

UMBRELLA AGREEMENT

By and among

**PINE STREET DEVELOPMENT L.L.C.,
a Washington limited liability company,**

**COMMUNITY DEVELOPMENT PROPERTIES, KING COUNTY II, INC.,
a Delaware non-profit corporation,**

and

**THE CITY OF SEATTLE,
a first-class city of the state of Washington**

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EXHIBITS TO UMBRELLA AGREEMENT

Exhibit A-1	Legal Description Systems Block Property
Exhibit A-2	Legal Description - F&N Property
Exhibit A-3	Legal Description - Nordstrom Properties
Exhibit B	Parking Garage Design Standards
Exhibit C	Parking Covenants
Exhibit D	Schematic Plans for Garage
Exhibit E	Parking Agreement
Exhibit F	Insurance Requirements for Parking Operator(s)
Exhibit G	Lease Purchase Agreement Assignment Language
Exhibit H	City Mortgage
Exhibit I	Retail Lease Subordination Provision
Exhibit J	Title Insurance Endorsement re: Facade Easement
Exhibit K	Air Space Easement
Exhibit L	Facade Easement
Exhibit M	Permitted Exceptions
Exhibit N	Environmental Certification
Exhibit O	Environmental Reports

UMBRELLA AGREEMENT

THIS UMBRELLA AGREEMENT (the "Agreement") is entered into this ___ day of _____, 1996 by and among COMMUNITY DEVELOPMENT PROPERTIES KING COUNTY II, INC., a Delaware non-profit corporation ("CDP"), PINE STREET DEVELOPMENT L.L.C., a Washington limited liability company ("PSD") and THE CITY OF SEATTLE, a first-class city of the State of Washington ("City") with reference to the following facts:

RECITALS

A. The provision of convenient, accessible and attractive public parking in the downtown retail core will prevent traffic congestion and improve vehicular access and circulation and is a traditional and well-recognized public purpose.

B. The provision of safe and reliable public parking in the retail core will increase activity downtown and directly and indirectly improve public safety.

C. PSD, together with Nordstrom, has proposed a three-block redevelopment project (the "Complex") which features the relocation of the flagship downtown Nordstrom store and the national corporate headquarters for Nordstrom to the currently vacant Frederick & Nelson building, the construction by PSD and CDP of a mixed-use condominium on the Systems Block Property which will contain, in addition to a public parking garage, at least 300,000 square feet of gross leasable area for new retail stores, restaurants and entertainment uses, and the redevelopment by PSD of the Nordstrom Properties for additional new retail, office and other commercial uses.

D. Until the recent advent of several retail developments and the Complex described above, the downtown retail core had experienced a serious decline which affected the success of the remaining retailers, reduced employment and adversely affected the revenue of the City accruing from the downtown retail core.

E. The substantial private investment in the Complex is expected to create at least 500,000 square feet of new retail space downtown over what is occupied today, preserve some 700 jobs in Seattle and create approximately 2800 new jobs.

F. The three-block Complex will further strengthen the public safety of the downtown retail core and will improve the financial stability and general economic vitality of the City and add an estimated ninety-five million dollars in tax revenues over thirty years in addition to direct revenues from the proposed parking garage.

G. In addition to providing needed public parking and other benefits, the City will secure additional important public benefits through participation in this transaction, including reduction in the bulk (volume) of the building to be constructed on the Systems Block Property.

H. The City will acquire a valuable interest in land as part of its acquisition of the Parking Garage Unit, one of two Units in the Condominium to be constructed on the Systems Block Property.

I. The City will obtain the beneficial rights under a Facade Easement in the F&N Building which has substantial local social and cultural significance.

J. The development and construction of the Systems Block Project will advance important City interests by providing business opportunities for women and minority certified business enterprises and the participation of the private sector in important public contracting, training and hiring programs for the disadvantaged.

K. The City is authorized by RCW Chapter 35.86 to provide off-street parking facilities.

L. The City is authorized by RCW 35.42.010-35.42.090 to acquire such parking facilities through a lease purchase agreement.

M. CDP is a non-profit corporation formed to lessen the burdens of government, reduce economic blight and encourage redevelopment in King County including downtown Seattle. CDP in furtherance of its charitable purposes has agreed to enter into this Agreement with PSD and City with the express purpose of lessening the burdens of government, reducing economic blight and encouraging urban redevelopment, by agreeing to cause the design, construction and operation of the Garage during its initial first year of Operation by a qualified parking operator in accordance with the provisions of the Parking Covenants and the Parking Agreement. CDP's participation in this transaction will also lessen the burdens of government by increasing the availability of Short Term Parking in the downtown Seattle retail core which will relieve traffic congestion and improve vehicular access in downtown Seattle by providing additional off-street parking for shoppers and visitors to the City of Seattle.

N. City and Pine Street Associates, L.L.C., a Washington limited liability company ("PSA"), one of the members of PSD, entered into that certain non-binding Memorandum of Agreement dated June 27, 1995 ("Memorandum of Agreement") setting forth certain terms and conditions under which PSA would arrange for the development, construction and interim operation of the Garage and thereafter transfer the Garage to City or its designee and City would agree to pay or cause to be paid the Lease Transfer Amount, subject to negotiation of a final binding agreement between the parties. This Agreement and the participation of CDP and PSD as set forth herein is the final binding agreement between the parties contemplated by the Memorandum of Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

AGREEMENT

1. Incorporation of Recitals: Definitions. Each recital set forth above is incorporated into this Agreement as though fully set forth herein. All capitalized terms not otherwise defined herein shall have the meaning set forth in Section 29 of this Agreement.

2. Acquisition of Systems Block Property. PSD represents to City that PSA has entered into binding contracts to acquire certain real property commonly known as the Systems Block and legally described in Exhibit A-1 attached hereto and by this reference incorporated herein (the "Systems Block Property"). Following execution of this Agreement, PSD and CDP as tenants-in-common intend to acquire fee simple title to the Systems Block Property and shall do so at their sole cost and expense.

3. Redevelopment of the Systems Block Property. CDP and PSD as tenants-in-common shall redevelop the Systems Block Property with a mixed-use commercial condominium (hereinafter referred to as the "Condominium" or the "Systems Block Project"). PSD and CDP as tenants-in-common shall create the Condominium which shall contain a public parking garage and retail space pursuant to a condominium declaration (the "Declaration") and survey map and plans. The Condominium shall consist of a Parking Garage Unit and the Systems Block Retail Unit, and shall contain such Common Elements and Limited Common Elements as are set forth in the Declaration and shown on the Survey Map and Plans. The Declaration shall provide that at least a 50% interest in the land (exclusive of improvements) be allocated to the Parking Garage Unit. The Declaration shall grant the Owner of the Parking Garage Unit a non-exclusive access easement for the benefit of the Owner of the Parking Garage Unit and its Permittees over, across and through such portions of the Systems Block Retail Unit as is necessary for such Owner and its Permittees to enter and exit the Garage for its intended purpose. The Declaration shall contain such other easements, including, but not limited to, a negative easement and restrictive covenant in the form of Exhibit K to this Agreement, easements for the continued structural support of the Systems Block Retail Unit and easements for access to each Unit in favor of the Condominium Association in the event that maintenance obligations of an Owner of a Unit under this Agreement, the Parking Covenants and/or the Parking Agreement are not performed in accordance with the requirements of such agreements and such other easements as City, PSD and CDP may agree. The Declaration shall provide that all condominium units shall be used for commercial uses only, which shall be limited to the leasing, operation and maintenance of retail, restaurant, entertainment, commercial and office establishments and related facilities, and as to the Parking Garage Unit only, a commercial garage. The Condominium shall not be used for any residential use. Once the Systems Block Property is subjected to the Declaration, the co-tenancy between PSD and CDP shall be terminated and the Parking Garage Unit shall be owned by CDP and the Systems Block Retail Unit shall be owned by PSD. Since the Condominium shall be restricted to nonresidential use in the Declaration and there will be a disposition of all Units in the Condominium in a single transaction upon the termination of the co-tenancy between PSD and CDP by a partition in kind of the Parking Garage Unit to CDP and the Systems Block Retail Unit to PSD, and again in a single transaction upon the Leasing Date by the retention of the Systems Block Retail Unit by PSD and the transfer of the Parking Garage Unit by CDP to the City's designee, including the Trustee, pursuant to a lease purchase agreement entered into by the City

pursuant to the provisions of RCW 35.42.010-.090 inclusive in the event the City finances the acquisition of the Property Interests through the execution and delivery of Certificates of Participation or otherwise directly to the City by statutory warranty deed, the provisions of Article 4 of the Condominium Act do not apply to any transfer of the Parking Garage Unit pursuant to this Agreement and CDP, PSD and City do each hereby voluntarily and intentionally waive the provisions of RCW 64.34.400-.465, inclusive.

A. Parking Garage Unit. The Parking Garage Unit shall consist of a parking garage containing five levels of below-grade parking with a minimum capacity of twelve hundred (1200) multi-passenger motor vehicles together with an undivided interest in land, the Common Elements and the Limited Common Elements allocated to the Parking Garage Unit as will be set forth in the Declaration. Two hundred forty (240) of such vehicles may be valet parked. The Parking Garage Unit shall be located below and shall be structurally integrated with the Systems Block Retail Unit. The design for the Garage shall conform to the design standards set forth in Exhibit B attached hereto and by this reference incorporated herein which the City agrees meets the requirements in the Memorandum of Agreement that the Garage be designed to high standards for vehicular access and circulation within the retail core, lighting, safety, ease of maintenance, energy efficiency and attractiveness. The Garage shall be built in compliance with all building code and other applicable laws, rules and regulations, including but not limited to the applicable provisions of Title III of the Americans With Disabilities Act and the regulations issued thereunder by the United States Department of Justice concerning accessibility of places of public accommodation and commercial facilities.

B. Systems Block Retail Unit. The Systems Block Retail Unit shall contain a minimum of 300,000 square feet of gross leasable area for retail, restaurant and entertainment uses on the concourse level and up to five additional levels constructed on top of the Parking Garage Unit. Any gross leasable area in the Systems Block Retail Unit in excess of 300,000 square feet may be leased to commercial and office tenants. The Systems Block Retail Unit shall be structurally integrated with the Parking Garage Unit. PSD shall use its best efforts to provide entrances directly from the sidewalks adjoining the Systems Block Retail Unit to retail spaces located on the ground level of the Systems Block Retail Unit. Elevators, escalators and stairs providing access to the Parking Garage Unit and the Systems Block Retail Unit shall be structurally integrated at the concourse level so that invitees and customers of one Unit may easily access the adjoining streets or the other Unit.

C. Unused Development Potential. PSD and City acknowledge that the Systems Block Retail Unit could be developed with a building containing approximately 502,000 square feet of allowable floor area as defined in the Land Use Code, which figure includes potential bonus FAR for a short-term parking public benefit feature. As part of the overall consideration for this Agreement, PSD has agreed to limit the bulk (volume) of the Systems Block Retail Unit which PSD intends to construct on the Systems Block Property to a building containing approximately 360,000 square feet of allowable floor area (excluding the parking garage area and floor area ratio exemptions as provided in the master use permit issued December 21, 1995 for the Systems Block Project). PSD intends to reserve approximately 374,000 square feet of floor area for the use of the Systems Block Retail Unit (the 360,000 square

feet of floor area of the Systems Block Retail Unit actually constructed plus 10% of the unused development potential), leaving approximately 128,000 square feet of allowable floor area of unused development potential. City acknowledges that the square footage estimates set forth above are based on the schematic design for the Systems Block Retail Unit prepared by the Architect and agrees that the square footage limitations will be revised upon Substantial Completion of the Systems Block Retail Unit to reflect the actual square footage of the Systems Block Retail Unit as constructed. Prior to the Leasing Date PSD and CDP as tenants-in-common shall create a negative easement and restrictive covenant in favor of and appurtenant to the Parking Garage Unit and burdening the Systems Block Retail Unit as part of the Declaration restricting the gross floor area of all improvements now or hereafter constructed as part of the Systems Block Retail Unit to not more than approximately 374,000 square feet of floor area (subject to revision pursuant to the preceding sentence), as such number may be increased from time to time if the City of Seattle zoning code is amended to allow a greater gross floor area of structures constructed as part of Systems Block Retail Unit than the gross floor area of structures now allowed on the Systems Block Retail Unit (the "Air Space Easement").

D. Complex. The Garage is part of a three-block Complex consisting of the F&N Property, the Systems Block Property and the Nordstrom Properties. The F&N Property, the Systems Block Property and the Nordstrom Properties are hereinafter referred to collectively as the "Complex". PSD, together with CDP as to the Garage, intend to renovate and redevelop the Systems Block Property, PSD intends to redevelop the Nordstrom Properties and Nordstrom intends to redevelop the F&N Property towards the end of creating an integrated retail shopping center and entertainment complex with offices in downtown Seattle and PSD and CDP will enter into a Construction, Operation and Reciprocal Easement Agreement (the "REA") with Nordstrom.

4. Design and Construction of Systems Block Project Requirements.

A. Plans and Specifications.

(1) Attached hereto as Exhibit D and by this reference incorporated herein are the Schematic Plans which City agrees are consistent with the requirements of this Agreement and the Memorandum of Agreement.

(2) PSD and CDP as tenants-in-common shall, at their sole cost and expense, cause the Architect to prepare final plans and specifications for the Garage which plans and specifications shall be prepared in accordance with the requirements of this Agreement and the Schematic Plans and shall deliver a copy of same to City. Any change from the Schematic Plans or from any prior plans submitted to City after the date of this Agreement shall be clearly highlighted to indicate the changes. City's approval or disapproval of the final plans and specifications shall be given within five (5) Business Days after City's receipt thereof, provided, however, that City shall approve final plans and specifications that substantially conform to the Schematic Plans. If the City fails to disapprove the final plans and specifications within five (5) Business Days after receipt of such final plans and specifications, the same shall be deemed to

have been approved by the City. The final plans and specifications for the Garage shall hereinafter be referred to as the Approved Garage Plans and Specifications.

(3) Disputes between PSD and CDP as tenants-in-common and City regarding the approval of the final plans and specifications for the Garage shall be resolved by arbitration as provided in Section 4(J)(3) of this Agreement. The final plans and specifications for the Garage shall hereinafter be referred to as the Approved Garage Plans and Specifications.

(4) City acknowledges that the Garage has been designed as an integrated part of a commercial development containing, in addition to the Garage, a concourse level and up to five levels of commercial space for lease to retail, restaurant, entertainment, commercial and office tenants. PSD and CDP as tenants-in-common reserve the right to make changes, modifications, additions and deletions to the plans and specifications for the Condominium and the Systems Block Retail Unit; provided, however, PSD shall not reduce the gross leasable area of the Systems Block Retail Unit devoted to retail, restaurant and entertainment tenants below 300,000 square feet of gross leasable area without the prior consent of the City, which may be withheld in City's sole discretion.

(5) PSD shall, at its sole cost and expense, cause the Architect to prepare final plans and specifications for the Systems Block Retail Unit which plans and specifications shall be prepared in accordance with the requirements of this Agreement and the Approved Garage Plans and Specifications. The final plans and specifications for the Systems Block Retail Unit shall hereinafter be referred to as the Systems Block Retail Plans and Specifications.

B. Construction; Payment; Construction Staging. CDP or CDP and PSD as tenants-in-common shall, at its or their sole cost and expense, develop and manage the construction of the Garage in substantial accordance with the Approved Garage Plans and Specifications. CDP may in the course of discharging its construction management responsibilities enter with PSD into a single construction contract with a contractor for construction of the entire Systems Block Project, or enter into a series of construction contract(s) for various components of the overall project including a separate construction contract for the Garage as CDP or CDP and PSD as tenants-in-common may determine taking into consideration availability of labor, materials, weather, permitting restrictions, status of leasing, progress of overall design and development and other construction-related factors. City further acknowledges that due to the nature of the Systems Block Project, the project may be constructed in stages, with the Garage constructed first and prior to construction of the remainder of the Systems Block Project.

C. Permits. PSD and CDP as tenants-in-common shall obtain all permits and authorizations from any federal, state or local government or departments or subdivisions thereof having jurisdiction over the Systems Block Project, in order to permit construction of the Garage in substantial accordance with the Approved Garage Plans and Specifications. Nothing in this Agreement is intended or shall be construed to require that the City exercise its discretionary authority under its regulatory ordinances to further the Systems Block Project or the Complex,

nor binds the City to do so. The City will process applications for permits and approvals as if such applications were made without any City participation in such project.

D. Construction Contracts. CDP or CDP and PSD as tenants-in-common will contract for the construction of the Garage with a contractor selected by CDP or CDP and PSD as tenants-in-common ("Contractor"). City understands that CDP or CDP and PSD as tenants-in-common is not itself the Contractor for the Garage and is not itself making any warranties with respect to the Garage. CDP or CDP and PSD as tenants-in-common shall, however, cause the Contractor to warrant that the Garage will be constructed in a good and workmanlike manner and in substantial accordance with the Approved Garage Plans and Specifications. The Garage Construction Contract(s) shall contain a provision whereby the Contractor's warranty of work and materials under the Garage Construction Contract(s) will be extended for an additional period of one (1) year commencing on the Leasing Date. All such warranties shall be assigned to City or its designee, as City shall direct, upon the Leasing Date and the Garage Construction Contract(s) shall contain a provision whereby the Contractor acknowledges that CDP or CDP and PSD as tenants-in-common will be assigning the construction warranties for the Garage to the City on the Leasing Date and that City can enforce such warranties directly on and after the Leasing Date. The Garage Construction Contract(s) shall contain standard AIA contract provisions including warranties of work and materials, with such modifications, amendments and revisions as CDP or CDP and PSD as tenants-in-common may determine in its business judgment. The Approved Garage Plans and Specifications and the construction contract(s) and subcontract(s) for construction of the Garage are hereinafter referred to collectively as the "Garage Construction Documents". The Systems Retail Plans and Specifications and the construction contract(s) and subcontract(s) for construction of the Systems Block Retail Unit are hereinafter referred to collectively as the Systems Block Retail Construction Documents. CDP or CDP and PSD as tenants-in-common shall cause the Contractor to commence the work required under the Garage Construction Documents as soon as is reasonably feasible and to pursue the same with diligence and continuity to completion.

E. Prevailing Wages. CDP or CDP and PSD as tenants-in-common shall require the Contractor(s) and the subcontractors of such Contractor(s) in connection with such contracts as may be let regarding the construction of the Systems Block Project to pay the prevailing wage to the workers, laborers and mechanics as may then be determined by the Washington State Department of Labor and Industries for the particular craft in the particular geographic area.

F. Women's and Minority Business Enterprises and Apprentice Utilization. PSD and CDP as tenants-in-common and each as to their respective portion shall ensure that at least ten percent (10%) of the total value of the construction contract(s) or subcontract(s) for the shell and core of the Systems Block Project are awarded to certified Women or Minority-Owned Business Enterprises as defined in Seattle Municipal Code Chapter 20.46A. In addition PSD and CDP as tenants-in-common shall require the Contractor to participate in the Apprenticeship Opportunities Project ("AOP"), establishing the goal that fifteen percent (15%) of the hours worked on the construction of the shell and core of the Systems Block Project be assigned to AOP apprentices.

