GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF LOCAL BUSINESS DEVELOPMENT

MEMORANDUM OF UNDERSTANDING

Capper/Carrollsburg Venture, LLC (the "Developer"), in accordance with D.C. Law 1-95, D.C. Code Section 1-1-1141 et seq. (1987 Ed. as amended), and in consideration of the District of Columbia Government approval of a Preliminary and Consolidated Planned Unit Development and related Zoning Map Amendment for a 22 acre site (the 'PUD site') located Southeast Washington, DC (Ward 6). The PUD site is bounded by 2ND Street on the west, 7th Street on the east, Virginia Avenue on the north and M Street on the south; including all of Squares 737,767,768,769,797,798,800,825 and 825S along with portions of Squares 737, 799, 824 and 880, does hereby commit to make a bona fide effort to utilize Local, Small and Disadvantaged Business Enterprises certified by the D.C. Local Business Opportunity Commission ("LSDBEs") in order to achieve, at a minimum, the goal of thirty-five *percent* (35%) LSDBE participation in the in the Adjusted Development Budget of $(_____) (the "35% Goal"). The 35% Goal of $(_____) is to be achieved in the contracted development costs in connection with the design, development, construction (including, but not limited to, pre-construction activities), maintenance and security for the project to be created as result of the PUD (the "Project"), including janitorial, refuse collection, provision of supplies and other similar post-construction activities relating to the Project, in accordance with the following provisions.

A. The Developer shall utilize the resources of the Office of Local Business Development (OLBD), including the Local Business Opportunity Commission's Directory of Certified Local, Small and Disadvantaged Business Enterprises, and periodic updates, as the primary referral sources for LSDBEs. The primary contact for such referrals shall be the Director of the Office of Local Business Development (the "Director")

B. The appropriate representatives of the Developer who negotiate, sign and are responsible for the implementation of the Memorandum of Understanding with the OLBD agree to meet with the Developer procurement and project officers to explore and develop ways for achieving the 35% Goal.

ZONING COMMISSION
District of Columbia
Case 03-12
Exhibit 39

ZONING COMMISSION
District of Columbia
CASE NO.03-12
EXHIBIT NO.39

C. The Developer agrees to make a continuing bona fide effort to utilize LSDBEs for certain goods and services as may be required by the Developer to conduct its daily operations and understands that such efforts will accrue toward the 35% Goal.

D. Not later than (60) days following issuance of the final written zoning order creating the PUD, the Developer agrees to submit a Local Business Plan (Attachment A) to OLBD for approval, which plan shall be incorporated in and made a part of this Agreement.

E. Not later than thirty (30) days following the filing of an application for a building permit pursuant to the approved PUD, the Developer will submit to OLBD a more extensive plan listing all of the projected procurement items, quantities and estimated costs, bid opening and closing dates, and start-up and completion dates. This plan should indicate whether any items will be bid without restriction in the open market, or limited to LSDBEs certified by the Local Business Opportunity Commission.

F. The parties hereto understand and agree that the *means* of achieving the 35% Goal may vary according to the types of goods and services contracted for and the current availability of Certified LSDBEs. However, the Developer agrees to make a bona fide effort to achieve, at a minimum, the 35% Goal over the life of the project.

G. The Developer further agrees to submit quarterly Local, Small and Disadvantaged Business Enterprises contracting and subcontracting reports to OLBD no later than thirty (30) days after the end of each calendar quarter; the quarterly report periods shall begin on January 1, April 1, July 1, and October 1. The quarterly report shall be submitted on a form provided by OLBD (Attachment B). These reports should include detailed documentation of outreach efforts to LSDBEs in order to determine bona fide efforts.

H. The Developer agrees to meet quarterly with OLBD staff on a mutually agreeable schedule to discuss LSDBEs progress on the project.

I. In the event that there are no LSDBEs in the District of Columbia which manufacture, construct, distribute, install, or otherwise supply the goods and services required to develop, construct, renovate and/or maintain the Project, the Developer agrees to make bona tide efforts to achieve the 35% Goal.

