

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding reflects agreements made at a meeting held at 360 W. Washington Avenue, Unit G01, on the afternoon of April 29, 2005, attended by Robert Holloway, Nelson Flynn, Clifford Fisher, James Walker, Jerry Bourquin and Pharis Horton, regarding the development of Metropolitan Place–Phase II.

1. Commercial Space. The approximately 16,000 square feet of commercial space to be built on the ground level of the Phase II residential building will be one or more condominium units within Metropolitan Place Residential Condominium, and shall be subject to assessments on the same basis as set forth in Section 5.02, 6.06, and 6.07 of the First Amendment to Declaration of Condominium for Metropolitan Place Condominium (the "Residential Declaration"). However, the commercial unit(s) will be responsible for contracting and paying for its/their own trash and garbage removal, and for snow removal and maintenance in the public parking areas and around the commercial space.

2. Public Parking in New Parking Structure. The public access spaces of the new parking structure will be designated Class A units in Metropolitan Place Parking Condominium.

3. Parking Access.

- A. No additional access from the existing residential building to the new parking structure will be provided on the fourth floor of the existing residential structure. The Declarant will obtain access from the second floor of the existing residential building through storage unit S208 or a nearby storage unit.
- B. If the Declarant shall lease any parking unit to a "third person" pursuant to Section 7.01 of the First Amendment to Declaration of Condominium for Metropolitan Place Parking Condominium (the "Parking Declaration") such third person will be allowed access to the parking structure only through outside access doors, and not through the residential buildings.
- C. Declarant will erect appropriate fencing to deny access from the public parking into the restricted private use section of the parking structures.

4. Bicycle Parking.

- A. Equivalent bicycle parking shall be maintained in Unit 099 on the ground level of the parking structure as provided in Section 3.04 of the Parking Declaration.

- B. Bicycle parking meeting or exceeding city code requirements and as provided in the Declarant's SIP application shall be provided immediately adjacent to the new residential building within the parking structures.

- C. Declarant shall not designate or sell Class A parking units in areas currently shown in the existing Parking Declaration as "Common Elements," and currently occupied by bicycle racks, unless equivalent parking immediately adjacent to the existing residential building shall be provided, with at least the same amount of space and lighting as the existing common areas and able to accommodate the existing parking racks, to the reasonable satisfaction of Mr. Holloway (or if he shall no longer be an owner, the president of the Residential Condominium Owners Association). Provided that equivalent bicycle parking space is provided as described in this subparagraph, the board of directors of the Parking Condominium Owners Association shall cooperate in conveying the vacated Common Elements to the Declarant for sale as Class A units.

5. Guest Parking for Residential Unit. Units identified in the Parking Declaration as units 020, 021, 022, 023, 038, 039, 040, 041, 042, 043, 044, 045, 046, 047, and 048 shall be owned by the Declarant and made available as public parking. However, such units shall be made exclusively available to visitors to the residential units beginning at 6:00 p.m. on Monday through Saturday and ending at 8:00 a.m. on Monday through Saturday, pursuant to a \$1.00-a-year rental agreement between the Declarant and the Residential Condominium Owners Association. The Residential Condominium Owners Association shall be responsible to monitoring guest parking; and provide a system for properly identifying guests parking in such units.

6. Access Easement from Washington Avenue. The Board of Directors of the Residential Condominium Owners Association will cooperate with the Declarant to allow access and egress for owners of units in the new parking structure from the existing parking structure underneath the existing residential structure to and from Washington Avenue.

7. Access Easement to Rear of Existing Residential Building. The Board of Directors of the Residential Condominium Owners Association and Parking Condominium Owners Association will cooperate with the Declarant to relocate the access easement currently provided to the existing residential building to and from East Mifflin to the north face of the existing residential building to an easement from Broom Street to and from the west face of the existing residential structure. Declarant will provide proper grading, curbing, concrete walks, etc., to make the new access easement

similar in quality to the existing access easement. Declarant will provide in a written agreement with the Residential Condominium Owners Association for maintenance and snow removal throughout the Access Easement.

8. Circular Drive Easement. The bicycle rack currently in the circular drive area will be removed immediately, and placed next to the Common House restaurant (or elsewhere at the direction of the Declarant).

9. Construction.

- A. A representative of the management agent (currently Siegal-Gallagher's David Olson) will be notified in advance of and made welcome at construction meetings for Phase II, provided that such representative shall abide by all rules governing the construction area, including sign-in.
- B. Emergency access to the rear of the existing residential building shall be provided at all times throughout construction.
- C. Motorized and/or mechanized construction activity shall not begin before 7:00 a.m., and in all other respects shall conform to existing City ordinances.
- D. Construction activities immediately adjacent to the existing residential building shall be conducted so as to provide as little inconvenience to existing residents as possible, with construction machines and equipment to be operated after 8:00 a.m.
- E. The floors of fifth floor units in the existing residential building above the parking structure space shall be adequately insulated. No columns or pillars or other construction elements will intrude into any of the fifth floor units of the existing residential structure.
- F. The existing exercise room on the fourth floor of the existing residential building will not be converted to parking.
- G. A report regarding three or more existing leaks in the roof of the existing parking structure prepared by Siegel-Gallagher has been delivered to KBS Construction and to a representative of the Declarant. Proper provisions providing for the repair of such leaks shall be included in the construction contracts for Phase II. The "membrane" shall be provided by the Declarant as a cost of construction. Repairs of other leaks shall not be the responsibility of the Declarant, but shall be borne by KBS Construction or, if necessary, by the Parking Condominium Owners Association.

Dated May 2, 2005.

Metropolitan Place Development, LLC ("Declarant")

By: Block 22 LLC, Sole Member and Managing Member

By: _____

Clifford D. Fisher, Authorized Member

**Metropolitan Place Residential Condominium
Owners Association, Inc.**

By: _____

Nelson D. Flynn, President

**Metropolitan Place Parking Condominium
Owners Association, Inc.**

By: _____

Nelson D. Flynn, President