G. Anti-Discrimination. CDP or PSD and CDP as tenants-in-common shall require the Contractor(s) to include the following provisions in the Garage Construction Contract(s) and subcontracts for the shell and core of the Systems Block Project:

In all work performed under this contract there shall be no discrimination against any employee or applicant for employment because of creed, religion, political ideology, ancestry, sex, age (except legitimate minimum age and retirement provisions), race, color, creed, national origin, marital status, sexual orientation, or the presence of any sensory, mental or physical handicap, unless based on a bona fide occupational qualification. This requirement shall apply to but not be limited to the following: employment, recruitment or recruitment advertising, lay-off, demotion or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The [sub/contractor's name] shall not violate any applicable provisions of RCW 49.60, Title VII of the Civil Rights Act of 1964 or City of Seattle Municipal Code Chapter 14.04. Any violation of this provision shall be considered a violation of a material provision of this contract and shall be grounds for cancellation, termination or suspension to the same extent as any other material default by [sub/contractor's name] under this contract, and may result in ineligibility for further agreements.

CDP or PSD and CDP as tenants-in-common further agree to enforce such provisions in contracts to which either of them is a party for construction of the shell and core of the Systems Block Project.

H. Supervision of Construction. CDP shall supervise and manage or contract for the supervision and management of the development and construction of the Garage to ensure that the Garage is constructed in substantial accordance with the Approved Garage Plans and Specifications.

I. Payment: Liens.

(1) The cost of development and construction of the Garage, including, without limitation, any and all retail sales, business and occupation and other taxes which may be payable as a result thereof, shall be paid by CDP at its sole cost and expense. Prior to the Leasing Date CDP shall pay or cause to be paid within thirty (30) days after the filing thereof any and all construction or other liens that may be filed against the Parking Garage Unit in connection with labor, services, materials, supplies or equipment furnished or alleged to have been furnished to or upon the request of CDP subject to the provisions of this subsection. CDP reserves the right to contest the validity or amount of any such lien claims in good faith provided that CDP shall within thirty (30) days after the filing of such lien discharge said lien of record or record a bond which complies with the requirements of RCW 60.04.161 eliminating said lien as an encumbrance against the Parking Garage Unit. As of the Leasing Date the Parking Garage Unit shall be free and clear of all liens arising by or through the actions of CDP, its Contractor(s), subcontractors, parking operator, valet parking operator or their respective agents and employees.

(2) City shall not be liable for any work performed or to be performed on the Systems Block Property for PSD, CDP, or PSD and CDP as tenants-in-common or for any materials, supplies or equipment furnished or to be furnished to the Systems Block Property for PSD, CDP, or PSD and CDP as tenants-in-common, and no construction or other liens for such labor, services, materials, supplies or equipment shall attach to any property owned by the City. PSD, CDP, or PSD and CDP as tenants-in-common shall cause to be included in the construction contracts and all subcontracts, and shall post a notice on the Systems Block Property that City is not liable for the payment of any costs associated with the construction of the Garage.

J. Material Changes to Approved Garage Plans and Specifications.

(1) CDP shall not reduce the capacity of the Garage below 1,200 multi-passenger motor vehicles (of which 240 vehicles may be valet parked) and shall not make any changes to the Approved Garage Plans and Specifications that would violate, or cause a violation of, the Land Use Code.

(2) In the event CDP or CDP and PSD as tenants-in-common desire to make any material changes to the Approved Garage Plans and Specifications not prohibited by subsection (1) above, such material change shall first be submitted by CDP or CDP and PSD as tenants-in-common to City (accompanied by a statement from the Architect delineating the nature and extent of the changes) for review and approval or disapproval. Within five (5) Business Days after such request for change has been received by City, City shall give CDP or CDP and PSD as tenants-in-common written notice of its approval or disapproval thereof, specifying in the case of its disapproval its reasons therefor. Except as otherwise provided herein, approval of such change shall not be unreasonably withheld, conditioned or delayed. The extent of City's approval rights with respect to any such material change shall be the same as would have applied to City's approval of the Approved Garage Plans and Specifications. If the City fails to disapprove such change within five (5) Business Days after receipt of such change the same shall be deemed to have been approved by the City. For purposes of this Agreement, a material change is a change that results in a change order in excess of \$100,000 as to any individual change or in excess of \$150,000 in the aggregate and which involves a substantial or material change in appearance or diminution in quality of the Garage, but shall not include change orders for less than \$100,000 as to any individual change or less than \$150,000 in the aggregate or change orders regardless of amount that involve a change in construction method or sequencing but which do not result in a diminution in quality of the Garage which may be made by CDP or PSD and CDP as tenants-in-common without securing City's approval.

(3) Disputes between CDP or CDP and PSD as tenant-in-common, and City regarding the approval of material changes to the Approved Garage Plans and Specifications shall be resolved by arbitration; provided, however, that changes which would violate the Land Use Code shall not be made and City's disapproval of material changes on the grounds that such change would violate the Land Use Code shall not be subject to resolution by the arbitration procedure set forth below.

(a) Except as provided in subsection (3) above, in the event City disapproves a material change proposed to the Approved Garage Plans and Specifications and the parties cannot reach an agreement within thirty (30) days after notice of an arbitrable dispute is given by any party to the others then any party may, at any time after the end of such thirty (30) day period, refer the dispute to arbitration, and the parties agree to cooperate in obtaining such arbitration.

(b) In the event the dispute is also a matter which is subject to arbitration under the REA, the arbitration shall be consolidated with the arbitration process provided under the REA so that all disputes between the parties to this Agreement and the parties to the REA shall be resolved in a manner that does not impose inconsistent obligations upon CDP or PSD and CDP as tenants-in-common who are parties to both the REA and this Agreement.

(c) Each party shall within twenty (20) days after notice of an arbitrable dispute is given designate one Person, as hereinafter provided to represent it as an arbitrator. The arbitrators so appointed by the parties shall designate one additional Person as an arbitrator. If such arbitrators are unable to agree upon the selection of a third arbitrator, the third arbitrator who shall meet the qualifications set forth below, shall be appointed by the presiding judge of the King County Superior Court, King County, Washington at the request of either party. The appointment of all arbitrators under this section shall be in writing and shall be submitted to the parties within thirty (30) days following the thirty (30) day period provided for in subsection (a) of this Section 4(J)(3). Any Person designated as an arbitrator shall be knowledgeable and experienced in the matters sought to be arbitrated, but shall not be in the employment of any party to the dispute or any Party to the Parking Covenants directly, indirectly or as an agent, except in connection with the arbitration then proceeding. If the dispute to be arbitrated deals with construction, the arbitrators so appointed shall be experienced and knowledgeable in the construction industry as it relates to the nature of the structure to which such arbitration applies. Similarly, any arbitrator appointed in an architectural dispute shall be qualified as respects architecture in regional shopping centers.

(d) The arbitrators shall meet or otherwise confer as deemed necessary by the arbitrators to resolve the dispute and a decision of a majority of the arbitrators will be binding upon the parties. The parties shall have the right to present evidence, offer testimony and provide additional information necessary or relevant to resolve the dispute. The decision of the arbitrators shall be in writing and shall be made as promptly as possible after the designation of the last additional arbitrator, but in no event later than thirty (30) days from the date of the designation of the last additional arbitrator. A copy of the decision of the arbitrators shall be signed by at least a majority of the arbitrators and given to each party in the manner provided in this Agreement for the giving of notices.

(e) For each arbitrable dispute, the cost and expense of the arbitrators and arbitration proceeding (except for a party's attorneys' fees) shall be paid and shared by the parties, unless the arbitrators assess such cost and expense unequally between the parties.

(f) To the extent permitted by law, compliance with the provisions of this Section 4(J) is a condition precedent to the commencement by any party of any judicial proceeding arising out of a dispute subject to arbitration. The decision of the arbitrators shall be binding upon the parties and may be entered as a judgment in a court of competent jurisdiction.

K. Substantial Completion. The Garage shall be substantially completed when the following events have occurred:

(1) Architect's Certification. Architect has issued its "Certificate of Substantial Completion" AIA Document G704; stating that the portion of the work under the Garage Construction Contract(s) is substantially complete in substantial accordance with the Garage Construction Documents.

(2) Temporary Certificate of Occupancy. The City of Seattle has issued a temporary certificate of occupancy for the Garage permitting its use as a parking garage.

(3) Owner Acceptance. CDP has accepted the Garage as complete subject to completion of normal punchlist items.

L. Disclaimer.

(1) City Not-Liable for Construction of Garage. Notwithstanding any other provision of this Agreement to the contrary, City is under no obligation to, nor shall it, construct or supervise the construction of the Garage. It is understood and agreed that City's right to inspect the Garage prior to the Leasing Date is for the sole purpose of protecting its interest as tenant under the Lease on or after the Leasing Date. No part of the cost of construction of the Garage shall ever become an obligation of City. City is not responsible to the Contractor or to any subcontractors under any subcontracts for construction of the Garage or any other third parties for any purpose whatsoever.

(2) Indemnification. CDP and/or PSD shall protect, defend, indemnify and hold City harmless from and against any and all liabilities, obligations, damages, penalties, charges, costs and expenses, including, without limitation reasonable attorneys' fees, which City may suffer or incur in connection with its ownership, construction, development or Operation of the Garage resulting from any action or inaction of CDP and/or PSD or either of their agents, employees, contractors or subcontractors, occurring before the Leasing Date. To the extent a court determines RCW 4.24.115 applies, the City shall not be entitled to such indemnification for damage caused to City or any third party by reason of the sole negligence of City or damage caused by the concurrent negligence of City to the extent of such concurrent negligence. The foregoing indemnification shall survive the Leasing Date.

Promptly after the receipt by City of notice of any action or proceeding for which CDP and/or PSD have agreed to indemnify City, City shall give CDP and PSD written notice of such claim or the commencement of such action or proceeding and CDP and/or PSD shall thereafter

vigorously defend on behalf of City, but at the sole cost and expense of CDP and/or PSD any such action or proceeding for which indemnification is sought. Failure to promptly give CDP and PSD such notice shall not constitute a bar to the indemnification obligations of CDP and/or PSD hereunder unless such delay has prejudiced CDP and/or PSD in the defense of such claim or action. No settlement of any such action or proceeding shall be made without City's written approval which approval shall not be unreasonably withheld (unless City has previously been discharged from all liability in connection with such action or proceeding).

M. Interim Operation of Garage. CDP shall notify City promptly once Substantial Completion of the Garage has occurred and the Garage is open to members of the general public for the parking of vehicles (the "Opening Date").

(1) Use. From and after the Opening Date until the Leasing Date, CDP shall continuously use, Operate and maintain the Garage or shall cause the Garage to be used, Operated and maintained (including routine repairs) by a professional parking garage operator as a parking garage which can park at least 1,200 multi-passenger motor vehicles and which is open to members of the general public (including Required Long-Term Parking and valet parking) (a) in accordance with this Agreement, the Declaration, the Parking Covenants and the Parking Agreement attached hereto as Exhibits C and E and by this reference incorporated herein and (b) in first-class order, condition and repair in accordance with practices prevailing in first-class urban regional shopping centers including multilevel parking garages; however, CDP's operating policies will reflect the need to generate parking revenue and maximize utilization of the Garage in its first operating year(s) while at the same time accommodating ongoing construction of the Systems Block Retail Unit. CDP will not amend the Parking Covenants prior to the Leasing Date without the consent of the City, which consent shall not be unreasonably withheld, so long as the City has a right to acquire the Garage. CDP will consult with City regarding Garage policies, schedules and rates. When the Garage opens and during the first year of Operation as necessary, CDP shall provide or shall cause its operator to provide marketing and education programs aimed at familiarizing the patrons of the Garage with the "Pay-on-Foot" system. CDP shall maintain, or shall cause its parking operator and valet parking operator to maintain in full force and effect the insurance set forth in Exhibit F attached hereto and by this reference incorporated herein. CDP shall maintain or cause to be maintained in full force and effect the insurance required under Section 24 of this Agreement. The parties understand and agree that portions of the Garage may be used by the Contractor as a construction staging area for the storage of construction materials, machinery and equipment and temporary parking for construction workers' automobiles and equipment. The Contractor shall have the right to close or re-route certain entrances and exits to the Garage and temporarily cordon off portions of the Garage as the Contractor may deem necessary or appropriate from time to time during the course of construction of the Systems Block Retail Unit or as may be necessary or required under construction contract(s) or applicable laws, rules and regulations to maintain a safe work site.

(2) Uses Prohibited.

(a) The layout, configuration, lighting, graphics, structural support characteristics and locations of exits and entrances of the Garage shall not be materially

altered from the as-built plans and specifications for the Garage without the prior written approval of the parties to this Agreement, the Parking Covenants and the Parking Agreement.

(b) CDP shall not do or permit anything to be done in or about the Garage nor bring or keep anything therein which will in any way increase the existing insurance rate or affect any fire or other insurance upon the Garage or the Condominium of which the Garage may be a part (unless CDP shall pay any increased premium as a result of such use or acts), or cause a cancellation of any insurance policy covering said Garage or the Condominium or any part thereof, nor shall CDP sell or permit to be kept, used or sold in or about said Garage any articles which may be prohibited by a standard form policy of fire insurance.

(c) Except as permitted under the last sentence of Section 4(M)(1) CDP shall not do or permit anything to be done in or about the Garage which will in any way obstruct or interfere with the rights of other tenants or Occupants of the System Block Retail Unit or injure or annoy them or use or allow the Garage to be used for any use other than the Permitted Use or to be used for any unlawful or objectionable purpose, nor shall CDP cause, maintain or permit any nuisance in, on or about the Garage. CDP shall not commit or suffer to be committed any waste in or upon the Garage.

(d) CDP shall not install or permit the installation of any underground storage tanks in the Garage, allow any Person to sell or dispense gasoline, diesel fuel or other petroleum products from fuel tanks located in the Garage, sell motor oil, nor allow any Person to provide automobile repair services (other than emergency repairs) in the Garage.

(e) No use or operation will be made, conducted or permitted on any part of the Garage which use or operation is clearly objectionable to the development or operation of the Complex as a first-class urban multi-use complex utilized to the maximum extent for retail and entertainment purposes, including, but not limited to, the use restrictions set forth in the Parking Covenants and/or the Parking Agreement.

(f) So as not to interfere with efficient pedestrian traffic flow within the Garage and to the extent permitted by law there shall be no sales conducted within the Garage without the prior written consent of the parties to the Parking Covenants and the Parking Agreement and no kiosks, pushcarts or other merchandising units or obstructions shall be placed in the Garage.

(g) CDP shall not use the Garage or permit anything to be done in or about the Garage which will in any way conflict with any law, statute, ordinance or governmental rule or regulation or requirement of duly constituted public authorities now in force or which may hereafter be enacted or promulgated.

(h) CDP shall Operate and maintain or cause the Garage to be Operated and maintained so that unsafe levels of carbon monoxide, noxious fumes and other pollutants do not remain in the Garage or enter the Systems Block Retail Unit.

(i) CDP shall not enter into any written or oral contracts or agreements with respect to the Operation of the Garage which will survive the Leasing Date (other than Permitted Exceptions).

(j) Any Monthly Long-Term Parking Contracts, Special Use Long-Term Contracts or Special Use Valet Parking Contracts which survive the Leasing Date shall satisfy the requirements of Article 4 of the Parking Agreement.

(3) Interim Operation and Maintenance. Except as otherwise provided in this Agreement, the Parking Covenants and the Parking Agreement, CDP shall Operate and maintain the Garage or cause the Garage to be Operated and maintained in first-class order, condition and repair in accordance with practices prevailing in first-class urban regional shopping centers including multi-level parking garages, and in accordance with the provisions of the Parking Covenants and the Parking Agreement, as the Parking Covenants and/or the Parking Agreement may be amended from time to time in accordance with their terms.

5. Lease of Garage. Except as provided in Section 13 of this Agreement, CDP agrees to lease to City and City agrees to lease from CDP the Garage on the Leasing Date pursuant to a 30-year lease purchase agreement executed by and among CDP as initial landlord, Trustee as successor landlord, and the City as tenant, in accordance with the provisions of RCW 35.42.010-.090 (the "Lease"). CDP shall execute and deliver the Lease upon payment to CDP of the Lease Transfer Amount as defined in Section 11 of this Agreement and the execution and delivery of all documents, agreements, certificates and other items to be executed and delivered by CDP, PSD, City and Trustee pursuant to Section 14 of this Agreement. The Lease shall assign all of CDP's right, title and interest in the Parking Garage Unit and all of CDP's rights, title and interest in and obligations and duties under the Lease as the initial landlord thereunder, including the right to receive and enforce the payment of Rental Payments due under the Lease, to Trustee as successor landlord. The Lease shall contain such terms and conditions, and shall provide for Rental Payments in such amounts as shall be mutually acceptable to Trustee, as the successor landlord under the Lease, and City, as tenant under the Lease, so long as the Lease contains assignment and indemnification provisions in substantially the form attached hereto as Exhibit G. The Lease shall also provide the City, as tenant, with an option to purchase the Parking Garage Unit and shall provide that all Rental Payments or other sums paid as rent up to the time of exercising the option shall be credited against the purchase price as of the date of purchase. The Lease shall not provide, nor shall it be construed to provide, that the City shall be under any obligation to purchase the Parking Garage Unit.

6. Limitation upon Encumbrance of the Systems Block Property. Prior to the Leasing Date, CDP and PSD as tenants-in-common shall not engage in any financing or other transaction which creates a mortgage or other lien or encumbrance upon the Systems Block Property, whether by express agreement or operation of law, or suffer any encumbrance or lien to be made upon or attach to the Systems Block Property except as set forth in Section 7 of this Agreement. After the Leasing Date, and so long as the Owner of the Systems Block Retail Unit has not acquired an ownership interest in the Parking Garage Unit, the parties understand that the

Owner of the Systems Block Retail Unit shall not retain any ownership interest in the Parking Garage Unit and shall not be entitled to, nor shall it, encumber the Parking Garage Unit.

