

1 Contractor's maintenance obligation shall further require that the traffic circles be kept in a
2 neat, clean and safe condition, clear of obstructions and free of litter, noxious weeds, trash
3 and other objectionable matter.

4 (b) Contractor shall regularly inspect the traffic circles for damage or disrepair.
5 Contractor shall give City written notice of the nature and cause of any condition within the
6 traffic circles which may preclude Contractor's use, impede the safe use by pedestrians or
7 traffic, or constitute a danger to the public.

8 Contractor shall be responsible for repairing and/or remedying any and all damage or
9 disrepair resulting from uses permitted or otherwise allowed by Contractor. If the Contractor
10 fails to commence work within a reasonable time after receiving written notice from City of
11 the need for such repairs, City may, but shall not be required to, make and/or complete such
12 repairs on the Contractor's account, and the expenses thereof shall be deemed a debt and
13 obligation of Contractor due and owing to City.

14 Section 5: PUBLIC IMPROVEMENTS MANAGEMENT. Contractor shall have the
15 exclusive right to manage any and all permissible uses of the three (3) traffic circles in accordance
16 with federal, state and local laws and regulations, including but not limited to the provisions of the
17 Riverside Auto Center Specific Plan, as it now reads or hereafter may be amended. In providing the
18 management and performing the services contemplated by this Agreement, Contractor shall:

19 (a) Permits and Licenses. Require all subcontractors, licensees and other permitted
20 users to obtain and keep in force all permits and licenses required by all federal, state and
21 local laws and regulations pertaining to use, services and activities to be performed in
22 connection with the traffic circles, including those relating to sales and use taxes, business
23 taxes, and health and safety regulations.

24 (b) Fees. Have the right to charge licensees and other users of the three automobile
25 display pads reasonable and non-discriminatory fees (with the exception of City) and shall
26 have the right to retain all licensing user fees collected therefrom for the maintenance and
27 management of the public improvements.

1 Agreement.

2 Contractor shall maintain and shall require that its subcontractors providing maintenance
3 services hereunder provide workers' compensation insurance with statutory limits.

4 Section 8: INDEMNIFICATION. Excepting only for the sole negligence or willful
5 misconduct of City, Contractor shall defend, indemnify, and hold harmless City, its officers,
6 employees and agents from and against all claims, damages, losses, judgment, liabilities, expenses,
7 and other costs including litigation costs and attorney's fees arising out of, resulting from or in
8 connection with the performance of this Agreement by Contractor or Contractor's agents, officers,
9 employees. Contractor's obligations to defend, indemnify and hold City, its officers, employees and
10 agents harmless applies to any actual or alleged personal injury, death, or damage or destruction to
11 tangible or intangible property including the loss of use. Contractor's obligation under this paragraph
12 extends to any claim, damage, loss, liability, expense, or other costs which is caused in whole or in
13 part by any act or omission, willful misconduct or negligent conduct, whether active or passive, of
14 the Contractor, its subcontractors, its suppliers, or any one directly or indirectly employed by any of
15 them or anyone for whose acts or omissions any of them may be liable.

16 The parties expressly agree that any payment, attorney fee, cost or expense City incurs or
17 makes to or on behalf of an injured employee under its self-administered workers' compensation
18 program is included as a loss, expense or cost for purposes of this section.

19 Contractor's obligation to defend, indemnify, and hold City, its officers, employees and
20 agents harmless under the provisions of this section is not limited to or restricted by any requirement
21 in this Agreement for Contractor to procure and maintain a policy of insurance.

22 During the term of this Agreement, City shall indemnify and hold Contractor harmless
23 against any and all liability and loss whatsoever arising from any damage, injury, claim or demand
24 caused by the willful misconduct or sole negligence of City and its officers and employees in the
25 scope and course of any work conducted on or to the public improvements.

26 The provisions of this section shall survive the expiration or early termination of this
27 Agreement.

1 any and all claims that may be made against City based upon any contention by any third party that
2 an employer-employee relationship exists by reason of this Agreement.

3 Section 10: TAXES. Contractor hereby recognizes and understands that this Agreement
4 may create a possessory interest subject to property taxation and that Contractor may be subject to
5 the payment of property taxes levied on such interest. If it is determined that this Agreement creates
6 a possessory interest subject to property taxation, Contractor agrees to promptly pay all such taxes,
7 assessments, and other governmental or district charges that maybe levied on the interest created by
8 this Agreement.

9 Section 11: CLAIMS OF THIRD PERSONS. Contractor agrees to keep the public
10 improvements free from any and all claims of persons, firms or corporations who, at the request of
11 Contractor or Contractor's contractors, furnish labor or materials to or for the benefit of the public
12 improvements, and Contractor further agrees to indemnify and hold City harmless from any and all
13 such claims.

14 Section 12: ASSIGNMENT PROHIBITED. By this Agreement, City has bargained for
15 the personal services of Contractor. Contractor shall not assign nor transfer this Agreement in any
16 way without first having obtained the prior written consent of City.

17 Section 13: NONDISCRIMINATION. During the performance of this Agreement,
18 Contractor and its subcontractors, licensees and the like shall not unlawfully discriminate against any
19 person because of race, religious creed, color, national origin, ancestry, age, physical disability,
20 mental disability, medical condition including the medical condition of Acquired Immune Deficiency
21 Syndrome (AIDS) or any condition related thereto, marital status, sex or sexual orientation in the
22 selection and retention of employees and subcontractors and the procurement of materials and
23 equipment, except as provided in Section 12940 of the Government Code of the State of California.
24 Contractor and its subcontractors shall extend to all qualified persons, irrespective of status, an equal
25 opportunity to participate in all matters covered by this Agreement.

26 Section 14: WAIVER. No failure or neglect of either party to insist on strict performance of
27 any or all of the terms of this Agreement shall be considered as or constitute a waiver of any term or

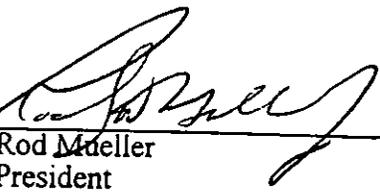
1 Section 17: ENTIRE AGREEMENT. This Agreement and its exhibits contain the entire
2 understanding between Contractor and City. No future waiver of or exception to any of the terms,
3 conditions, and provisions of this Agreement shall be considered valid unless specifically agreed to
4 in writing by all parties.

5 IN WITNESS WHEREOF, City and Contractor have caused this Agreement to be duly
6 executed on the day and year first above written.

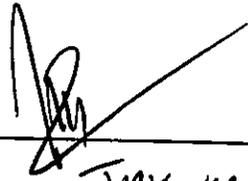
7 **CITY OF RIVERSIDE, a**
8 **municipal corporation**

RIVERSIDE NEW CAR DEALERS
ASSOCIATION, INC., a California corporation

10 By: _____
11 City Manager

By: 
Rod Mueller
President

14 Attest _____
15 City Clerk

By: 
JAY MOSS
Printed Name
Title: V.P.

20 **APPROVED AS TO FORM:**

21 
22 Juanda Lowder Daniel
23 Deputy City Attorney

26 JLD/jd
27 1/31/00
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