis commencing May 1, 2001, or upon request at the City's option. The Lessee shall continue to accept new monthly parkers up to one month before the closure of the lot due to sale, but shall be responsible for notifying new parkers of the closure time and date.

If it is determined that Lessee willfully repositioned the names of the persons on the waiting list, and the person who because of being first on the list should have received a space when available and did not receive the available space, Lessee shall be required to pay the City triple the monthly rent for the space(s).

- XII. Quarterly List of Parkers. Lessee shall submit to the City on a quarterly basis, beginning May 1, 2001, a list of the monthly parkers and their phone numbers. The City shall be permitted at any time upon demand to review a current list of monthly parkers. The City shall be responsible for the notification of parkers when the lots are sold, such notice to be made 60 days before the closure of a lot.
- XIII. Physically Disabled Parking. In accordance with the Americans With Disabilities Act (ADA), the City will be responsible to stripe spaces to be reserved for disabled parkers as follows:

one (1) twelve-foot (12') parking space in the lot located at 1801 North Farwell Avenue
two (2) twelve-foot (12') parking spaces in lot located at 1816 East Lafayette Place, and

Uniform rates shall be charged for all passenger vehicle parking.

- XIV. Security. The safety of all parkers and their property is a priority concern of the City; therefore Lessee must take the utmost care to provide full and appropriate protection. It is intended that security be provided by Lessee in sufficient degree so that theft, vandalism and/or potentially more serious crimes or problems will be deterred or averted.
- XV. Rates. The **maximum** rates to be charged for parking on the demised premises shall not be in excess of the following and shall include all applicable taxes; however Lessee may charge patrons less than maximum:
- A. Seven Dollars and Fifty Cents (\$7.50) per day including tax for daytime, daily parking.
 - B. Seventy-Five Dollars (\$75.00) per month including tax for weekday daylight parking only. Upon award of bid, Lessee may determine hours for day and evening parkers at each lot, with advance approval of the Commissioner of Public Works.
 - C. Sixty Dollars (\$60.00) per month including tax for weekday overnight parking only. Upon award of bid, Lessee may determine hours for day and evening parkers at each lot, with advance approval of the Commissioner of Public Works.
 - D. One Hundred Dollars (\$100.00) per month including tax for twenty-four hour monthly parking. Twenty-four hour monthly parking shall be given preference over daytime parking if adequate spaces do not exist to accommodate both types of parkers.
 - E. Six Dollars (\$6.00) including tax for overnight parking beginning at 6 P.M.
 - F. If Lessee desires to make non-monthly daily weekday parking available to patrons, a letter must accompany the bid describing how patrons will be charged and how lot(s) will be monitored to keep out non-paying parkers. Daily parking charges including tax may not exceed Seven Dollars and Fifty Cents (\$7.50) between the hours of 8:00 AM and 6:00 PM. Daily parkers must not exceed spaces rented to twenty-four hour monthly parkers. The provisions of this special parking arrangement shall be subordinate to the needs of monthly parkers.
 - G. Unauthorized parking fee: Ten Dollars (\$ 10.00) per day.
- XVI. Monthly Report. Lessee shall submit a monthly report to the Parking Section of the Department of Public Works, Administration Division, listing the number of daily, monthly day, monthly night and 24 hour parkers for each calendar month.
- XVII. Responsibility of Lessee. Lessee agrees, at his/her own expense, to specifically perform the following:
- A. Supply and maintain City-approved attendant booths for daily parking, if

applicable. Paint and repair attendant booths as needed or as demanded by the City of Milwaukee.

- B. Maintain lots in a neat and orderly manner.
- C. Mow the lawn on a regular schedule, so that grass never exceeds a height of six (6) inches.
- D. Remove weeds around trees and plantings, and along fences at least three times per season.
- E. Maintain and trim all shrubbery to a manageable, well-groomed height, as necessary, but at least three times per season.
- F. Sweep the lots weekly, or more often if needed, and remove all broken glass as soon as aware of it being on the lot.
- G. Remove all trash from the lots at least once per week, or more often if needed.
- H. Remove paper and trash from and around shrubbery and plantings, and along fences at least once per week, or more often if needed.
- I. Commence snow plowing of the lots and public sidewalks within six (6) hours of the cessation of the snowfall. Repeated plowing will be required after aisles have been cleared and vehicles are off the lots to facilitate plowing entire lots.
- J. Remove snow from the public walks to the entire width of the walks.
- K. Sand or salt lots and adjoining walks as needed for safety.

XVIII. Responsibility of Lessor. Lessor will provide structural, mechanical and electrical maintenance and pay all electrical energy bills. The required signs, with the name and phone number of Lessee and the complete rate schedule, shall be furnished by Lessor.

XIX. Lease Compliance. Lessee shall be responsible for any damages to persons or property resulting from Lessee's operation and for the protection of all persons, including members of the public, employees of the City, Lessee or Sublessee(s) and all public and private property including structures and utilities above and below ground. Lessee shall furnish and maintain all necessary safety equipment to provide adequate protection of persons and property.