7. Construction and Permanent Financing. CDP, PSD, CDP and PSD as tenants-in-common or the Owner of the Systems Block Retail Unit, as applicable, shall, at their sole cost and expense, obtain all construction and permanent loans or other financing (collectively, "Loans") in connection with the design, development, construction and ownership of the Garage, the remainder of the Systems Block Project and tenant improvements for tenants of the Systems Block Retail Unit on terms and conditions acceptable to CDP, PSD, CDP and PSD as tenants-in-common or the Owner of the Systems Block Retail Unit, as applicable, in their sole and absolute discretion. CDP, PSD, CDP and PSD as tenants-in-common or the Owner of the Systems Block Retail Unit, as applicable, shall have the right to modify, alter, revise, amend or refinance said Loans as they may deem necessary from time to time in accordance with Section 7(A)(vi) and shall have the right to encumber the Systems Block Property or any portion thereof by executing such mortgages, deeds of trust, encumbrances or other liens (collectively, the "Project Mortgage") and such other or additional documents as such lender(s) may require including, but not limited to, an assignment of the interests of CDP, PSD and/or CDP and PSD as tenants-in-common under this Agreement which Project Mortgage shall constitute a first lien on the Systems Block Project or any portion thereof. All documents executed by CDP, PSD, CDP and PSD as tenants-in-common, or the Owner of the Systems Block Retail Unit as applicable, in favor of said lender(s) shall hereinafter be referred to as the "Project Loan Documents" and any lender providing initial, additional or supplementary construction or permanent loan funds or refinancing a Loan secured by an encumbrance upon the Systems Block Property or any portion thereof shall be collectively referred to as a "Project Lender".

A. Loan Documentation Requirements. The Project Loan Documents shall contain such terms and provisions as shall be acceptable to CDP, PSD, CDP and PSD as tenants-in-common, or the Owner of the Systems Block Retail Unit as applicable, and the Project Lender and in addition shall satisfy the following requirements:

(i) [this subsection intentionally deleted]

(ii) Partial Reconveyance. The Project Loan Documents shall provide for the reconveyance of the Parking Garage Unit from the lien of the Project Mortgage and the termination of any security interest in this Agreement upon payment by the City of the Lease Transfer Amount to CDP as provided in Section 14 below.

(iii) Non-Disturbance of Retail Tenants. The Project Loan Documents shall contain a non-disturbance and attornment provision in a form reasonably acceptable to the Project Lender whereby Project Lender shall agree not to disturb the rights of certain retail tenants of the Systems Block Retail Unit approved by Project Lender upon any foreclosure of the Project Mortgage encumbering the Systems Block Property so long as the tenants are not in default under the terms of their respective leases. PSD or the Owner of the Systems Block Retail Unit as applicable, shall each use its best efforts to require that the balance of the leases contain

subordination and attornment provisions in substantially the form of Exhibit I attached hereto and by this reference incorporated herein or otherwise to similar effect.

(iv) Additional Advances. Project Lender(s) shall have the right to make such additional advances under the Project Loan Documents as may be necessary to protect its security position under the Project Loan Documents.

(v) City Mortgage: Subordination by City. CDP, PSD, CDP and PSD as tenants-in-common or the Owner of the Systems Block Retail Unit, as applicable shall cause the Project Loan Documents to contain a provision acknowledging that the Owner of the Systems Block Retail Unit will grant the City a deed of trust on the Systems Block Retail Unit on the Leasing Date in substantially the form attached hereto as Exhibit H and by this reference incorporated herein ("City Mortgage") to secure the City's rights under Section 20 of this Agreement, which lien shall at all times be expressly subject and unconditionally subordinate to the liens created under the Project Loan Documents and the Retail Unit Permitted Exceptions without the necessity of the execution and delivery of any further instruments on the part of City to effectuate such subordination. City agrees to execute and deliver upon demand by CDP, PSD, CDP and PSD as tenants-in-common, or the Owner of the Systems Block Retail Unit as applicable, or any of their Project Lender(s) and without charge therefor, such subordination or other agreements as Project Lender(s) may reasonably require from time to time to confirm the unconditional subordination of the City's lien on the Systems Block Retail Unit under the City Mortgage to the Project Lender's liens under the Project Loan Documents. Such subordination agreement(s) may contain provisions whereby City agrees not to file an involuntary petition in bankruptcy against CDP, PSD, CDP and PSD as tenants-in-common or the Owner of the Systems Block Retail Unit, as applicable so long as the Loans remain outstanding. Such subordination agreement(s) may also contain other provisions required by institutional lenders and investors in comparable subordination agreements and reasonably acceptable to both City and Project Lender(s). Any mortgages or deeds of trust granted by CDP, PSD, CDP and PSD as tenants-in-common or the Owner of the Systems Block Retail Unit, as applicable, on the Systems Block Retail Unit which are subordinate to the City Mortgage shall contain a provision whereby the holder of such a subordinate mortgage or deed of trust shall agree not to file an involuntary petition in bankruptcy against CDP, PSD, CDP and PSD as tenants-in-common or the Owner of the Systems Block Retail Unit, as applicable so long as either the Loans or the City Mortgage remains outstanding. Except as otherwise provided in this Agreement the City Mortgage shall automatically terminate upon the thirtieth (30th) anniversary of the Leasing Date without the necessity of the execution and delivery of any further documents by City to effectuate such release, unless prior to such date City has delivered written notice to the Owner of the Systems Block Retail Unit that it is exercising its right under Section 20 of this Agreement to require the Owner of the Systems Block Retail Unit to acquire the Parking Garage Unit in which case the City Mortgage shall remain in full force and effect until it is otherwise terminated in accordance with its terms or the terms of this Agreement. City agrees to execute and deliver upon demand by the Owner of the Systems Block Retail Unit or its Project Lender(s) and without charge therefor, such release or other agreements as the Owner of the Systems Block Retail Unit or its Project Lender(s) may reasonably require to evidence the termination and release of the City Mortgage.

(vi) Modification and Refinancing of Loans. CDP, PSD, CDP and PSD as tenants-in-common or the Owner of the Systems Block Retail Unit as applicable, shall have the right to refinance, modify or amend the Loan(s) at any time and from time to time on such terms and conditions, and in such amounts as CDP, PSD, CDP and PSD as tenants-in-common or the Owner of the Systems Block Retail Unit, as applicable, determine in the sole exercise of their or its business discretion and the City Mortgage shall at all times continue to be absolutely and unconditionally subordinate to such Loan(s) without the necessity of the execution and delivery of any further instruments on the part of City to effectuate such subordination so long as any one of the following five conditions is satisfied at the time such Loan(s) is refinanced, extended, renewed, modified or amended:

(a) CDP, PSD, CDP and PSD as tenants-in-common or the Owner of the Systems Block Retail Unit, as applicable, shall at all times have the right to refinance the amount outstanding under a Loan (including additional advances made under Project Loan Documents by a Project Lender as may be necessary to protect its security position under the Project Loan Documents); or

(b) CDP, PSD, CDP and PSD as tenants-in-common or the Owner of the Systems Block Retail Unit, as applicable, shall have the right from time to time following completion of the construction of the Systems Block Project and prior to the tenth (10th) anniversary of the Leasing Date to refinance, modify or amend the construction Loan(s) and in connection with any such modification or amendment of the construction Loan(s) or refinance of the construction Loan(s) with new Loan(s) increase the principal amount of the construction Loan(s) so refinanced, modified or amended so long as the principal amount of the construction Loan(s) so modified or amended or new Loan(s) which refinanced the construction Loan(s) do not exceed eighty-five percent (85%) of the Fair Market Value of the Systems Block Retail Unit (as determined pursuant to subsection 7(A)(vii) below) at the time of such refinance, modification or amendment; (the construction Loan(s) as modified or amended in accordance with this subsection (b) or any Loan(s) which refinanced the construction Loan(s) shall hereinafter be referred to collectively as the "Original Loans"); or

(c) The principal amount of the Loan(s) does not exceed the principal amount that would have been outstanding in any year if the Original Loan(s) with an amortization schedule commencing as of the date of the Original Loan(s) that would fully amortize such Loan(s) over a term of thirty (30) years, were still outstanding; or

(d) In the event the Owner of the Systems Block Retail Unit elects to refinance, modify or amend the Loan(s) during a period beginning on the tenth (10th) anniversary of the Leasing Date and terminating on the twentieth (20th) anniversary of the Leasing Date, the Owner of the Systems Block Retail Unit may increase the principal amount of the Loan(s) so long as the Fair Market Value of the Systems Block Retail Unit (as determined pursuant to Section 7(a)(vii) below) at the time of such refinance, modification or amendment less the principal amount of such Loan(s) projected to be outstanding on the twentieth (20th) anniversary of the Leasing Date (calculated on the basis of a straight line amortization schedule

for a term of not less than 25 years) is equal to or greater than Sixty Million Dollars (\$60,000,000); or

(e) In the event the Owner of the Systems Block Retail Unit elects to refinance, modify or amend the Loan(s) during a period beginning on the twentieth (20th) anniversary of the Leasing Date and terminating on the thirtieth (30th) anniversary of the Leasing Date, the Owner of the Systems Block Retail Unit may increase the principal amounts of the Loan(s) provided the Fair Market Value of the Systems Block Retail Unit (as determined pursuant to Section 7(a)(vii) below) at the time of such refinance, modification or amendment less the principal amount of such Loan(s) on the date of such refinance, modification or amendment is equal to or greater than Sixty Million Dollars (\$60,000,000).

City agrees to execute and deliver upon demand by CDP, PSD, CDP and PSD as tenants-in-common or the Owner of the Systems Block Retail Unit, as applicable, or any of their Project Lender(s) and without charge therefor, such further instruments confirming the subordination of the City Mortgage to any Loan(s) so refinanced, modified or amended which satisfy any one of the five tests set forth in subsection (a), (b), (c), (d) or (e) above as may be required by CDP, PSD, CDP and PSD as tenants-in-common or the Owner of the Systems Block Retail Unit, as applicable, or any of their Project Lender(s) from time to time.

(vii) Establishing Fair Market Value of the Systems Block Retail Unit. Fair Market Value of the Systems Block Retail Unit shall be determined either by a FIRREA Appraisal or if no FIRREA Appraisal has been required by a Project Lender, by the following procedure:

(a) CDP, PSD, CDP and PSD as tenants-in-common or the Owner of the Systems Block Retail Unit, as applicable, shall deliver to City, concurrently with notice of their or its intent to refinance, modify or amend the Loan(s), their or its estimate of the Fair Market Value of the Systems Block Retail Unit. Following receipt of such notice, the parties shall negotiate in good faith in an attempt to reach agreement concerning the Fair Market Value of the Systems Block Retail Unit. If they are unable to agree within thirty (30) days after City's receipt of notice from CDP, PSD, CDP and PSD as tenants-in-common or the Owner of the Systems Block Retail Unit, as applicable, of their or its intent to refinance, modify or amend the Loan(s), either party may by written notice to the other, submit the determination of Fair Market Value to arbitration in accordance with subsection (b) below.

(b) If either party elects to subject the determination of Fair Market Value to arbitration, then it shall also, in the same notice in which it elects arbitration, designate an appraiser. Within ten (10) days after receipt of such notice, the other party shall give notice designating a second appraiser. The two appraisers so selected shall, within ten (10) days following the selection of the second appraiser, select a third appraiser. The appraisers so selected shall, within ten (10) days following the selection of the final appraiser, meet, review such information as may be submitted by CDP, PSD, CDP and PSD as tenants-in-common or the Owner of the Systems Block Retail Unit, as applicable, or City, and such other information as they deem pertinent to the determination of the Fair Market Value of the Systems Block Retail

Unit, and, within thirty (30) days of the selection of the final appraiser, determine (either unanimously or by a vote of two of the three appraisers) the applicable Fair Market Value of the Systems Block Retail Unit. The appraisers shall give written notice to the parties of the Fair Market Value so determined.

(c) If either CDP, PSD, CDP and PSD as tenants-in-common or the Owner of the Systems Block Retail Unit, as applicable, or City shall fail to designate an appraiser within the time period specified in subsection (b) above, the defaulting party shall be deemed to have accepted the appraiser designated by the other, in which event the one appraiser described in subsection (b) shall make the determination of the Fair Market Value of the Systems Block Retail Unit in accordance with subsection (b) above.

(d) If the two appraisers designated by the parties are unable to agree on a third appraiser within the time period specified in subsection (b) above, then either CDP, PSD, CDP and PSD as tenants-in-common or the Owner of the Systems Block Retail Unit, as applicable, or City may apply to the Superior Court of the State of Washington for King County to designate a third appraiser.

(e) All appraisers designated pursuant to subsection (b) above shall be disinterested MAI appraisers with not less than ten (10) years experience in appraising commercial properties in Seattle, Washington. A disinterested appraiser shall be one who has no direct or indirect financial interest in the outcome of the arbitration (other than payment of a reasonable appraisal fee) and who is not a member, manager, officer, director, shareholder, partner, employee or agent of PSD, CDP, the Owner of the Systems Block Retail Unit, City or the F&N Owner.

(viii) Attornment of Retail Tenants in Favor of City. Until the expiration of the Transfer Period the Owner of the Systems Block Retail Unit shall use its best efforts to require that all leases of space in the Systems Block Retail Unit contain either a subordination, non-disturbance and attornment provision in a form reasonably acceptable to Project Lender as permitted elsewhere in this Agreement or a subordination and attornment provision in substantially the form attached hereto as Exhibit I or otherwise to similar effect whereby tenants of the Systems Block Retail Unit agree that upon any foreclosure of any Mortgage (as therein defined), including the City Mortgage such tenants agree to attorn to such Mortgage (as therein defined), including the City if the City is then a Mortgagee.

B. Notices by Project Lender to City. CDP, PSD, CDP and PSD as tenants-in-common or the Owner of the Systems Block Retail Unit, as applicable, shall use their or its best efforts to cause Project Lender to notify City in writing of a default by CDP, PSD, CDP and PSD as tenants-in-common or the Owner of the Systems Block Retail Unit, as applicable, under the Loan(s) once Project Lender has commenced foreclosure of the Project Mortgage on the Systems Block Property. CDP, PSD, CDP and PSD as tenants-in-common or the Owner of the Systems Block Retail Unit, as applicable, shall provide City a copy of all notices of default and notices of foreclosure it receives from Project Lender promptly following receipt. City shall have the right, but not the obligation, to cure such default or breach within such time period as Project Lender

may reasonably require. In the event City cures such a default, CDP, PSD, CDP and PSD as tenants-in-common or the Owner of the Systems Block Retail Unit, as applicable, shall reimburse City, by crediting against the Lease Transfer Amount otherwise payable by City hereunder an amount equal to all costs and expenses (including reasonable attorneys' fees) incurred by City in curing the default, together with interest thereon at the rate of nine percent (9%) from the date advanced until the Leasing Date.

8. Transfer of Parking Garage Unit and Other Property Interests. Upon the payment of the Lease Transfer Amount defined in Section 11 below and delivery of all items to be delivered by City under Section 14 of this Agreement, CDP agrees to transfer or cause the transfer, whether by agreement with PSD or otherwise, to City or its designee including any Trustee, the following real property interests on the Leasing Date described in Section 10 below (collectively the "Property Interests"):

A. Parking Garage Unit. All of CDP's right, title and interest in and to the Parking Garage Unit (which includes at least a 50% interest in the land, exclusive of improvements, that comprises the Systems Block Property) and all of its right, title and interest as landlord under the Lease on the Leasing Date pursuant to a lease purchase agreement executed by and among CDP as initial landlord, Trustee as successor landlord, and the City as tenant in accordance with the provisions of RCW 35.42.010-.090 (the "Lease") and Sections 5, 11, 13 and 14 of this Agreement.

B. Air Space Easement. The Air Space Easement restricting the bulk (volume) of the Systems Block Retail Unit in favor of and as an easement appurtenant to the Parking Garage Unit and burdening the Systems Block Retail Unit on substantially the terms and conditions set forth in Exhibit K attached hereto and by this reference incorporated herein as part of the Declaration or an amendment thereto.

C. Access Easement. A non-exclusive access easement for the benefit of the Owner of the Parking Garage Unit and its Permittees over, across and through such portion of the Systems Block Retail Unit as is necessary for such Owner and its Permittees to enter and exit the Garage for its intended purpose as part of the Declaration or an amendment thereto ("Access Easement").

D. Facade Easement. The rights of the grantee under a Facade Easement ("Facade Easement") burdening that certain ten story building located on Fifth Avenue and Pine Street in Seattle, Washington ("F&N Building") which Facade Easement shall be an easement in gross in favor of an entity designated by PSD which entity shall assign all of its right, title and interest under the Facade Easement to the City on the Leasing Date. The Facade Easement shall be in substantially the form attached hereto as Exhibit L and by this reference incorporated herein and shall be recorded in the real property records of King County, Washington on or before the Leasing Date. So long as the City has the right to acquire the Parking Garage Unit, (a) the grantee under the Facade Easement will not amend the Facade Easement without the consent of the City which consent shall not be unreasonably withheld, and (b) to the extent that the grantee's consent is required under the terms of the Facade Easement, the grantee will not grant such

consent without the consent of the City which consent shall not be unreasonably withheld, and which consent shall be granted or denied on the terms and conditions and within the time set forth in the Facade Easement.

E. City Transfer Rights. CDP shall cause PSD or any subsequent Owner of the Systems Block Retail Unit to grant City the right to transfer the Parking Garage Unit to PSD or the Owner of the Systems Block Retail Unit, as applicable, during a period of ten (10) years commencing on the twentieth (20th) anniversary of the Leasing Date on the terms and conditions more particularly described in Section 20 below.

9. Conditions Precedent to City's Obligations.

City's obligations to pay the Lease Transfer Amount on the Leasing Date and deliver the documents described in Section 14(B) are expressly conditioned on, and subject to satisfaction of the following conditions precedent:

A. Systems Block Retail Unit Substantially Complete. The Systems Block Retail Unit shall have reached Substantial Completion. The Systems Block Retail Unit shall be Substantially Complete when the following events have occurred:

(1) Architect's Certifications. Architect has issued its "Certificate of Substantial Completion" AIA Document G704, stating that the portion of the work under the construction Contract(s) for the shell and core of the Systems Block Retail Unit building is substantially complete in substantial accordance with the Systems Block Retail Construction Documents and a certificate confirming that the System Block Retail Unit contains at least 300,000 square feet of gross leasable area suitable for entertainment, restaurant and retail uses.

(2) Temporary Certificate of Occupancy. The City of Seattle has issued a temporary certificate of occupancy for the shell of the Systems Block Retail Unit building.

(3) Owner Acceptance. PSD has accepted the shell of the Systems Block Retail Unit building as complete and all punchlist items have been completed.

B. F&N Building Open for Business. 200,000 square feet of Floor Area in the F&N Building is open to the general public for business for retail purposes during the business hours established for the store by Nordstrom or a Major Retailer pursuant to the REA; provided, however, that this requirement shall not be a condition precedent and this requirement shall be deemed satisfied if the City has not reopened Pine Street to automobile traffic as a result of City's default under the agreement between the City and Nordstrom dated April 25, 1995 relating to the reopening of Pine Street, as such agreement may be confirmed, clarified or amended by the parties thereto.

C. Systems Block Retail Tenant Leases. PSD and CDP as tenants-in-common have delivered City a certificate stating that the Owner of the Systems Block Retail Unit has

satisfied its obligation with respect to subordination, non-disturbance and attornment provisions in certain of its leases to retail tenants of the Systems Block Retail Unit as provided in Section 7(A)(iii) of this Agreement and used its best effort to include subordination and attornment provisions in substantially the form of Exhibit I attached hereto and by this reference incorporated herein or otherwise to similar effect in the remainder of such leases as required under the provisions of Section 7(A)(viii).