J. The Developer further agrees to include in the terms of its contractual agreements with the general/prime contractor and/or construction manager (in any of such events, the ("Contractor"), language that puts the Contractor on notice that the Contractor is expected to make a bona fide effort to achieve the 35% Goal in (1) its Own contracting with respect to the Project and (2) engaging subcontractors to perform work on the Project.

K. The Developer will publish, in a timely manner, a public notice in a newspaper of general circulation in the District of Columbia and in one or more other newspapers serving the District of Columbia local business community, to inform the business community as a whole of the overall project, including a general description of projected phases and anticipated time tables.

L. For purposes of this agreement, it is agreed that bona fide effort means that the Developer will obtain the following commitments from its General Contractor ("GC"):

1. The GC will publish a public notice in a newspaper of general circulation in the District of Columbia and in one or more other newspapers serving the District of Columbia local business community, designed to inform the business community as a whole of specific contracting and subcontracting procurement opportunities.

2. The GC will publish public notices in a newspaper of general circulation in the District of Columbia and in one or more other newspapers serving the District of Columbia local business community, soliciting bids for products or services being sought, and will allow a reasonable time for all bidders to respond to invitations/requests for bids.

3. The GC will contact OLBD to obtain a current listing of all LSDBEs qualified to bid on major procurements as they arise.

4. The GC will negotiate with all bidders pre-qualified by the Developer and the GC, including LSDBEs, to obtain each pre-qualified bidder's best and final price as understood in the marketplace.

5. The GC will not require that LSDBEs provide bonding on contracts with a dollar value less than $100,000; provided that in lieu of bonding the GC may accept a job specific certificate of insurance.

6. The GC will design and include in all contracts and subcontracts a process for dispute settlement. This process shall incorporate an opportunity for the presentation of documentation involving the work performed and invoices regarding requests for payments. Included in the contract shall be a mutually agreed upon mediator or provisions for arbitrators in accordance with the rules of the American Arbitration Association.

7. The GC and subcontractors shall strictly adhere to their contractual obligations to pay all subcontractors in accordance with the contractually agreed upon schedule for payments. In the event that there is a delay in payment to the general contractor, he is to immediately notify the subcontractor and advise as to the date on which payment can be expected.

8. The GC commits to pay all subcontractors, including LSDBEs, within fifteen (15) days following the GC's receipt of a payment, which includes funds for such subcontractors, from the developer. The Developer agrees to require the project manager to establish a procedure for giving notice to the subcontractors of the Developer payments to the GC.

M. If at the end of the first calendar quarter following the issuance of a building permit the Developer is unable to comply with the proposed minority utilization plan for the Project, representatives of the Developer and the Director of OLBD shall confer with a view toward adjusting goals and strategies to extend the time of performance based on facts and circumstances.

DATE THIS_____DAY OF _____,2003

OFFICE OF LOCAL BUSINESS DEVELOPMENT

BY: _____
JACQUELYN A. FLOWERS
DIRECTOR

Capper/Carrollsburg Venture, LLC

BY:_____
WILLIAM M. HARVEY
For
Capper/Carrollsburg Venture,LLC

ATTACHMENT A

LOCAL BUSINESS DEVELOPMENTADMINISTRATION

LOCAL BUSINESS OPPORTUNITY COMMISSION

CONTRACTING AND SUB-CONTRACTING PLAN

APPLICANT/RECIEPIENT/DEVELOPER: _____

_____

ADDRESS: _____

_____

TELEPHONE NUMBER: _____
(AREA CODE)

TOTAL ESTIMATED COST OF CONTRACT(S): $ _____

TOTAL ESTIMATED AMOUNT TO BE SUB-CONTRACTED $ _____

TOTAL ESTIMATED LSDBE PARTICIPATION $ _____

PERCENTAGE OF TOTAL LSDBE CONTRACT(S) (%) _____

NAME OF LBE LIAISON: _____

ADDRESS: _____

TELEPHONE NUMBER: _____
(AREA CODE)