XX. Obligation to Comply. If, upon inspection, the Commissioner of Public Works determines that Lessee has failed to comply with any of the obligations listed above, the Commissioner may, after issuing a five days notice to comply and in the event of non-compliance, enter upon said premises and take all steps necessary to ensure compliance, and in addition to other remedies set forth herein, may charge the cost and expense of such entry and measures against the Letter of Credit or Performance Bond delivered by Lessee in accordance with the terms and conditions of this lease.

In the event the Building Inspector of the City of Milwaukee shall determine, upon inspection of the premises, that Lessee has failed to comply with applicable laws and ordinances which it is the Building Inspector's duty to enforce, and shall issue an order to correct such condition(s), and should Lessee fail to comply with any such order, and the Commissioner of Public Works determines that such violations present an unjustifiable danger to the health, safety and welfare of the public in their use of the premises, the Commissioner of Public Works may take all steps necessary to assure compliance, and assess as liquidated damages a sum not to exceed Two Hundred Dollars (\$200) for each violation.

XXI. Alterations/Maintenance/Repair of Property. If necessary, as determined by the Commissioner of Public Works, for the City to make extensive repairs, alterations or to perform maintenance or renovation work on or in the demised property, Lessor or its agents or contractors shall have the right to enter the premises to perform such work. The rental during said period shall be adjusted proportionately on the basis of verified customer parking losses as determined by the Commissioner of Public Works.

XXII. Insurance. Lessee agrees to pay for all damages or injuries to real or personal property resulting from any negligent act, deed or omission of Lessee and his/her agents, subcontractors or employees in connection with the use of the parking lots. Lessee shall indemnify and save the City harmless against all liabilities, judgements, costs, damages and expenses, and from all claims which may come against the City resulting from personal injuries and injuries to real or personal property, or to the loss of personal property as a result of the use of the premises related to the negligence, omission or other act of Lessee and his/her agents, subcontractors or employees. Lessee agrees to furnish the following insurance:

<u>TYPES OF COVERAGE</u>	<u>LIMITS</u>
A. Worker's Compensation including	Employee's Liability \$100,000/Statutory
B. General Liability - premises/operations	\$1,000,000 - Single Limit
C. Blanket Contractual Coverage including the hold harmless clause contained in this Agreement	Limit - \$1,000,000

The above listed liability policies are to be endorsed with the City of Milwaukee named as an additional insured. A certificate of insurance for all coverages is to be furnished to the City with a provision requiring 30 days written notice of cancellation, non-renewal or material change. The cancellation clause should read as follows:

"Should any of the above-described policies be canceled before the expiration date thereof, the issuing company will mail thirty (30) days written notice to the named certificate holder(s)".

The certificate should be accompanied by an affidavit of no interest, signed by the authorized representative of the insurance carrier. All certificates are to be sent to:

Department of Public Works
Administration Division
Parking Section
841 North Broadway, Room 516
Milwaukee, Wisconsin 53202.

Lessee must, upon notice of cancellation of a policy, obtain a replacement policy consistent with the requirements in the lease.

Failure of Lessee to maintain the required insurance coverage will not relieve Lessee of any contractual responsibility or obligation.

Lessee waives its rights to recovery of any amount paid by insurance or otherwise for damages to the building and premises. If the actual repair or restoration costs exceed insurance proceeds or other recovered funds, Lessee shall be responsible to pay all excess costs.

XXIII. Right of Entry. These presents are upon the express condition that if said Lessee does or neglects or fails to perform and observe any of the covenants or conditions hereinbefore contained, which on his/her part are to be performed, and such neglect or failure shall continue for at least ten (10) days after notice thereof in writing shall have been given by Lessor to Lessee, said Lessor lawfully may immediately or at any time thereafter, and while such neglect or default continues, and without further notice or demand, enter into or upon said premises and repossess the same as of its former estate, and expel the said Lessee and those claiming under Lessee and remove their effects without prejudice to any remedies which might otherwise be used for arrears of rent or proceeding breach of covenant; and such expulsion and removal, whether by the direct act of Lessor, or through the medium of legal proceedings for that purpose instituted, shall not affect the liability of said Lessee or Lessee's representatives for the past rent due or future rent to accrue under this lease, but the same shall continue as if such removal or expulsion had not taken place.

XXIV. 60 Day Notice to Vacate. Should the Common Council of the City of Milwaukee require any portion or all of any or all of these sites for any purpose other than parking, Lessee will be required to vacate upon service of a sixty (60) day written notice. All rights and obligations of Lessee will terminate upon such vacation.

IN WITNESS WHEREOF, the said City of Milwaukee, Lessor, has caused these presents to be signed by Mariano A. Schifalacqua, its Commissioner of Public Works; and W. Martin Morics, its City Comptroller, at Milwaukee, Wisconsin, and its corporate seal to be hereunto affixed this ____ day of _____ A.D., 2001.

CITY OF MILWAUKEE a Municipal Corporation of the State of Wisconsin (LESSOR)

In presence of:

Witness

By _____
Mariano A. Schifalacqua
Commissioner of Public Works

COUNTERSIGNED

Witness

W. Martin Morics City Comptroller

IN WITNESS WHEREOF, the said _____, LESSEE, hereunto sets hand and seal this ____ day of _____ A.D., 2001.

In presence of:

Witness

By: _____
Signature of LESSEE

Witness

By: _____
Signature of LESSEE