D. Condominium Declaration. PSD and CDP as tenants-in-common shall have caused the Systems Block Project to be subjected to a condominium declaration (including Survey Map and Plans) which satisfies the requirements of this Agreement and is mutually acceptable to City and PSD and CDP as tenants-in-common agree (the "Declaration"). So long as the City has a right to acquire the Parking Garage Unit, PSD and CDP agree not to amend the Declaration without the consent of the City, which consent shall not be unreasonably withheld. The Declaration shall define the boundaries of each Unit, the Common Elements and the Limited Common Elements assigned to each Unit. The Declaration shall provide that at least a 50% interest in the land (exclusive of improvements) be allocated to the Parking Garage Unit. The Declaration shall grant the Owner of the Parking Garage Unit a non-exclusive access easement for the benefit of the Owner of the Parking Garage Unit and its Permittees over, across and through such portion of the Systems Block Retail Unit as is necessary for such Owner and its Permittees to enter and exit the Garage for its intended purpose during hours when the Garage is open for business. The Declaration shall contain such other easements, including, but not limited to, a negative easement and restrictive covenant in the form of Exhibit K to this Agreement, easements for the continued structural support of the Systems Block Retail Unit and easements for access to each Unit in favor of the Condominium Association in the event that maintenance obligations of an Owner under this Agreement, the Parking Covenants and/or the Parking Agreement are not performed in accordance with the requirements of such agreements and such other easements as City, PSD and CDP may agree. The Declaration shall set forth the formula for determining the Allocated Interests of each Unit, and each Unit's undivided interest in the Common Elements, or Limited Common Elements, each Unit's votes, and each Unit's share of Assessments, Common Expenses, Common Expense Liabilities, Limited Common Elements and Special Allocations. The Declaration (1) shall not be amended without the approval of both owners and (2) shall require that the Parking Garage Unit and the Systems Block Retail Unit be rebuilt following damage or destruction unless both Owners agree otherwise.

E. Garage Operation. CDP shall have caused the Garage to be Operated in accordance with the requirements of this Agreement, the Parking Covenants and the Parking Agreement.

CDP shall not notify City of the Leasing Date unless CDP has determined that each of the aforesaid conditions will be satisfied on or before the Leasing Date.

10. Leasing Date. The closing of the transfer of the Property Interests described in Section 8 above to the City or its designee including any Trustee ("Closing"), and delivery of all items to be made on the Leasing Date under the terms of this Agreement shall be made at the offices of Transnation Title Insurance Company or another nationally recognized title insurance

company selected by CDP and not objected to by City ("Escrow Holder") which shall act as the escrow agent and issue the title insurance policies to be delivered in connection with the Closing on any Business Day designated by CDP which Business Day shall be no earlier than one (1) year and no later than three (3) years following the Opening Date. The Business Day chosen by CDP shall be known as the Leasing Date. Such date may be extended by CDP if additional time is needed to satisfy conditions to Closing but in no event shall the Leasing Date be extended beyond a Business Day which is three (3) years following the Opening Date without the prior written consent of both CDP and City. CDP will give City at least five (5) months prior written notice of the Leasing Date in order to allow City sufficient time to arrange financing.

11. Lease Transfer Amount. The consideration to be paid for the transfer of the Property Interests to the City or its designee is referred to in this Agreement as the "Lease Transfer Amount". Since several years are expected to have elapsed from the date of the Memorandum of Agreement until the Leasing Date, the parties recognize and agree that (a) the value of the Property Interests will increase between the date of the Memorandum of Agreement and the Leasing Date, (b) the time value of money should be recognized, (c) substantial costs are expected to be incurred by CDP during the "shake down" (first year of operation of the Garage) period, (d) the exact date of the Leasing Date is not known at this time, and (e) it is in the best interests of both CDP and City to fix the Lease Transfer Amount in advance in order to avoid future controversies. Accordingly, the Lease Transfer Amount is Seventy-Three Million Dollars (\$73,000,000). The Lease Transfer Amount shall not be increased for any reason. On the Leasing Date an amount equal to the Lease Transfer Amount adjusted to reflect each party's share of prorations and closing costs as set forth in Section 14 below shall be paid by or on behalf of City to CDP in cash or other immediately available funds.

12. Title to Property Interests. CDP shall convey title to the Parking Garage Unit to the City or its designee, including any Trustee, on the Leasing Date by executing and delivering the Lease or other form of conveyance which meets the requirements of this Agreement subject to (i) this Agreement, the Declaration, the Parking Covenants, the Parking Agreement, (ii) general governmental building or use restrictions consistent with the zoning regulations for the Systems Block Property from time to time, (iii) utility and other easements not inconsistent with the use of the Garage as a parking garage,* (iv) all easements, covenants, conditions and restrictions which may be imposed on the Systems Block Property during the course of construction as a result of permits or other conditions imposed by any governmental authority as a condition to issuing a master use permit, building permit or any other license or approval,* (v) the rights of patrons of the Garage under Monthly Long-Term Parking Contracts, Special Use Long-Term Parking Contracts and Special Use Valet Parking contracts, and (vi) any exception to title to the Systems Block Property approved by City as of the date of this Agreement, and listed in Exhibit M to this Agreement (collectively, "Permitted Exceptions"), the Lease and any liens, encumbrances or defects created or incurred by City after the date of this Agreement. CDP and PSD as tenants-in-common shall cause any Project Lender holding a Project Mortgage on the Systems Block Property to execute and record a reconveyance of such Project Mortgage as to the Parking Garage Unit as of the Leasing Date. CDP shall cause the Escrow Holder to deliver an irrevocable commitment for an ALTA form extended coverage owner's policy of title insurance with liability in the amount of the Lease Transfer Amount insuring that upon the Leasing Date the Parking

* note: general exception will be replaced by specific exceptions as appropriate.

Garage Unit will be vested in City or its designee, including any Trustee, subject only to this Agreement, the Permitted Exceptions, the Lease and any liens, encumbrances or defects created or incurred by City after the date of this Agreement which title insurance policy shall contain an endorsement providing affirmative coverage against construction liens.

13. Payment and Financing of Lease Transfer Amount.

A. The City's obligation to pay the Lease Transfer Amount on the Leasing Date is not conditioned on the execution and delivery of Certificates of Participation or other tax-exempt or taxable obligations regardless of interest rate, and in the event City is unable to issue Certificates of Participation or is unable or elects not to issue other tax-exempt obligations, City shall nevertheless be obligated to pay CDP the Lease Transfer Amount in cash or other immediately available funds on the Leasing Date.

B. Not later than the Leasing Date the City intends to finance its acquisition of the Property Interests by causing the execution and delivery of tax-exempt Certificates of Participation or the issuance of other tax-exempt obligations in an amount sufficient to cause the payment to CDP of the full Lease Transfer Amount. City represents and warrants to CDP and PSD that as of the date hereof it has sufficient debt capacity under existing Washington law ("Debt Capacity") to permit the principal component of the Certificates of Participation or other obligations to equal the Lease Transfer Amount. City agrees that it will not incur any indebtedness or lease obligations from and after the date of this Agreement which would cause it not to have sufficient Debt Capacity under Washington law to permit the principal component of the Certificates of Participation or other obligations to at least equal the Lease Transfer Amount. City has represented to CDP and PSD that it intends to pay the Lease Transfer Amount to CDP in connection with the acquisition or transfer of the Property Interests on the Leasing Date with the proceeds from the sale of Certificates of Participation in the Lease, and CDP and PSD have relied on this representation in entering into this Agreement. City agrees to use its best efforts to cause the execution and delivery of Certificates of Participation and shall cause the execution and delivery of tax-exempt or taxable Certificates of Participation to the exclusion of other methods of financing legally available to City so long as the present value of the projected debt service payable under Certificates of Participation in a principal amount equal to the Lease Transfer Amount does not exceed 101% of the present value of the projected debt service payable on another method of financing for the same principal amount and an amortization schedule which would fully amortize the Lease Transfer Amount over a term of 30 years that is then legally available to City ("Alternative City Financing"). If the present value of the projected debt service on the Certificates of Participation is less than or equal to 101% of the present value of the projected debt service on the Alternative City Financing, the City shall cause the execution and delivery of the Certificates of Participation. If City notifies CDP and PSD that the present value of the projected debt service on the Certificates of Participation exceeds 101% of the present value of the projected debt service on the Alternative City Financing, the City shall nevertheless cause the execution and delivery of Certificates of Participation if, at the request of CDP or PSD within five (5) Business Days following receipt by CDP and PSD of City's notice of the projected debt service on such Certificates of Participation, PSD and/or CDP request the City in writing to cause the execution and delivery of the Certificates of Participation and agree to pay the City on

the Leasing Date an amount equal to the present value of the actual debt service on the Certificates of Participation which is in excess of 101% of the present value of the projected debt service on the Alternative City Financing. CDP and PSD understand that the City intends to provide for the payment of the Lease Transfer Amount with the proceeds from the sale of tax-exempt Certificates of Participation or other tax-exempt obligations. Accordingly, CDP and PSD agree that the provisions of this Agreement dealing with the Operation and use of the Garage on and after the Leasing Date shall be amended as the City's bond counsel may reasonably require to ensure that interest on such tax-exempt Certificates of Participation or other tax exempt obligations shall be excluded from gross income for federal income tax purposes to the extent provided under the Code. In the event the City is unable to cause the execution and delivery of Certificates of Participation or the issuance of other obligations to finance the acquisition of the Property Interests, the City shall nevertheless be obligated to pay the Lease Transfer Amount on the Leasing Date as provided in Section 13(A) of this Agreement. The City shall pay, or cause the payment of, any and all Financing Costs in connection with the issuance of the Certificates of Participation or other obligations. The City reserves the right to refinance the Certificates of Participation or other obligations from time to time; provided, however, the City shall not refinance the Certificates of Participation or other obligations on terms and conditions that would preclude or prohibit the City from either redeeming, prepaying or defeasing such Certificates of Participation or other obligations during the Transfer Period defined in Section 20 of this Agreement.

C. In the event the City, consistent with its obligations under this Agreement, does not lease the Parking Garage Unit through a lease purchase agreement or does not cause the execution and delivery of the Certificates of Participation, the parties understand that all references to the Lease and the Certificates of Participation shall have no further force and effect and CDP shall convey the Parking Garage Unit to City pursuant to a statutory warranty deed which meets the requirements of this Agreement and City shall pay CDP the Lease Transfer Amount in cash or other immediately available funds on the Leasing Date.

14. Closing. On or before the Leasing Date and before Closing occurs, the parties shall deposit with the Escrow Holder the following:

A. Delivery by CDP and PSD. CDP and/or PSD, as applicable, shall deliver the following documents and funds:

(1) The Lease, or in the event Certificates of Participation are not issued, a statutory warranty deed to the Parking Garage Unit which meets the requirements of this Agreement, executed in recordable form and ready for recordation on the Leasing Date, together with an executed real estate excise tax affidavit prepared by CDP and PSD;

(2) Affidavit executed by CDP which satisfies the requirements of Section 1445 of the Code regarding foreign investors;

(3) Evidence reasonably satisfactory to City that the Facade Easement has either been recorded in the real property records of King County, Washington or has been

executed in recordable form together with an assignment of the grantee's rights thereunder executed in recordable form and ready for recordation on the Leasing Date, and that the Title Company is prepared to issue the City an endorsement to its ALTA extended coverage owner's policy of title insurance in substantially the form of Exhibit J attached hereto and by this reference incorporated herein;

- (4) Evidence reasonably satisfactory to City that the Air Space Easement and Access Easement have been created under the Declaration or amendments thereto recorded in the real property records of King County, Washington and are insured by the Title Company as easements appurtenant to the Parking Garage Unit;
- (5) Copies of the recorded Declaration and filed Survey Map and Plans;
- (6) Copies of the Articles, Bylaws, and current operating budget of the Condominium Association;
- (7) Evidence reasonably satisfactory to City that the conditions precedent set forth in Section 9 of this Agreement have been satisfied;
- (8) Environmental Certification executed by CDP and PSD in substantially the form of Exhibit N to this Agreement;
- (9) All original warranties and guarantees which CDP and/or CDP and PSD as tenants-in-common have received in connection with the construction of the Garage (other than the Contractor's warranties described in Section 14(A)(13)) or in connection with any work or services performed with respect to, or equipment installed in, the Garage or the Parking Garage Unit (to the extent assignable and to the extent such warranties have not expired in accordance with their terms), together with a duly executed assignment of warranties and guarantees in a form reasonably satisfactory to City or its designee, as applicable;
- (10) The City Mortgage in substantially the form of Exhibit H duly executed and acknowledged by the Owner of the Systems Block Retail Unit, a properly executed UCC-1 financing statement with respect to the personal property described in the City Mortgage, together with a certificate confirming such Owner's acceptance of the City's rights under Section 20 of this Agreement;
- (11) CDP shall deliver a certificate of land use and assessment from the City of Seattle Department of Construction and Land Use confirming the zoning of the Parking Garage Unit and confirming the status of all taxes and assessments levied against the Parking Garage Unit which will be prorated between the parties pursuant to Section 14(D) hereof;
- (12) CDP shall deliver its certificate stating that (a) the Garage has been designed and built in accordance with the requirements of the Umbrella Agreement, the Parking Covenants and the Parking Agreement, meets the standard of a first-class garage as set forth in

the Parking Covenants and can be operated in a manner consistent with the requirements of the Parking Covenants, (b) since the Opening Date the Garage has been Operated in a manner consistent with the Parking Covenants and/or the Parking Agreement, and (c) the Garage is in the same condition as it was on the Opening Date, ordinary wear and tear excepted;

(13) An extension of the Contractor's warranties of work and materials under the Garage Construction Contract(s) for an additional period of one (1) year commencing on the Leasing Date together with a duly executed assignment of such extended warranties in a form reasonably satisfactory to City;

(14) Any reconveyance documents required to eliminate of record any existing deeds of trust and other security documents which are not Permitted Exceptions as hereinabove defined and any affidavit required to eliminate the title company exception for construction liens and the rights of parties in possession;

(15) Copies of books and records in the possession or control of CDP or its operator which City may reasonably request to operate and maintain the Garage (including applicable maintenance records) together with the originals of all permits, licenses, and approvals necessary for the occupation, use and Operation of the Garage together with a copy of the as-built plans and specifications for the Garage;

(16) Copies of all environmental assessments and remedial reports of the Systems Block Property prepared for or in the possession of PSD and CDP together with evidence reasonably satisfactory to City that PSD and CDP as tenants-in-common have removed any underground storage tanks and removed any contaminated soil and/or conducted any other remedial action reasonably necessary to clean up the Systems Block Property in accordance with the requirements of Section 23 of this Agreement;

(17) An irrevocable commitment from the Title Company to issue the City or its designee an ALTA owner's extended coverage title insurance policy in form and substance satisfactory to City with liability in the amount of the Lease Transfer Amount showing fee simple title to the Parking Garage Unit (including the appurtenant Air Space Easement and Access Easement) vested in the City or its designee, including the Trustee if the City issues Certificates of Participation, subject only to this Agreement, the Permitted Exceptions, the Lease and any liens, encumbrances or other defects created or incurred by City after the date of this Agreement which title insurance policy shall contain an endorsement providing affirmative coverage against construction liens. At the request of City, all or any portion of the owner's policy of title insurance shall be reinsured under reinsurance agreements and with reinsurers reasonably satisfactory to City, and the cost of such reinsurance, if any, shall be paid by CDP as part of the cost of the owner's policy of title insurance;

(18) An irrevocable commitment from the Title Company to issue the City an ALTA lender's policy of title insurance insuring the City Mortgage as a lien on the Systems Block Retail Unit, subject only to this Agreement, the Retail Unit Permitted Exceptions, the Project Mortgage and the rights of space tenants of the Systems Block Retail Unit under

leases in effect on the Leasing Date. City acknowledges and agrees that pursuant to the provisions of Section 7(A)(iii) of this Agreement the Owner of the Systems Block Retail Unit will have entered into certain tenant leases for space in the Systems Block Retail Unit that contain subordination, non-disturbance and attornment provisions. The Owner of the Systems Block Retail Unit will use its best efforts to cause the remainder of the tenant leases to contain subordination and attornment agreements in substantially the form attached hereto as Exhibit I and by this reference incorporated herein or otherwise to similar effect. At the request of City, all or any portion of the mortgagee's policy of title insurance shall be reinsured under reinsurance agreements and with reinsurers reasonably satisfactory to City and the cost of such reinsurance, if any, shall be paid by City as part of the cost of the mortgagee's policy of title insurance;

(19) A certificate by CDP stating that there are no contracts or agreements relating to Operation and maintenance of the Garage including, but not limited to, parking management agreements or leases with a parking operator and/or valet parking operator, that survive the Leasing Date (other than Permitted Exceptions);

(20) Assignment and assumption agreements in form and substance reasonably acceptable to CDP and City duly executed by CDP, and PSD if applicable, of the Monthly Long-Term Parking Contracts, Special Use Long-Term Parking Contracts and Special Use Valet Parking contracts;

(21) In the event CDP or PSD has transferred all or any portion of its interest under this Agreement, either voluntarily or involuntarily, an assumption agreement in form and substance satisfactory to CDP or PSD, as applicable, such transferee and City whereby such transferee shall assume such rights, duties and obligations under this Agreement as CDP or PSD, as applicable, may have assigned, transferred, or delegated to such transferee;

(22) Such resolutions, certificates or other documents or agreements related to CDP, PSD or, if applicable, the Owner of the Systems Block Retail Unit, and the authority of each to enter into and perform its obligations under this Agreement as shall be reasonably required by City or Escrow Holder in connection with closing the City's acquisition of the Property Interests;

(23) The additional funds required to be paid to City under the provisions of Section 13(B) of this Agreement if CDP or PSD has exercised its right to require the City to issue Certificates of Participation.

(24) Any other documents, instruments, data, records or other agreements called for herein which have not been previously delivered.

B. Delivery by City. City shall deliver the following documents and the Lease Transfer Amount:

(1) Lease Transfer Amount in cash or other immediately available funds (as adjusted pursuant to Sections 14(D) and 14(E) hereof);

(2) The Lease, together with the real estate excise tax affidavit prepared by CDP and PSD, duly executed and acknowledged by City and Trustee;

(3) Estoppel certificate(s) and subordination agreement(s) in form and substance reasonably satisfactory to Project Lender(s) and City duly executed by City;

(4) Assignment and assumption agreements in form and substance reasonably acceptable to CDP, PSD if applicable, and City duly executed by City of the Monthly Long-Term Parking Contracts, Special Use Long-Term Parking Contracts and Special Use Valet Parking contracts;

(5) Copies of any Trust Agreement or other documentation executed by Trustee or others necessary to cause the execution and delivery of the Certificates of Participation and the Lease by the Trustee or the City's designee on or before the Leasing Date;

(6) Copies of parking management agreements between City and a parking operator and valet parking operator, if different, who meet the criteria established under the Parking Agreement;

(7) Such ordinances, authorizations, certificates or other documents or agreements relating to City, the City's designee or Trustee as shall be reasonably required by CDP, PSD, the Owner of the Systems Block Retail Unit, Project Lender(s) or Escrow Holder in connection with closing the City's acquisition of the Property Interests;

(8) Any other documents, instruments, data, records, or other agreements called for herein which have not been previously delivered.