NAME OF GENERAL/PRIME CONTRACTOR
AND/OR CONSRUCTION MANAGER: _____

ADDRESS: _____

_____

TELEPHONE NUMBER: _____
(AREA CODE)

ATTACHMENT B

GOVERNMENT OF THE DISTRICT OF COLUMBIA

LOCAL BUSINESS OPPORTUNITY COMMISSION

-PRIVATE SECTOR-

QUARTERLY LOCAL BUSINESS EXPENDITURE REPORT

QUARTER ___ 2000 DATE PREPARED: _____

PROJECT NAME: _____

ADDRESS: _____

PROJECT CONTACT: _____ TELEPHONE: _____

ANTICIPATED PROJECT COMPLETION DATE: _____

PART A. EXPENDITURE SUMMARY

QTR.	TOTAL AMT. EXPENDED TO DATE	TOTAL AMT. EXP. W/LSDBE* TO DATE	% TO LSDBE* TO DATE	TOTAL AMT. EXPENDED THIS QTR.	TOTAL AMT. EXP. W/LSDBE* THIS QTR.	% TO LSDBE*
1						
2						
3						
4						
TOTAL						

PART B. LOCAL BUSINESS EXPENDITURE VERIFICATION

NAME OF LOCAL BUSINESS	LSDBE CERT. NUMBER	DATE OF PAYMENT	DESCRIPTION OF GOODS/SERVICES	AMOUNT OF EXPENDITURE

* LSDBE - LOCAL, SMALL DISADVANTAGED BUSINESS ENTERPRISE CERTIFIED BY LBOC

ATTACHMENT C

THE DEPARTMENT OF HUMAN RIGHTS AND LOCAL BUSINESS DEVELOPMENT
PRIVATE SECTOR PROGRAM MANAGEMENT

INDUSTRIAL REVENUE BOND AND PRIVATE DEVELOPMENT PROJECTS
MONITORING PROGRAM

AREAS OF PROCUREMENT IN WHICH LSDBE UTILIZATION
GOAL CAN BE ACHIEVED

General Construction
Architectural and Engineering Services
Site Improvements/preparation
Pre-Construction and Post Construction Activities
Environmental Impact Studies
HVAC Service/Maintenance
Interior Design
Printing Services, Blueprints, Brochures, etc.
Building/Facility Management Services
Building Supplies
Roofing Repairs
Trash Removal
Sprinkler Systems
Energy Management
Water Treatment
Office Supplies
Moving Company
Janitorial Services and Supplies
Office Furniture Lease/Purchase
Office Equipment Lease/Purchase/Maintenance
Vending Equipment and Supplies
Catering and Food Service Equipment
Cable Television Systems
Antenna Systems
Clerical Temporaries
Courier/Messenger Services
Telephone System
Sound System
Window Washing
Security Services/Systems
Computer Equipment/Maintenance

ATTACHMENT C

Carpet Leasing
Carpet Cleaning
Recycling
Fuel Oil
Floral Arrangements
Towing
Legal Services
Advertising and Graphic Design
Public Relations Services
Accounting Services
Insurance Agent
Bank/Financial Institutional Depository
Pest Control Firm
Plant Maintenance
Security Guard Company
Uniform Rental Firm
Snow Removal Firm
Grounds Maintenance
Fire Supply/Equipment
Electrical Supplies
Locksmith
Electrician
Plumber
Temp. Help Agency
Accounting Services
Caterer
Uniform Rental Firm
Paint Supplies
Boiler Maintenance & Supplies
Water Treatment
General Maintenance
Fencing
Signage
Recycling Programs
Food Service Equipment Repair
Lighting
Water Removal
Parking Management
Tools/Purchases & Rentals
Carpentry Supplies & Services

ATTACHMENT C

Generator Repairs & Supplies
Motor Parts & Repairs
Printing/Forms
Uniforms
Paper Products (Janitorial)
Audio/Visual Equipment
Copiers
Bottled Water Service
Bond/Computer Paper
Software
Telecommunication Support Service
Preventative Maintenance
Locks
Cabling Services
Window Repairs & Supplies
Computers
Computer Supplies

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