C. Other Instruments. CDP, PSD, the Owner of the Systems Block Retail Unit, City, the City's designee or Trustee, if applicable, shall each deposit such other instruments as may be reasonably required by Escrow Holder or as may be otherwise required to close the escrow and consummate the acquisition of the Property Interests in accordance with the terms hereof.

D. Prorations.

(1) All revenues and all expenses of the Parking Garage Unit, including, but not limited to, real and personal property taxes, special assessments, Assessments, rents, water, sewer and utility charges, amounts payable under contracts assumed by City, annual permits and/or inspection fees (calculated on the basis of the respective periods covered thereby), and other expenses normal to the ownership, use, Operation and maintenance of the Garage shall be prorated as of 12.01 a.m. on the Leasing Date so that CDP bears all expenses of the Parking Garage Unit prior to the Leasing Date and City bears all expenses of the Parking Garage Unit on and after the Leasing Date. Under current Washington law, the City is exempt from payment of certain real and personal property taxes. In the event the City is exempt from payment of certain

real and personal property taxes under Washington law on the Leasing Date, City shall not be responsible for payment of same on and after the Leasing Date. CDP may seek reimbursement from the taxing authorities to whom CDP may have paid any such real or personal property tax that is allocable to any period of time after the Leasing Date and City shall cooperate with and make all reasonable efforts to assist CDP in securing such reimbursement. If any revenue or expense amount cannot be ascertained with certainty as of the Leasing Date, it shall be prorated on the basis of the parties' reasonable estimates of such amounts, and shall be the subject of a final proration sixty (60) days after Closing or as soon thereafter as the precise amounts can be ascertained. Either party owing the other party a sum of money based on adjustments made to the prorations after the Leasing Date shall promptly pay that sum together with interest thereon at the rate of nine percent (9%) per annum from the date of demand therefor to the date of payment if payment is not made within ten (10) days after the delivery of a statement therefor.

(2) CDP shall pay all costs and expenses necessary including payments to PSD to cause PSD and/or such other parties as necessary to deliver the Facade Easement, the Air Space Easement, the Access Easement and the City Transfer Rights to the City as provided in this Agreement.

E. Costs and Expenses. CDP shall pay the premium for an ALTA extended coverage owner's policy of title insurance (including the premiums for any reinsurance requested by City) and all real estate excise taxes, if any, applicable to the transfer of the Property Interests, all escrow fees and all recording fees. City shall pay all costs and expenses associated with execution and delivery of the Certificates of Participation or other City obligations incurred to finance the acquisition of the Property Interests, the cost of any title endorsements it requests (other than an endorsement in the form of Exhibit J insuring the City's rights under the Facade Easement) and the cost of any other title insurance policies issued at Closing, including, but not limited to, any title insurance policy insuring the City Mortgage, including, in all cases, the premiums for any reinsurance requested by City.

F. Close of Escrow; Recording. On the Leasing Date, the Escrow Holder shall disburse the Lease Transfer Amount (as adjusted pursuant to Sections 14(D) and 14(E) hereof) to CDP and shall record the documents described in Section 14(A)(1), (3), (10) and (14), (B)(2), (3) and (4) in the real property records of King County, Washington, deliver the affidavit described in 14(A)(2) the construction warranties and guarantees described in 14(A)(9) and (13), all documents described in 14(A)(15) and (16), (20) and (21) and the title policies to City or its designee and deliver the City estoppel(s) described in 14(B)(3) to Project Lender(s). Escrow Holder shall deliver copies of all documents executed, delivered and/or recorded in connection with this transaction to CDP, PSD, the Owner of the Systems Block Retail Unit, Project Lender(s), City, the City's designee or Trustee, if any, as applicable, together with closing statements in form customarily prepared by Escrow Holder within five (5) days following the Leasing Date.

G. Delay in Closing. Notwithstanding any other provision of this Agreement to the contrary, the City shall not be in default under this Agreement if the City is unable to pay the Lease Transfer Amount pursuant to Section 13 of this Agreement because (i) a court of

competent jurisdiction has issued an injunction or other order that prevents the City from paying the Lease Transfer Amount or otherwise performing its obligations under Section 13 of this Agreement or an appeal is pending challenging the City's ability to pay the Lease Transfer Amount or otherwise perform its obligations under Section 13 of this Agreement; or (ii) the City is otherwise prohibited by referendum or as a matter of law as determined by a final judgment entered by a court of competent jurisdiction which is no longer the subject of a good faith appeal from paying the Lease Transfer Amount or otherwise performing its obligations under Section 13 of this Agreement; or (iii) changes in state law have decreased the limit of the City's debt capacity to the extent that the City is legally unable to incur debt, provided, that from the date hereof until the Leasing Date the City always shall have Seventy-Three Million Dollars (\$73,000,000) in unused limited tax general obligation debt capacity available for the Lease Transfer Amount following any issuance of other debt obligations. In the event of a delay in the performance by City as a result of an event described in the immediately preceding sentence, but subsequent performance by the City, CDP shall be entitled to the Lease Transfer Amount plus an amount equal to the average of the City's cost of funds on the originally designated Leasing Date and the cost of funds of CDP and PSD on the originally designated Leasing Date for the period from the date of the originally designated Leasing Date to the actual Leasing Date together with half of any late charges paid by CDP and PSD on their loan(s) less the net operating income, if any, of CDP derived from the Operation of the Garage from the originally designated Leasing Date to the actual Leasing Date. City shall not seek legislation or support legislation that would prevent City from paying the Lease Transfer Amount, or otherwise performing its obligations under Section 13 of this Agreement.

15. Operation of the Garage After the Leasing Date.

A. Use. So long as either a Major Retailer is Operating 200,000 square feet of Floor Area in the F&N Building for retail purposes or the Owner of the Systems Block Retail Unit is Operating the Systems Block Retail Unit, City shall at its sole cost and expense cause the Garage to be used, Operated and maintained (including routine repairs) by a professional parking garage operator as a parking garage which can park at least 1,200 multi-passenger motor vehicles and which is open to members of the general public (including Required Long-Term Parking and valet parking) in accordance with this Agreement, the Declaration, the Parking Covenants and the Parking Agreement, including the requirement that the Garage be Operated and maintained in first-class order, condition and repair in accordance with practices prevailing in first-class urban regional shopping centers including multi-level parking garages ("Permitted Use") and for no other purpose whatsoever without the prior written consent of the Owner of the Systems Block Retail Unit, which consent may be withheld by the Owner of the Systems Block Retail Unit in its sole and absolute discretion.

B. Change in Use of Garage. Notwithstanding the provisions of Section 15(A) of this Agreement if (1) a Major Retailer is not Operating 200,000 square feet of Floor Area in the F&N Building for retail purposes, but the Owner of the Systems Block Retail Unit is Operating the Systems Block Retail Unit, or (2) a Major Retailer is Operating 200,000 square feet of Floor Area in the F&N Building for retail purposes but the Owner of the Systems Block Retail Unit is not Operating the Systems Block Retail Unit, and (3) the Garage is "Fully Utilized" (as

that term is defined below) ten (10) days or less during the preceding calendar year, then the City shall have the right to use the lowest floor of the Garage for parking of City vehicles during the subsequent calendar year ("Alternative Permitted Use"). The Garage will be deemed to be "Fully Utilized" on any day that the peak parking usage within the Garage is equal to or greater than the total number of parking spaces within the Garage minus the number of parking spaces located on the lowest floor of the Garage. The remainder of the Garage shall continue to be used solely for the Permitted Use subject to the terms and conditions of this Agreement. The City shall provide the parties to the Parking Covenants and the Parking Agreement with monthly reports on parking usage of the Garage during any period of Alternative Permitted Use. Utilization of the Garage shall be reviewed by the City and the Parties to the Parking Covenants on an annual basis to determine whether the Garage has been Fully Utilized less than ten days during the preceding calendar year. If, however, in an ensuing year the Garage is Fully Utilized on ten (10) days or more, the City's right to park its vehicles in the Garage shall cease until the criteria set forth above are again satisfied and the entire Garage shall again be devoted to parking of vehicles by members of the general public as soon as reasonably practicable after notice has been given to the City that states (a) the Garage has been Fully Utilized on ten (10) days or more, (b) the dates upon which such events occurred, and (c) that the City's right to park its vehicles in the Garage has terminated. Upon any termination of the Alternate Permitted Use trade fixtures, personal property or other improvements installed in connection with the Alternate Permitted Use, if any, shall be removed and any repairs made to the extent necessary to restore the floor to first-class condition and repair and otherwise in the condition required under the Parking Covenants and the Parking Agreement and the City shall thereafter use the Garage solely for the Permitted Use until the criteria set forth above are again satisfied.

C. Uses Prohibited.

(1) The layout, configuration, lighting, graphics, structural support characteristics and locations of exits and entrances of the Garage shall not be materially altered from the as-built plans and specifications for the Garage without the prior written approval of the parties to this Agreement, the Parking Covenants and the Parking Agreement.

(2) City shall not do or permit anything to be done in or about the Garage nor bring or keep anything therein which will in any way increase the existing insurance rate or affect any fire or other insurance upon the Garage or the Condominium of which the Garage may be a part (unless City shall pay any increased premium as a result of such use or acts), or cause a cancellation of any insurance policy covering said Garage or the Condominium or any part thereof, nor shall City sell or permit to be kept, used or sold in or about said Garage any articles which may be prohibited by a standard form policy of fire insurance.

(3) City shall not do or permit anything to be done in or about the Garage which will in any way obstruct or interfere with the rights of other tenants or Occupants of the System Block Retail Unit or injure or annoy them or use or allow the Garage to be used for any use other than the Permitted Use (or Alternate Permitted Use subject to the terms and conditions set forth in Section 15(B) above) or to be used for any unlawful or objectionable

purpose, nor shall City cause, maintain or permit any nuisance in, on or about the Garage. City shall not commit or suffer to be committed any waste in or upon the Garage.

(4) City shall not install or permit the installation of any underground storage tanks in the Garage, allow any Person to sell or dispense gasoline, diesel fuel or other petroleum products from fuel tanks located in the Garage, sell motor oil, nor allow any Person to provide automobile repair services (other than emergency repairs) in the Garage.

(5) No use or operation will be made, conducted or permitted on any part of the Garage which use or operation is clearly objectionable to the development or operation of the Complex as a first-class urban multi-use complex utilized to the maximum extent for retail and entertainment purposes, including, but not limited to, the use restrictions set forth in the Parking Covenants and/or the Parking Agreement.

(6) So as not to interfere with efficient pedestrian traffic flow within the Garage and to the extent permitted by law there shall be no sales conducted within the Garage without the prior written consent of the parties to the Parking Covenants and the Parking Agreement and no kiosks, pushcarts or other merchandising units or obstructions shall be placed in the Garage.

(7) City shall not use the Garage or permit anything to be done in or about the Garage or prohibit anything to be done in the Garage which will in any way conflict with any law, statute, ordinance or governmental rule or regulation or requirement of duly constituted public authorities now in force or which may hereafter be enacted or promulgated.

(8) City shall Operate and maintain or cause the Garage to be Operated and maintained so that unsafe levels of carbon monoxide, noxious fumes and other pollutants do not remain in the Garage or enter the Systems Block Retail Unit.

(9) City shall not enter into any written or oral contracts or agreements with respect to the Operation of the Garage which will survive the Transfer Date or the Reacquisition Date (other than Permitted Exceptions).

D. Parking Agreement. After the Leasing Date the City shall have the right to Operate and maintain the Garage in its sole discretion consistent with this Agreement, the Declaration, the Parking Covenants and the Parking Agreement. City shall at its sole cost and expense cause the Garage to be used, Operated and maintained (including routine repairs) by a professional parking garage operator as a parking garage which can park at least 1,200 multi-passenger motor vehicles and which is open to members of the general public (including Required Long-Term Parking and valet parking) in accordance with this Agreement, the Declaration, the Parking Covenants and the Parking Agreement. The City shall at all times cause the Garage to be Operated by a qualified parking operator and a qualified valet parking operator selected in accordance with this Agreement, the Parking Covenants and the Parking Agreement and applicable state law, but in the event there is any conflict between the requirements of the Parking Covenants, the Parking Agreement and applicable state law, the requirements of state law shall

control. City shall maintain, or shall cause its parking operator and valet parking operator to maintain in full force and effect the insurance set forth in Exhibit F attached hereto and by this reference incorporated herein. City shall maintain, or cause to be maintained, in full force and effect the insurance required under Section 24 of this Agreement. City shall have the right to modify or terminate the Monthly Long-Term Parking Contracts, the Special Use Long-Term Parking Contracts, and the Special Use Valet Parking contracts and modify the Parking Agreement if, in the reasonable opinion of the City's bond counsel such modification or termination is necessary to create or preserve the tax-exempt status of interest payable on any outstanding Certificates of Participation or other tax-exempt obligations issued by the City in connection with the transfer of the Property Interests to City pursuant to this Agreement.

E. Required Long-Term and Short-Term Parking. City acknowledges that 171 of the parking stalls in the Garage are Required Long-Term Parking under the Land Use Code. The master use permit issued December 21, 1995 requires that the remaining parking stalls be used for Short-Term Parking.

F. Valet Parking. The City will offer valet parking to members of the general public in accordance with the Parking Agreement. Special Use Valet Parking services to park cars in a portion of the 240 valet parking spaces may be provided by a valet parking operator designated by the Owner of the Systems Block Retail Unit and/or the F&N Owner under Special Use Valet Parking contracts on terms and conditions set forth in the Parking Agreement.

16. Operation of the Condominium. PSD and CDP as tenants-in-common shall cause the Systems Block Project to be subject to the Declaration (including Survey Map and Plans) which satisfies the requirements of this Agreement and is mutually acceptable to City and PSD and CDP as tenants-in-common. The Association will be governed by a Board as specified in the Bylaws. The rights and duties of the Board, the Owners of Units and of the Association shall be governed by the provisions of the Condominium Act, the Declaration and the Bylaws. The Board shall at all times act on behalf of the Association and may contract with an experienced professional managing agent to assist the Board in the management and operation of the Condominium as provided in the Declaration.

17. Operation of the Systems Block Retail Unit. PSD or the Owner of the Systems Block Retail Unit as applicable shall lease space in the Systems Block Retail Unit to retail, restaurant and entertainment tenants (and, if it so wishes, to commercial and office tenants for gross leasable area in excess of 300,000 square feet) in accordance with any leasing requirements imposed by the Project Lender(s) and otherwise in accordance with applicable zoning requirements. Until expiration of the Transfer Period such leases shall contain either subordination, non-disturbance and attornment provisions as permitted under Section 7(A)(iii) of this Agreement or PSD or the Owner of the Systems Block Retail Unit, as applicable, will each use its best efforts to cause such leases to contain subordination and attornment provisions in substantially the form of Exhibit I attached hereto and by this reference incorporated herein or otherwise to similar effect as required under Section 7(A)(viii) of this Agreement.

A. Employment Programs. PSD or the Owner of the Systems Block Retail Unit, as applicable, shall use its best efforts to encourage the tenants who lease space in the Systems Block Retail Unit to participate in hiring programs for low-income and disadvantaged Seattle residents. PSD or the Owner of the Systems Block Retail Unit, as applicable, will subscribe to CANDO in order to make candidate information available from it to new tenants in the Systems Block Retail Unit.

B. Leasing Reports. Subsequent to the execution of this Agreement and until the Leasing Date PSD or the Owner of the Systems Block Retail Unit, as applicable, shall make quarterly reports to the City as to the actual progress of PSD or the Owner of the Systems Block Retail Unit, as applicable, in leasing space (including applicable square footage under lease) in the Systems Block Retail Unit and provide City with a copy of any subordination, non-disturbance and attornment or subordination and attornment provisions contained therein. After the Leasing Date and until expiration of the Transfer Period the Owner of the Systems Block Retail Unit shall provide City with an annual report on new leases of space in the Systems Block Retail Unit during the previous year and shall provide City with a copy of the subordination provisions contained in such leases. City agrees that such reports may be in the form required by the Project Lender. In the event the Project Lender does not require use of a particular form such leasing reports shall be in a form reasonably acceptable to City and PSD or the Owner of the Systems Block Retail Unit, as applicable.

C. CDP and PSD Individually and/or as Tenants-In-Common To Install Signs and Banners. CDP and PSD individually and/or as tenants-in-common shall, at their sole cost and expense, design, construct and install a uniform signage system for the Condominium and the Parking Garage Unit prior to the Leasing Date including decorative banners and building directory and informational signs in glass enclosed cases in elevator cabs and elevator vestibules accessing the Garage to create an attractive and welcoming atmosphere in the Garage. Such directory and informational signs shall not contain advertising, but may provide a listing of Occupants of the Complex and maps and directions to their businesses. All Garage signage and graphics shall comply with the Parking Covenants, the Parking Agreement and applicable state law. In the event CDP and PSD as tenants-in-common decide to name the Garage prior to the Leasing Date (which name shall not include the name of a Complex Occupant), the name selected shall be subject to the reasonable approval of City. Neither CDP and PSD as tenants-in-common nor the Owner of the Systems Block Retail Unit shall name the Systems Block Retail Unit or the Condominium without the prior approval of the City's Director of Finance, which approval shall not be unreasonably withheld. Within one week following receipt of the proposed name for the Systems Block Retail Unit or the Condominium the City's Director of Finance shall notify CDP and PSD or the Owner of the Systems Block Retail Unit, as applicable, if the City disapproves of the name. In the event the City's Director of Finance fails to notify CDP and PSD or the Owner of the Systems Block Retail Unit, as applicable, within such time period, the name shall be deemed approved. CDP and PSD as tenants-in-common shall pay the cost of design, construction and installation of the initial signs, banners and glass enclosed cases in such elevator cabs and vestibules. The cost of maintenance and replacement of signs, banners and glass enclosed cases in elevator cabs and elevator vestibules accessing the Garage after the Leasing Date shall be allocated in accordance with the Declaration. In order to maintain a uniform signage program for

the Condominium, City shall not place any identification signage, other signage, advertisements, awnings, banners or other decorations in, on or about the Garage without the prior written consent or approval of CDP and PSD or the Owner of the Systems Block Retail Unit as applicable. Paper signs and/or stickers used as signs, and signs of a temporary nature (other than normal precautionary signs used in connection with maintenance), of whatever composition or material shall not be installed or permitted within the Garage.

18. Termination.

A. Prior to Leasing Date.

(1) CDP and PSD may terminate their obligations under this Agreement upon one hundred eighty (180) days prior written notice to City.

(2) If CDP or CDP and PSD as tenants-in-common commence construction of the Garage before PSD has executed leases for the minimum number of square feet of pre-leasing required under the Project Loan Documents in the Systems Block Retail Unit, City may terminate its obligations under this Agreement upon one hundred eighty (180) days prior written notice to CDP and PSD unless within said one hundred eighty (180) day period PSD executes leases for the minimum number of square feet of pre-leasing of space in the Systems Block Retail Unit required under the Project Loan Documents. City's right to terminate set forth in the immediately preceding sentence shall automatically terminate upon the earlier of the date PSD delivers to City certification that PSD has satisfied the pre-leasing requirements set forth above or the Project Lender has advanced funds under a Project Loan.

(3) Subject to extension pursuant to the provisions of Section 22 of this Agreement, either party may terminate this Agreement upon one (1) year's prior written notice to the other party and the Project Lender, if any, if (i) Substantial Completion of the Garage has not occurred on or before September 30, 1999, or (ii) CDP does not notify City of the Leasing Date on or before March 31, 2002. In the event CDP gives City notice of the Leasing Date and is thereafter unable to close on the Leasing Date, CDP shall not be in default under this Agreement but shall pay City its reasonable Financing Costs actually paid by City after CDP delivered notice of the Leasing Date.

B. After the Leasing Date. After the Leasing Date, neither the Owner of the Systems Block Retail Unit nor the City may terminate its obligations under this Agreement prior to the expiration of the term thereof except in accordance with an express provision of this Agreement or except by written agreement executed by both parties.

19. Default.

A. Default by City. Once CDP has delivered notice of the Leasing Date to City in accordance with the provisions of Section 10 of this Agreement or the Owner of the Systems Block Retail Unit has delivered notice of its intention to acquire the Parking Garage Unit in accordance with the provisions of Section 21 and right of first refusal under Section 26(A)(3)

of this Agreement, time shall be of the essence in each party's performance of their obligations under this Agreement. Except as otherwise expressly provided in this Agreement, in the event City fails to pay CDP the Lease Transfer Amount on the Leasing Date, or in the event City fails to perform its obligations to the Owner of the Systems Block Retail Unit under Section 21 of this Agreement on the Reacquisition Date and provided CDP, PSD or the Owner of the Systems Block Retail Unit, as applicable is not in default hereunder and has satisfied all conditions precedent to the City's obligations under this Agreement, City shall be in default hereunder. CDP, PSD, CDP and PSD as tenants-in-common or the Owner of the Systems Block Retail Unit, as applicable, shall have the right to recover their actual damages resulting from such breach. Actual damages in the event City defaults in the payment of the Lease Transfer Amount means (a) the difference, if any, between the Lease Transfer Amount and the purchase price offered or paid in an all cash transaction under a contract which includes the rights which the City would have received, by a bona fide purchaser of the Garage in an arm's length transaction; plus (b) increased interest rate costs, fees, penalties or other charges resulting from changes in the terms and conditions of loans, the Project Mortgage or other financing secured by a lien on the properties pledged to secure such financing; plus (c) other direct damages, including without limitation, reasonable attorney's fees and costs; and (d) if as a result of the City default there has been a foreclosure by one of the lenders or a conveyance in lieu of foreclosure of properties owned by CDP, PSD, CDP and PSD as tenants-in-common or the Owner of the Systems Block Retail Unit as applicable pledged to secure such financing, an amount equal to the loss of the equity invested by CDP, PSD, CDP and PSD as tenants-in-common or the Owner of the Systems Block Retail Unit in such properties. A bona-fide purchaser of the Garage does not need to be a governmental subdivision or municipal corporation. Neither CDP, PSD, CDP and PSD as tenants-in-common nor the Owner of the Systems Block Retail Unit shall have the right to recover any consequential damages resulting from such breach. By way of illustration and not by way of limitation, consequential damages shall include lost profits, lost business opportunities, interference with business or contractual expectancies, loss of equity invested by CDP, PSD, CDP and PSD as tenants-in common or the Owner of the Systems Block Retail Unit, as applicable, in real property other than the Complex. CDP, PSD, CDP and PSD as tenants-in-common or the Owner of the Systems Block Retail Unit, as applicable, shall have, in addition to a claim for actual damages resulting from such breach or default and in addition to and without prejudice to any other right or remedy available under this Agreement or at law or equity, the right to (a) demand and have specific performance of this Agreement, together with interest on the Lease Transfer Amount at the rate of nine percent (9%) per annum from the date due until paid, or (b) to terminate this Agreement upon sixty (60) days prior written notice without liability to City.

B. Default by the Owner of the Systems Block Retail Unit. Once City has delivered notice of its exercise of its right to require the Owner of the Systems Block Retail Unit to reacquire the Parking Garage Unit pursuant to Section 20 of this Agreement, time shall be of the essence in each party's performance of their obligations under this Agreement. In the event the Owner of the Systems Block Retail Unit fails to tender the Transfer Price and perform its other obligations under Section 20 of this Agreement on the Transfer Date and provided City is not in default hereunder and has satisfied all conditions precedent to the obligations of the Owner of the Systems Block Retail Unit under this Agreement, the Owner of the Systems Block Retail Unit shall be in default hereunder. City shall have, in addition to a claim for actual damages

(including without limitation reasonable attorneys' fees and costs) resulting from such breach or default, and in addition to and without prejudice to any other right or remedy available under this Agreement or at law or equity, the right to demand and have specific performance of this Agreement, together with interest on the Transfer Price at the rate of nine percent (9%) per annum from the date due until paid. In the event the Owner of the Systems Block Retail Unit is in default under Section 20 of this Agreement, its right to reacquire the Parking Garage Unit under Sections 21 and right of first refusal under 26(A)(3) of this Agreement shall terminate and its consent shall no longer be required to a transfer by the City of its interest in the Parking Garage Unit to a Person other than a Successor Public Owner.

C. Other Defaults. In the event any party shall fail to perform, keep or observe any term, covenant, agreement or condition (other than the payment and performance obligations identified in Section 19(A) and 19(B) above) contained in this Agreement and any such failure shall remain unremedied for sixty (60) days after written notification thereof shall have been given by any party to the non-performing party, the non-performing party shall be in default under this Agreement; provided, however, that if the default is of such a nature that it is not susceptible of cure within sixty (60) days and if the non-performing party commences to cure the default within said sixty (60) day period, the non-performing party shall not be in default under this Agreement so long as it is diligently prosecuting said cure to completion. From and after the date of such default, the other parties shall have, in addition to any other rights or remedies available under this Agreement or otherwise available at law or equity, an action for actual damages (including reasonable attorneys' fees and costs) or the right to demand and have specific performance of this Agreement, and an injunction or order to compel the defaulting party to observe or perform its covenants and obligations hereunder.

D. Rights and Remedies Cumulative. Notwithstanding any provision of this Agreement to the contrary, (1) the rights and remedies of the parties to this Agreement, whether provided by law or this Agreement, shall be cumulative, and the exercise by any party of any one or more of such remedies shall not preclude the exercise by it, at the same time or different times, of any other such remedies for the same default or breach by the other parties, and (2) consequential damages and damages which are speculative or remote are not recoverable under this Agreement even if such damages would otherwise be available under law or equity. No waiver made by any party with respect to the performance, or manner or time thereof, of any obligation of any other party or any condition to its obligations under this Agreement shall be considered a waiver of any other obligation of any other party. No such waiver shall be valid unless it shall be made in writing duly signed by the party waiving the right or rights.

20. City Transfer Rights.

A. Right to Require the Owner of the Systems Block Retail Unit to Acquire Parking Garage Unit. In connection with and as a required delivery at Closing under Section 14 of this Agreement, CDP shall cause City to receive the right to require the Owner of the Systems Block Retail Unit to acquire the Parking Garage Unit and terminate Trustee's and City's interests under the Lease during a period of ten years (the "Transfer Period") commencing on the twentieth (20th) anniversary of the Leasing Date and terminating upon the close of business in

Seattle, Washington on the date that is the thirtieth (30th) anniversary of the Leasing Date at a purchase price equal to the Transfer Price as hereinafter defined. By executing and delivering the City Mortgage, the Owner of the Systems Block Retail Unit shall confirm that it is obligated on a non-recourse basis to perform the obligations of the Owner of the Systems Block Retail Unit in accordance with Section 20 of this Agreement.

B. Transfer Price. The Transfer Price shall be defined as the sum of the following:

(1) The principal amount of the Certificates of Participation or other obligations issued by The City of Seattle in connection with the payment of the Lease Transfer Amount described in Section 11 of this Agreement, plus any prepayment premium or other costs incurred in the redemption, prepayment or defeasance of such Certificates of Participation or other obligations calculated in accordance with the provisions of subsection (4) below; and

(2) Any Net Loss incurred by the City in the Operation and maintenance of the Garage pursuant to the provisions of Section 15 of this Agreement from and after the Leasing Date. Net Loss shall be defined as the sum of Annual Profits and Losses incurred by the City each year from Operation and maintenance of the Garage until the date on which title to the Parking Garage Unit is conveyed to the Owner of the Systems Block Retail Unit or its successors or assigns pursuant to Section 20(D) of this Agreement. Annual Profits and Losses shall be defined as the difference between (a) the Gross Receipts received from the ownership, use and Operation of the Garage in any year and (b) all Operating Expenses paid in Operating and maintaining the Garage during that year, plus any Garage Debt Service, all determined in accordance with generally accepted accounting principles applicable to municipalities consistently applied. Net Loss shall be included in the calculation of the Transfer Price only to the extent that it increases the amount of the Transfer Price; and

(3) Interest on the Net Loss, which will be calculated by adding interest to each Annual Profit or Annual Loss, as the case may be, using an interest rate of five percent (5%) per year compounded on each anniversary of the Leasing Date for the year in which the loss or profit occurred. Interest on the Net Loss will be the sum of the interest costs for Annual Losses less the interest earnings from Annual Profits. Interest on the Net Loss shall be included in the calculation of the Transfer Price only to the extent that it increases the amount of the Transfer Price

less the amount of any accumulated capital expenditure and maintenance reserves then held by City.

(4) In calculating the Transfer Price, the principal amount of such Certificates of Participation or other obligations issued by The City of Seattle on or before the Leasing Date shall be calculated based upon a principal amount equal to the Lease Transfer Amount and an amortization schedule which would fully amortize the Lease Transfer Amount over a term of 30 years. The interest amount of such Certificates of Participation or other obligations issued by The City of Seattle shall be calculated based upon the original interest rates

payable on the Certificates of Participation or other obligations as of the Leasing Date. Prepayment premiums or other costs incurred in the redemption, prepayment or defeasance of such Certificates of Participation or other obligations shall be included in calculating the Transfer Price only to the extent such prepayment premiums or other costs incurred in the redemption, prepayment or defeasance of such Certificates of Participation or other obligations would have been payable on the Transfer Date under the terms of the original Certificates of Participation or other obligations issued by The City of Seattle on or before the Leasing Date.

The Transfer Price has been agreed upon by the parties as a reasonable estimate of the payment required to make the City whole in the event that the Gross Receipts generated from the Operation of the Garage are not sufficient to cover Operating Expenses and pay Garage Debt Service. Notwithstanding any provisions of this Agreement to the contrary, under no circumstances shall the Transfer Price payable by the Owner of the Systems Block Retail Unit under this Section 20 ever exceed Fifty Million Dollars (\$50,000,000). In the event the Owner of the Systems Block Retail Unit exercises its option under Section 21 of this Agreement, the \$50,000,000 limitation on the amount of the Transfer Price set forth in the immediately preceding sentence shall not apply.

C. Exercise of Transfer Rights. City shall have the right to require the Owner of the Systems Block Retail Unit to acquire the Parking Garage Unit during the Transfer Period on any anniversary of the Leasing Date commencing twenty (20) years after the Leasing Date and terminating upon the close of business in Seattle, Washington, on the date that is thirty (30) years after the Leasing Date. City shall give the Owner of the Systems Block Retail Unit not less than one (1) year's prior written notice of its election to exercise its right to require the Owner of the Systems Block Retail Unit to acquire the Parking Garage Unit and terminate the interests of the City and Trustee, if any, under the Lease. The Transfer Price shall be paid in cash or immediately available funds on the date (the "Transfer Date") specified in the City's notice of its exercise of its transfer rights (or such other date as City and the Owner of the Systems Block Retail Unit may mutually agree).

D. Transfer Date. On the Transfer Date:

(1) The Owner of the Systems Block Retail Unit shall pay the Transfer Price to City. If the Lease is still in effect, the City shall thereupon exercise the option set forth in the Lease to prepay all Rental Payments then outstanding in accordance with the provisions set forth in the Lease. Upon receipt of the Rental Payments, the Trustee, if any, immediately shall prepay or defease all outstanding Certificates of Participation or other obligations then outstanding in accordance with the special mandatory redemption provisions set forth in the Trust Agreement. The balance of the Transfer Price, after payment of all costs and expenses of the Trustee and any other charges then payable under the Trust Agreement, and all costs, if any, incurred as a result of the transfer of the Parking Garage Unit to the Owner of the Systems Block Retail Unit and/or the termination of Trustee's and City's interest in the Lease, if the Lease is still in effect, including, without limitation, real estate excise taxes, if any, title insurance premiums, escrow fees and recording costs, shall be retained by City.

(2) If the Lease is still in effect, the Trustee shall, pursuant to the terms of the Lease, convey the Parking Garage Unit to City, and the Lease shall automatically terminate. Trustee shall execute any deed and/or assignment of Trustee's interest under the Lease or any agreement terminating the Lease as City or the Owner of the Systems Block Retail Unit may reasonably require.

(3) City shall convey the Parking Garage Unit to the Owner of the Systems Block Retail Unit by statutory warranty deed, free and clear of all right, title or interest of Trustee or City in the Lease and subject only to the Declaration, the Parking Covenants, the Parking Agreement and the Permitted Exceptions, together with an irrevocable commitment to issue an ALTA owner's extended coverage title insurance policy in form and substance satisfactory to the Owner of the Systems Block Retail Unit from a nationally recognized title insurance company selected by City and not objected to by the Owner of the Systems Block Retail Unit with liability in the amount of the Transfer Price, insuring that fee simple title to the Parking Garage Unit (including the appurtenant Air Space Easement and Access Easement) is vested in the Owner of the Systems Block Retail Unit subject only to the Declaration, the Parking Covenants, the Parking Agreement, the Permitted Exceptions and such other exceptions as the Owner of the Systems Block Retail Unit may approve in its sole discretion. At the request of the Owner of the Systems Block Retail Unit, all or any portion of the ALTA owner's extended coverage policy of title insurance shall be reinsured under reinsurance agreements and with reinsurers reasonably satisfactory to the Owner of the Systems Block Retail Unit and the cost of such reinsurance, if any, shall be paid by City as part of the cost of the ALTA owner's extended coverage policy of title insurance. The Owner of the Systems Block Retail Unit shall pay the cost of any title endorsements it requests. The Owner of the Systems Block Retail Unit agrees to accept the Parking Garage Unit "AS IS" and in its then condition and state of repair.

(4) Affidavit executed by City which satisfies the requirements of Section 1445 of the Code regarding foreign investors.

(5) City shall deliver a certificate of land use and assessment from the City of Seattle Department of Construction and Land Use confirming the zoning of the Parking Garage Unit and confirming the status of all taxes and assessments levied against the Parking Garage Unit which will be prorated between the parties pursuant to Section 20(D)(13) hereof.

(6) City shall deliver a certificate stating that there are no contracts or agreements relating to Operation and maintenance of the Garage including, but not limited to parking management agreements with a parking operator and/or valet parking operator (other than Permitted Exceptions) that survive the Transfer Date.

(7) Assignment and assumption agreements in form and substance reasonably acceptable to the Owner of the Systems Block Retail Unit and City duly executed by City and the Owner of the Systems Block Retail Unit of the Monthly Long-Term Parking Contracts, Special Use Long-Term Parking Contracts and Special Use Valet Parking contracts.

(8) In the event the Owner of the Systems Block Retail Unit has transferred its interest under this Agreement, the Owner of the Systems Block Retail Unit shall deliver an assumption agreement in form and substance satisfactory to the Owner of the Systems Block Retail Unit, such transferee and City whereby such transferee shall assume such rights, duties and obligations under this Agreement as the Owner of the Systems Block Retail Unit may have assigned or delegated to such transferee;

(9) Assignment and assumption agreements in form and substance reasonably satisfactory to the Owner of the Systems Block Retail Unit, City and the parties to the Parking Covenants and the Parking Agreement whereby the Owner of the Systems Block Retail Unit shall assume all of the rights, duties and obligations of the Owner of the Garage under the Parking Covenants and the Parking Agreement.

(10) City shall deliver a full reconveyance of the City Mortgage duly executed in recordable form.

(11) City shall deliver evidence reasonably satisfactory to the Owner of the Systems Block Retail Unit of the termination of any parking management agreements effective as of the Transfer Date.

(12) City shall deliver to the Owner of the Systems Block Retail Unit, at City's cost and expense, an environmental assessment of the Garage. If the environmental assessments reveal the presence or potential presence of Hazardous Substances in, on, under or affecting the Garage as a result of any action or inaction by City, its parking operator, its valet parking operator or any of their respective agents, employees, invitees, contractors or subcontractors or as a result of the operation and maintenance of the Garage by or on behalf of City, in amounts in excess of those permitted by then applicable Environmental Laws, it shall be City's obligation to remediate such Environmental Condition(s) at City's expense and in compliance with the provisions of Section 23 of this Agreement prior to the Transfer Date.

(13) All revenues and all expenses of the Parking Garage Unit, including, but not limited to, real and personal property taxes, special assessments, Assessments, rents, water, sewer and utility charges, amounts payable under contracts transferred to the Owner of the Systems Block Retail Unit, if any, annual permits and/or inspection fees (calculated on the basis of the respective periods covered thereby), and other expenses normal to the ownership, use, Operation and maintenance of the Garage shall be prorated as of 12.01 a.m. on the Transfer Date so that City bears all expenses of the Parking Garage Unit prior to the Transfer Date and the Owner of the Systems Block Retail Unit bears all expenses of the Parking Garage Unit on and after the Transfer Date. If any revenue or expense amount cannot be ascertained with certainty as of the Transfer Date, it shall be prorated on the basis of the parties' reasonable estimate of such amounts, and shall be the subject of a final proration sixty (60) days after the Transfer Date or as soon thereafter as the precise amounts can be ascertained. Either party owing the other party a sum of money based on adjustments made to the prorations after the Transfer Date shall promptly pay that sum together with interest thereon at the rate of nine percent (9%) per annum from the

date of demand therefore to the date of payment if payment is not made within ten (10) days after the delivery of a statement therefore.

(14) City shall deliver such ordinances, authorizations, certificates or other documents or agreements relating to City or Trustee as shall be reasonably required by the Owner of the Systems Block Retail Unit or the title company in connection with the closing of the Owner of the Systems Block Retail Unit's reacquisition of the Parking Garage Unit.

(15) City and Trustee shall perform, execute and deliver, or cause to be performed, executed and delivered any and all such further acts, deeds and assurances as the Owner of the Systems Block Retail Unit may reasonably require to (a) evidence and vest in the Owner of the Systems Block Retail Unit the ownership and fee simple title to the Parking Garage Unit (including the appurtenant Air Space Easement and Access Easement) and (b) consummate the transactions contemplated hereunder.

E. Termination of City Transfer Right. The City's right to require the Owner of the Systems Block Retail Unit to acquire the Parking Garage Unit shall automatically terminate upon any sale, transfer, donation, conveyance, assignment, lease (other than parking management agreements with a qualified parking operator and a qualified valet parking operator entered into by the City which is consistent with the Parking Agreement), or other disposition of the Parking Garage Unit or any portion thereof or any interest therein, whether voluntarily, involuntarily, by operation of law or otherwise, to any Person except a city, county, state, governmental subdivision or agency, municipal corporation, public development authority or non-profit corporation exempt from taxation under Section 501(c)(3) of the Code (collectively, "Successor Public Owner") without the prior written consent of the Owner of the Systems Block Retail Unit. Such Successor Public Owner shall assume City's obligations under this Agreement, the Parking Covenants and the Parking Agreement by execution and delivery of assumption agreements in form and substance reasonably satisfactory to the parties to this Agreement, the Parking Covenants and the Parking Agreement.

From and after the Leasing Date and until the expiration of the Transfer Period, any sale, transfer, donation, conveyance, assignment, lease (other than parking management agreements with a qualified parking operator and/or a qualified valet parking operator entered into by the City which is consistent with the Parking Agreement), or other disposition of the Parking Garage Unit or any portion thereof or any interest therein to any Person other than a Successor Public Owner shall be subject to the prior written consent of the Owner of the Systems Block Retail Unit (except as provided in the next sentence), the execution of any necessary and appropriate amendments to the Parking Agreement to reflect the fact that the new Owner is a private Person and not a Successor Public Owner and the assumption by such Person of City's obligations under this Agreement, the Parking Covenants and the Parking Agreement, as amended, by execution of assumption agreements in form and substance reasonably satisfactory to the parties to this Agreement, the Parking Covenants and the Parking Agreement as applicable. Upon any sale, transfer, donation, conveyance, assignment, lease or other disposition of the Parking Garage Unit or any portion thereof or any interest therein, to any Person other than a Successor Public Owner without the prior written consent of the Owner of the Systems Block Retail Unit, the City's

Transfer Right shall automatically terminate and City shall, upon request by the Owner of the Systems Block Retail Unit, execute, acknowledge and deliver a termination of its Transfer Right under this Section 20 and a full reconveyance of the City Mortgage in form and substance satisfactory to the Owner of the Systems Block Retail Unit; provided, however, the Owner of the Systems Block Retail Unit's consent shall not be required for any such sale, transfer, donation, conveyance, lease, assignment or other disposition of the Parking Garage Unit or any portion thereof or any interest therein, to any Person, and there shall be no termination of the City's Transfer Right under Section 20 of this Agreement if the Owner of the Systems Block Retail Unit is in default under the provisions of Section 20 of this Agreement. After the expiration of the Transfer Period any sale, transfer, donation, conveyance, lease, assignment or other disposition of the Parking Garage Unit or any portion thereof or any interest therein to any Person shall be governed by the provisions of Section 26(A) of this Agreement.

21. Right of the Owner of the Systems Block Retail Unit to Reacquire Parking Garage Unit.

A. Right of the Owner of the Systems Block Retail Unit to Reacquire Parking Garage Unit. Conditioned upon acceptance of the City's Transfer Rights and execution of the City Mortgage as provided in Section 20 of this Agreement, the Owner of the Systems Block Retail Unit shall have the right to reacquire the Parking Garage Unit and terminate Trustee's and City's interests under the Lease during a period of ten years (the "Reacquisition Period") commencing on the twentieth (20th) anniversary of the Leasing Date and terminating upon the close of business in Seattle, Washington on the date that is the thirtieth (30th) anniversary of the Leasing Date at a purchase price equal to the Reacquisition Price as hereinafter defined.

B. Reacquisition Price. The Reacquisition Price shall be equal to the greatest of:

(1) Ninety percent (90%) of the then Fair Market Value of the Parking Garage Unit determined as follows:

(a) The Owner of the Systems Block Retail Unit shall deliver to City, concurrently with its notice of its exercise of its right to reacquire the Parking Garage Unit, its estimate of the Fair Market Value of the Parking Garage Unit. Following receipt of such notice, the parties shall negotiate in good faith in an attempt to reach agreement concerning the then Fair Market Value of the Parking Garage Unit. If they are unable to so agree within thirty (30) days after City's receipt of the Owner of the Systems Block Retail Unit's notice of its exercise of its right to reacquire the Parking Garage Unit, either party may by written notice to the other, submit the determination of Fair Market Value to arbitration in accordance with subsection (b) below.

(b) If either party elects to submit the determination of Fair Market Value to arbitration, then it shall also, in the same notice in which it elects arbitration, designate an appraiser. Within ten (10) days after receipt of such notice, the other party shall give notice designating a second appraiser. The two appraisers so selected shall, within ten (10) days

following the selection of the second appraiser, select a third appraiser. The appraisers so selected shall, within ten (10) days following the selection of the final appraiser, meet, review such information as may be submitted by the Owner of the Systems Block Retail Unit or City, and such other information as they deem pertinent to the determination of the then Fair Market Value of the Parking Garage Unit, and, within thirty (30) days of the selection of the final appraiser, determine (either unanimously or by a vote of two of the three appraisers) the applicable Fair Market Value of the Parking Garage Unit. The appraisers shall give written notice to the parties of the Fair Market Value so determined.

(c) If either the Owner of the Systems Block Retail Unit or City shall fail to designate an appraiser within the time period specified in subsection (b) above, the defaulting party shall be deemed to have accepted the appraiser designated by the other, in which event the one appraiser described in subsection (b) above shall make the determination of the then Fair Market Value of the Parking Garage Unit in accordance with subsection (b) above.

(d) If the two appraisers designated by the parties are unable to agree on a third appraiser within the time period specified in subsection (b) above, then either the Owner of the Systems Block Retail Unit or City may apply to the Superior Court of the State of Washington for King County to designate a third appraiser.

(e) All appraisers designated pursuant to subsection (b) above shall be disinterested MAI appraisers with not less than ten (10) years experience in appraising commercial properties in Seattle, Washington. A disinterested appraiser shall be one who has no direct or indirect financial interest in the outcome of the arbitration (other than payment of a reasonable appraisal fee) and who is not a member, manager, officer, director, employee or agent of CDP, PSD, the Owner of the Systems Block Retail Unit, City or the F&N Owner; or

(2) The Transfer Price as determined in accordance with the provisions set forth in Section 20(B) of this Agreement; or

(3) Seventy-Three Million Dollars (\$73,000,000).

C. Exercise of Reacquisition Right. The Owner of the Systems Block Retail Unit shall have the right to exercise its right to reacquire the Parking Garage Unit during the Reacquisition Period on any anniversary of the Leasing Date commencing twenty (20) years after the Leasing Date and terminating upon the close of business in Seattle, Washington, on the date that is thirty (30) years after the Leasing Date. The Owner of the Systems Block Retail Unit shall give City not less than one (1) year's prior written notice of its election to exercise its option to reacquire the Parking Garage Unit and terminate the interests of City and Trustee, if any, under the Lease. The Reacquisition Price shall be paid in cash or immediately available funds on the date (the "Reacquisition Date") specified in such option notice (or such other date as City and the Owner of the Systems Block Retail Unit may mutually agree).

D. Reacquisition Date. On the Reacquisition Date or such other date as City and the Owner of the Systems Block Retail Unit may mutually agree:

(1) The Owner of the Systems Block Retail Unit shall pay the Reacquisition Price to City. If the Lease is still in effect, the City shall thereupon exercise the option set forth in the Lease to prepay all Rental Payments then outstanding in accordance with the provisions set forth in the Lease. Upon receipt of the Rental Payments, the Trustee, if any, immediately shall prepay or defease all outstanding Certificates of Participation or other obligations then outstanding in accordance with the special mandatory redemption provisions set forth in the Trust Agreement. The balance of the Reacquisition Price, after payment of all costs and expenses of the Trustee and any other charges then payable under the Trust Agreement, and all costs, if any, incurred as a result of the transfer of the Parking Garage Unit to City and/or the termination of Trustee's and City's interest under the Lease, if the Lease is still in effect, shall be retained by City. City shall pay all closing costs, including, but not limited to real estate excise taxes, if any, all escrow fees and all recording costs required to vest title to the Parking Garage Unit in the Owner of the Systems Block Retail Unit. The Owner of the Systems Block Retail Unit shall pay the cost of any title insurance policy it requests.

(2) If the Lease is still in effect, the Trustee shall, pursuant to the terms of the Lease, convey the Parking Garage Unit to City, and the Lease shall automatically terminate. Trustee shall execute any deed and/or assignment of Trustee's interest under the Lease or any agreement terminating the Lease as City or the Owner of the Systems Block Retail Unit may reasonably require.

(3) City shall convey the Parking Garage Unit to the Owner of the Systems Block Retail Unit by statutory warranty deed, free and clear of all right, title or interest of Trustee or City in the Lease and subject only to the Declaration, the Parking Covenants, the Parking Agreement and the Permitted Exceptions, together with an irrevocable commitment from a nationally recognized title insurance company selected by the Owner of the Systems Block Retail Unit and not objected to by City to issue an ALTA extended coverage owner's title insurance policy in form and substance satisfactory to the Owner of the Systems Block Retail Unit with liability in the amount of the Reacquisition Price, insuring that fee simple title to the Parking Garage Unit (including the appurtenant Air Space Easement and Access Easement) is vested in the Owner of the Systems Block Retail Unit subject only to the Declaration, the Parking Covenants, the Parking Agreement, the Permitted Exceptions and such other exceptions as the Owner of the Systems Block Retail Unit may approve in its sole discretion. At the request of the Owner of the Systems Block Retail Unit, all or any portion of the ALTA extended coverage owner's policy of title insurance shall be reinsured under reinsurance agreements and with reinsurers reasonably satisfactory to the Owner of the Systems Block Retail Unit, and the cost of such reinsurance, if any, shall be paid by the Owner of the Systems Block Retail Unit as part of the cost of the ALTA extended coverage owner's policy of title insurance. The Owner of the Systems Block Retail Unit shall pay the cost of any title insurance endorsements it requests. The Owner of the Systems Block Retail Unit agrees to accept the Parking Garage Unit "AS IS" and in its then condition and state of repair.

(4) Affidavit executed by City which satisfies the requirements of Section 1445 of the Code regarding foreign investors.

(5) City shall deliver a certificate of land use and assessment from the City of Seattle Department of Construction and Land Use confirming the zoning of the Parking Garage Unit and confirming the status of all taxes and assessments levied against the Parking Garage Unit which will be prorated between the parties pursuant to Section 21(D)(13) hereof.

(6) City shall deliver a certificate stating that there are no contracts or agreements relating to Operation and maintenance of the Garage including, but not limited to, parking management agreements with a parking operator and/or valet parking operator (other than Permitted Exceptions) that survive the Reacquisition Date.

(7) Assignment and assumption agreements in form and substance reasonably acceptable to the parties and City duly executed by City and the Owner of the Systems Block Retail Unit of the Monthly Long-Term Parking Contracts, Special Use Long-Term Parking Contracts and Special Use Valet Parking contracts.

(8) In the event the Owner of the Systems Block Retail Unit has transferred its interest under this Agreement, the Owner of the Systems Block Retail Unit shall deliver an assumption agreement in form and substance satisfactory to the Owner of the Systems Block Retail Unit, such transferee and City whereby such transferee shall assume such rights, duties and obligations under this Agreement as the Owner of the Systems Block Retail Unit may have assigned or delegated to such transferee;

(9) Assignment and assumption agreements in form and substance reasonably satisfactory to the Owner of the Systems Block Retail Unit, City and the parties to the Parking Covenants and the Parking Agreement whereby the Owner of the Systems Block Retail Unit shall assume all of the rights, duties and obligations of the Owner of the Garage under the Parking Covenants and the Parking Agreement.

(10) City shall deliver a full reconveyance of the City Mortgage duly executed in recordable form;

(11) City shall deliver evidence reasonably satisfactory to the Owner of the Systems Block Retail Unit of the termination of any parking management agreements effective as of the Reacquisition Date.

(12) The Owner of the Systems Block Retail Unit shall deliver to City, at the cost and expense of the Owner of the Systems Block Retail Unit, an environmental assessment of the Garage. If the environmental assessments reveal the presence or potential presence of Hazardous Substances in, on, under or affecting the Garage as a result of any action or inaction by City, its parking operator or valet parking operator or any of their respective agents, employees, invitees, contractors or subcontractors or as a result of the operation and maintenance of the Garage by or behalf of City, in amounts in excess of that permitted by then applicable Environmental Laws it shall be City's obligation to remediate such Environmental

Condition(s) at City's expense in compliance with the requirements of Section 23 of this Agreement prior to the Reacquisition Date.

(13) All revenues and all expenses of the Parking Garage Unit, including, but not limited to, real and personal property taxes, special assessments, Assessments, rents, water, sewer and utility charges, amounts payable under contracts transferred to the Owner of the Systems Block Retail Unit, if any, annual permits and/or inspection fees (calculated on the basis of the respective periods covered thereby), and other expenses normal to the ownership, use, operation and maintenance of the Garage shall be prorated as of 12.01 a.m. on the Reacquisition Date so that City bears all expenses of the Parking Garage Unit prior to the Reacquisition Date and the Owner of the Systems Block Retail Unit bears all expenses of the Parking Garage Unit on and after the Reacquisition Date. If any revenue or expense amount cannot be ascertained with certainty as of such Reacquisition Date, it shall be prorated on the basis of the parties' reasonable estimate of such amounts, and shall be the subject of a final proration sixty (60) days after the Reacquisition Date or as soon thereafter as the precise amounts can be ascertained. Either party owing the other party a sum of money based on adjustments made to the prorations after the Reacquisition Date shall promptly pay that sum together with interest thereon at the rate of nine percent (9%) per annum from the date of demand therefore to the date of payment if payment is not made within ten (10) days after the delivery of a statement therefore.

(14) City shall deliver such ordinances, authorizations, certificates or other documents or agreements relating to City or Trustee as shall be reasonably required by the Owner of the Systems Block Retail Unit or the title company in connection with the closing of the Owner of the Systems Block Retail Unit's reacquisition of the Parking Garage Unit.

(15) City and Trustee shall perform, execute and deliver, or cause to be performed, executed and delivered any and all such further acts, deeds and assurances as the Owner of the Systems Block Retail Unit may reasonably require to (a) evidence and vest in the Owner of the Systems Block Retail Unit the ownership and fee simple title to the Parking Garage Unit (including the appurtenant Air Space Easement and Access Easement) and (b) consummate the transactions contemplated hereunder.

22. Excuses for Nonperformance. Notwithstanding anything in this Agreement to the contrary, City, CDP, PSD, CDP and PSD as tenants-in-common or the Owner of the Systems Block Retail Unit shall be excused from performing any obligation under this Agreement including, but not limited to performing any obligation under the Parking Covenants and the Parking Agreement, and any delay in the performance of any obligation under this Agreement the Parking Covenants and the Parking Agreement, shall be excused, if and so long as the performance of the obligation is prevented, delayed or otherwise hindered by acts of God, fire, earthquake, floods, explosion, actions of the elements, war, riots, mob violence, inability to procure labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strikes, lockouts, actions of labor unions, condemnation, court orders, operation of law, orders of governmental or military authorities, or any other cause, whether similar or dissimilar to the foregoing not within the control of such party (other than lack of or inability to procure monies to fulfill its commitments and obligations under this Agreement). In the event any

party is enjoined from performing or prohibited as a matter of law from performing any of its obligations under this Agreement, the Parking Covenants or the Parking Agreement by reason of a court order, such party shall upon receipt of such court order immediately provide a copy of same to the other parties. The party subject to the court order shall, at its sole cost and expense, engage counsel selected by such party and undertake the defense of such action, lawsuit or proceeding and thereafter prosecute the defense of such action, lawsuit or proceeding in good faith and diligently prosecute the same to completion, including the prosecution of appeals from the decision of any trial court or court of intermediate jurisdiction until there has been a final judgment entered by a court of competent jurisdiction which is no longer the subject of a good faith appeal. The party subject to the court order shall not adjust or settle any such action, lawsuit or proceeding without the prior written consent of the other parties which consent shall not be unreasonably withheld. The other parties shall have the right, but not the obligation, to engage counsel and to intervene in any such action, lawsuit or proceeding to protect their interest under this Agreement, the Parking Covenants and/or the Parking Agreement.

23. Environmental Condition of the Garage.

A. Environmental Condition of the Systems Block Property. Prior to the execution of this Agreement PSD has provided City with a copy of all existing environmental assessments of the Systems Block Property prepared for or in the possession of PSD which environmental reports are more particularly described in Exhibit O attached hereto and by this reference incorporated herein (the "Environmental Reports"). To the best knowledge of CDP and PSD, and except as disclosed in the Environmental Reports, there are no Hazardous Substances presently located on or under the Systems Block Property.

B. Construction of the Systems Block Project. CDP and PSD as tenants-in-common shall demolish all improvements presently located on the Systems Block Property and thereafter excavate and construct the Systems Block Project in compliance with all Environmental Laws and orders of any governmental authorities having jurisdiction over the Systems Block Project. CDP and PSD as tenants-in-common shall obtain, keep in effect and comply with the terms of all governmental permits and authorizations required by all applicable Environmental Laws. If during the course of excavation and construction CDP and PSD as tenants-in-common discover any underground storage tanks or discover any Hazardous Substances on the Systems Block Property in excess of cleanup standards under MTCA or other then applicable Environmental Laws CDP and PSD as tenants-in-common shall cause all notifications to be made as may be required under any applicable Environmental Laws and shall thereafter perform, at their sole cost and expense, all Remedial Work (as hereinafter defined) to the Systems Block Property necessary to comply with MTCA standards and any other then applicable Environmental Laws.

C. Operation and Maintenance of the Garage Prior to the Leasing Date. From and after the Opening Date until the Leasing Date CDP shall Operate and maintain, or cause the Garage to be Operated and maintained, in compliance with all Environmental Laws. CDP shall not cause or permit any Hazardous Substances to be brought upon, kept, or used in or about the Garage by CDP, its parking operator, valet parking operator or their respective agents, employees, invitees, Contractor, or subcontractors (except for reasonable quantities of Hazardous

Substances as may be required to Operate and maintain or cause the Garage to be Operated and maintained in accordance with the Declaration, the Parking Covenants and the Parking Agreement, which Hazardous Substances shall be stored, used, and disposed of in accordance with all Environmental Laws). If CDP breaches its obligations set forth above or if there are Hazardous Substances in, on or under the Parking Garage Unit in excess of the cleanup standards under MTCA or other then applicable Environmental Laws CDP shall perform, at its sole cost and expense, all Remedial Work to the Systems Block Property necessary to comply with MTCA standards and any other then applicable Environmental Laws.

D. Operation and Maintenance of the Garage On and After the Leasing Date.

From and after the Leasing Date City shall Operate and maintain, or cause the Garage to be Operated and maintained, in compliance with all Environmental Laws. City shall not cause or permit any Hazardous Substance to be brought upon, kept, or used in or about the Garage by City, its parking operator, valet parking operator or their respective agents, employees, invitees, contractors, or subcontractors (except for reasonable quantities of Hazardous Substances as may be required to Operate and maintain the Garage in accordance with the Declaration, the Parking Covenants and the Parking Agreement, which Hazardous Substances shall be stored, used, and disposed of in accordance with all Environmental Laws). If City breaches its obligations set forth above or if, as a result of any action or inaction by City, its parking operator or valet parking operator or any of their respective agents, employees, invitees, contractors or subcontractors or as a result of the Operation and maintenance of the Garage by or on behalf of City, there are Hazardous Substances in, on or under the Garage in excess of the quantities permitted under MTCA standards or other then applicable Environmental Laws, City shall perform, at its sole cost and expense, all Remedial Work to the Systems Block Property necessary to comply with MTCA standards and any other then applicable Environmental Laws. City need not perform such Remedial Work prior to the Transfer Date or the Reacquisition Date, as applicable, unless required to do so under applicable Environmental Laws, court order or administrative directive issued by a court of competent jurisdiction or governmental agency with authority to administer and enforce Environmental Laws or where the failure to perform such Remedial Work would endanger Persons or property, pose a threat to public health or safety or require closure of all or any portion of the Garage or the Complex.

E. Remedial Work.

(1) As used in this Agreement, the term "Remedial Work" means all activities performed in connection with the investigation, assessment, cleanup, removal, mitigation, monitoring or containment of Hazardous Substances on the Systems Block Property, the Garage or any portion thereof to meet the requirements of any Environmental Laws (including common law) relating to the cleanup or remediation of Hazardous Substances (in light of the reasonably intended use of the Systems Block Property, the Garage or any portion thereof at the time the Remedial Work commences) or as ordered by any court or any other federal or state governmental agency. Remedial Work includes all costs reasonably necessary to comply with MTCA standards or other then applicable Environmental Laws in connection with the presence, suspected presence, release or suspected release of a Hazardous Substance in or into the air, soil, groundwater, surface water or soil vapor, at, on or within the Systems Block Property, the

Garage or any portion thereof. The term "Remedial Work" also includes the defense or prosecution of any proceedings before a federal or state court, administrative judge or tribunal or federal or state governmental agency, and any and all negotiations with any federal or state governmental agency or its employees or consultants, relating to the activities described in this subsection (E) and any fines or penalties assessed against either CDP and PSD as tenants-in-common or City, as applicable in connection therewith.

(2) CDP and PSD will have no obligation to pay for any Remedial Work or any portion thereof caused by or resulting from the negligence of the City, its parking operator, valet parking operator or any of their respective agents, employees, invitees, contractors or subcontractors or from any Hazardous Substances which was not present on the Systems Block Property as of the Leasing Date. City will have no obligation to pay for any Remedial Work or any portion thereof caused by or resulting from the negligence of CDP, PSD or CDP and PSD as tenants-in-common, their parking operator, valet parking operator or any of their respective agents, employees, invitees, contractors or subcontractors.

F. Transfer of Garage on the Transfer Date or Reacquisition Date.

(1) In the event City exercises its right under Section 20 of this Agreement to transfer the Parking Garage Unit to the Owner of the Systems Block Retail Unit, or in the event the Owner of the Systems Block Retail Unit exercises its right under Section 21 of this Agreement to reacquire the Parking Garage Unit, the City shall, at its sole cost and expense and at the same time it delivers notice to the Owner of the Systems Block Retail Unit pursuant to the provisions of Section 20(C) of this Agreement or the Owner of the Systems Block Retail Unit shall, at its sole cost and expense and at the same time it delivers notice to City pursuant to the provisions of Section 21(C) of this Agreement, deliver to the other party an environmental assessment of the Parking Garage Unit prepared by such party's environmental consultants. A copy of such environmental assessment shall be provided to City, the Owner of the Systems Block Retail Unit and their respective counsel and shall be kept confidential to the extent permitted by then applicable law.

(2) If the environmental assessments reveal the presence or potential presence of Hazardous Substances, in, on, under or affecting the Parking Garage Unit, City and the Owner of the Systems Block Retail Unit may each have additional environmental assessments made of the Parking Garage Unit by their respective environmental consultants to determine the nature and extent of the Hazardous Substances in, on, under or affecting the Parking Garage Unit. City agrees to cooperate with and assist said environmental consultants in their physical inspection of the Parking Garage Unit, provided that such inspection shall be conducted during normal business hours or at such other time (upon 24 hours prior notice) as is reasonable and necessary to conduct the inspection and provided further that such cooperation shall be at no cost to City. Such additional environmental assessments may include, by way of illustration and not by way of limitation, drilling, sampling, soil boring and the installation of monitoring wells and/or other equipment on the Parking Garage Unit, but no additional work under this Section 23(F)(2) shall be undertaken without the mutual agreement of City and the Owner of the Systems Block Retail Unit on the timing, scope and restoration conditions of the work necessary to make further

environmental assessments of the Parking Garage Unit. As part of its inspection and evaluation of the environmental condition of the Parking Garage Unit, the Owner of the Systems Block Retail Unit shall (i) repair any damage to the Parking Garage Unit caused by the Owner of the Systems Block Retail Unit or its environmental consultants during such inspection and evaluation, (ii) keep the Parking Garage Unit free from liens arising out of such testing or evaluation, and (iii) indemnify and hold City harmless from liabilities relating to property damage or personal injury arising in connection with such evaluation or testing, unless caused by City's negligence or willful misconduct. A copy of any additional environmental reports shall be provided to City, the Owner of the Systems Block Retail Unit and their respective counsel and shall be kept confidential to the extent permitted by then applicable law.

(3) In the event such environmental assessments disclose the presence of Hazardous Substances in excess of the quantities permitted under MTCA or other then applicable Environmental Laws in, on, under or affecting the Parking Garage Unit as a result of any action or inaction by City, its parking operator, valet parking operator or any of their respective agents, employees, invitees, contractors or subcontractors or as a result of the Operation and maintenance of the Garage by or on behalf of City, City shall undertake or cause to be undertaken all Remedial Work to the Parking Garage Unit necessary to comply with MTCA standards and any other then applicable Environmental Laws.

(4) Notwithstanding any provision of this Agreement to the contrary, the Transfer Date or the Reacquisition Date, as applicable, shall be automatically extended to the twentieth (20th) day following the date all such Hazardous Substances have been cleaned up to MTCA standards and any other then applicable Environmental Laws.

(5) In the event the City is required by the terms of this Agreement but fails to undertake or cause to be undertaken the Remedial Work necessary to clean up the Parking Garage Unit to MTCA standards and any other then applicable Environmental Laws, the Owner of the Systems Block Retail Unit shall have the right, but not the obligation, to cause such Remedial Work to be performed and to deduct the cost of such Remedial Work together with all reasonable costs and attorneys' fees associated therewith from the Transfer Price or the Reacquisition Price, as applicable.

24. Insurance.

A. Insurance Requirements for Garage.

(1) Property Insurance. The Owner of the Garage shall carry (or cause to be carried) a policy of fire and extended coverage property insurance on the Garage that satisfies the requirements of this Agreement, the Parking Covenants and the Declaration. Such insurance shall be carried commencing as of the date construction of the Garage commences and continuing throughout the term of this Agreement, the Parking Covenants and the Declaration. At any time that any construction work is being performed upon the Garage, the Owner of the Garage shall carry or cause to be carried builder's risk insurance upon the improvements then under construction.

All policies carried under this Section 24(A)(1):

(i) shall be carried with financially responsible insurance companies;

(ii) shall be in an amount at least equal to ninety percent (90%) of the replacement cost (exclusive of cost of excavations, foundations and footings) of the improvements being insured;

(iii) shall insure against loss or damage from causes that are from time to time included as covered risks under standard insurance industry practices within the classification of broad form fire and extended coverage, and specifically against the following perils: fire, windstorm, hail, cyclone, tornado, riots, riot attending a strike, civil commotion, malicious mischief, vandalism, aircraft, vehicle, smoke damage and sprinkler leakage, earthquake and explosion; and

(iv) shall contain a provision that the same may not be canceled without at least thirty (30) days' prior written notice being given by the insurer to the Association, and the Owners of each Unit if the Garage has been subjected to the Declaration, otherwise to the Owner of the Garage and all Parties to the Parking Covenants.

Fire and extended coverage insurance proceeds paid to the Owner of the Garage by reason of damage to or destruction of the Garage shall be used by such Owner to restore the Garage to the extent such restoration is required pursuant to the Parking Covenants and/or the Declaration. Nothing in this Agreement is intended to prohibit the Owner of the Garage from self-insuring its personal property located in the Garage.

(2) Duty to Carry Liability Insurance. The Owner of the Garage shall carry (or caused to be carried) throughout the term of this Agreement, the Parking Covenants and the Declaration, commercial general liability insurance (including contractual liability coverage) covering the Garage. Such insurance shall have combined single limits of not less than \$10,000,000 for personal injury, death or property damage. The insurance policies required pursuant to this Section 24(A)(2):

(i) shall be carried with financially responsible insurance companies;

(ii) shall provide that the same may not be cancelled or reduced in amount or coverage without at least thirty (30) days' prior written notice being given by the insurer to the Association and the Owner of each Unit if the Garage has been subjected to the Declaration, otherwise to the Owner of the Garage and all parties to the Parking Covenants; and

(iii) shall name the Association, each Owner of a Unit, each Person who has a direct or indirect ownership interest in an Owner of a Unit, and each such Person's or Owner's Mortgagee as additional insureds.

(iv) Adjustment of Insurance Coverage Amounts. The minimum insurance coverage amounts set forth above shall be subject to review on the fifth anniversary of the Opening Date, and on each subsequent fifth anniversary during the term of this Agreement in order to determine the adequacy of such amounts in light of the then existing circumstances.

(3) Insurance Required Under Declaration. The Owner of the Garage shall, and if the Garage has been subjected to the Declaration the Association shall, at all times maintain in full force and effect the insurance required under this Agreement, the Parking Covenants and the Declaration. Such insurance shall cover both Units in the Condominium. From and after the date that the Systems Block Property is subject to the Declaration, the parties hereto understand and agree that in addition to the insurance required under the Parking Covenants and/or this Agreement, the Declaration may provide that additional insurance or insurance in excess of the requirements set forth in the Parking Covenants or this Agreement be maintained in full force and effect by the Owners of Units or by the Association and the cost of such insurance allocated between the Owners of Units as provided in the Declaration.

(4) Certificate of Insurance. The Owner of the Garage shall, on the request of the Association or the Owner of any Unit or any Party to the Parking Covenants promptly furnish the requesting Party a certificate evidencing the Owner's compliance with the insurance coverage requirements of the Parking Covenants and Section 24(A) of this Agreement. The Owner of the Garage shall not be required during any given one hundred eighty (180) day period to honor more than one such request for an insurance certificate from the Association, the Owner of any Unit or each Party to the Parking Covenants.

(5) Waiver of Subrogation. Each Party to the Parking Covenants from time to time, including City on and after the Leasing Date, each hereby waives all rights of recovery and causes of action and releases each other from any liabilities from all losses and damages occasioned to the property of any located within or upon or constituting a part of the Systems Block Property, which losses and damages are of the type covered under the policies required under the Parking Covenants or this Agreement. The policies required shall provide, to the extent the same is available under the policies or by endorsement, for waivers of any right of subrogation that the insurer of any Party to the Parking Covenants or the Owner of the Garage may acquire against any other Party to the Parking Covenants or the Owner of the Systems Block Retail Unit with respect to any losses.

(6) Additional Insurance Requirements. In addition to any insurance required to be carried by the Association or the Owner of the Garage under the Parking Covenants or this Agreement, the Owner of the Garage shall maintain, or shall cause its parking operator and valet parking operator to maintain in full force and effect, the insurance set forth in Exhibit F attached hereto and by this reference incorporated herein.

B. Insurance Requirements for Systems Block Retail Unit.

(1) Property Insurance. The Owner of the Systems Block Retail Unit shall carry (or cause to be carried) a policy of fire and extended coverage property insurance on the Systems Block Retail Unit that satisfies the requirements of this Agreement and the Declaration. Such insurance shall be carried commencing as of the date construction of the Systems Block Retail commences and continuing throughout the term of this Agreement and the Declaration. At any time that any construction work is being performed upon the Systems Block Retail Unit, the Owner of the Systems Block Retail Unit shall carry or cause to be carried builder's risk insurance upon the improvements then under construction.

All policies carried under this Section 24(B)(1):

(i) shall be carried with financially responsible insurance companies;

(ii) shall be in an amount at least equal to ninety percent (90%) of the replacement cost (exclusive of cost of excavations, foundations and footings) of the improvements being insured;

(iii) shall insure against loss or damage from causes that are from time to time included as covered risks under standard insurance industry practices within the classification of broad form fire and extended coverage, and specifically against the following perils: fire, windstorm, hail, cyclone, tornado, riots, riot attending a strike, civil commotion, malicious mischief, vandalism, aircraft, vehicle, smoke damage and sprinkler leakage, earthquake and explosion; and

(iv) shall contain a provision that the same may not be canceled without at least thirty (30) days' prior written notice being given by the insurer to the Association, and the Owners of each Unit if the Systems Block Retail Unit has been subjected to the Declaration, otherwise to the Owner of the Systems Block Retail Unit and the Owner of the Garage.

Fire and extended coverage insurance proceeds paid to the Owner of the Systems Block Retail Unit by reason of damage to or destruction of the Systems Block Retail Unit shall be used by such Owner to restore the Systems Block Retail Unit to the extent such restoration is required pursuant to the REA and/or the Declaration.

(2) Duty to Carry Liability Insurance. The Owner of the Systems Block Retail Unit shall carry (or caused to be carried) throughout the term of this Agreement, the Parking Covenants and the Declaration, commercial general liability insurance (including contractual liability coverage) covering the Systems Block Retail Unit. Such insurance shall have combined single limits of not less than \$10,000,000 for personal injury, death or property damage. The insurance policies required pursuant to this Section 24(B)(2):

(i) shall be carried with financially responsible insurance companies;

(ii) shall provide that the same may not be cancelled or reduced in amount or coverage without at least thirty (30) days' prior written notice being given by the insurer to the Association and the Owner of each Unit if the Systems Block Retail Unit has been subjected to the Declaration, otherwise to the Owner of the Systems Block Retail Unit and all parties to the Parking Covenants; and

(iii) shall name the Association, each Owner of a Unit, each Person who has a direct or indirect ownership interest in an Owner of a Unit, and each such Person's or Owner's Mortgagee as additional insureds.

(iv) Adjustment of Insurance Coverage Amounts. The minimum insurance coverage amounts set forth above shall be subject to review on the fifth anniversary of the Opening Date, and on each subsequent fifth anniversary during the term of this Agreement in order to determine the adequacy of such amounts in light of the then existing circumstances.

(3) Insurance Required Under Declaration. The Owner of the Systems Block Retail Unit shall, and if the Systems Block Retail Unit has been subjected to the Declaration the Association shall, at all times maintain in full force and effect the insurance required under this Agreement and the Declaration. Such insurance shall cover both Units in the Condominium. From and after the date that the Systems Block Property is subject to the Declaration, the parties hereto understand and agree that in addition to the insurance required under the REA and/or this Agreement, the Declaration may provide that additional insurance or insurance in excess of the requirements set forth in this Agreement be maintained in full force and effect by the Owners of Units or by the Association and the cost of such insurance allocated between the Owners of Units as provided in the Declaration.

(4) Certificate of Insurance. The Owner of the Systems Block Retail Unit shall, on the request of the Association, the Owner of any Unit or any Party to the Parking Covenants promptly furnish the requesting Party a certificate evidencing the Owner's compliance with the insurance coverage requirements of Section 24(B) of this Agreement. The Owner of the Systems Block Retail Unit shall not be required during any given one hundred eighty (180) day period to honor more than one such request for an insurance certificate from the Association, the Owner of any Unit or each Party to the Parking Covenants.

(5) Waiver of Subrogation. Each Party to the Parking Covenants from time to time, including City on and after the Leasing Date, each hereby waives all rights of recovery and causes of action and releases each other from any liabilities from all losses and damages occasioned to the property of any located within or upon or constituting a part of the Systems Block Property, which losses and damages are of the type covered under the policies required under the Parking Covenants or this Agreement. The policies required shall provide, to the extent the same is available under the policies or by endorsement, for waivers of any right of subrogation that the insurer of any Party to the Parking Covenants or the Owner of the Systems

Block Retail Unit may acquire against any other Party to the Parking Covenants or the Owner of the Garage with respect to any losses.

25. Damage, Destruction or Condemnation.

A. Damage or Destruction of Garage Prior to the Leasing Date. In the event there is any damage or destruction of the Garage or the Condominium of which the Garage is a part prior to the Leasing Date and reconstruction of the Garage is not required under the terms of the Parking Covenants, CDP and PSD as tenants-in-common shall have the right to terminate this Agreement without liability to City by giving City notice of such election to terminate this Agreement within one hundred eighty (180) days following the date of such damage or destruction. In the event CDP and PSD as tenants-in-common do not elect to terminate this Agreement, CDP and PSD as tenants-in-common shall repair or restore the Garage as nearly as practicable in full compliance with the requirements set forth in this Agreement and the Parking Covenants and all legal requirements and to the same condition, character and at least equal value and utility to that existing prior to such loss and so as to comply with the design standards set forth in Exhibit B attached hereto; provided however, that modifications to conform to applicable laws, rules and regulations or available means of construction may be made. Notwithstanding the foregoing, the obligations of CDP and PSD as tenants-in-common to restore the Garage to a first-class condition shall be limited to the extent of proceeds of insurance which was in fact carried with respect to the Garage or which was required to be carried with respect to the Garage, whichever is greater. CDP and PSD as tenants-in-common shall be entitled to retain all insurance proceeds payable in connection with such loss.

B. Damage or Destruction of Garage Following the Leasing Date.

(1) In the event the Garage or the Condominium of which the Garage is a part, is damaged or destroyed by fire or other casualty following the Leasing Date, the Owners or if the Declaration so provides, the Association shall, to the extent repair, restoration or reconstruction is required under either the Parking Covenants or the Declaration, repair, restore or reconstruct within the time and in the manner specified in the Parking Covenants and the Declaration, the Garage or the Condominium of which the Garage is a part and diligently prosecute such reconstruction to completion so as to restore the Garage or the Condominium of which the Garage is a part to first-class condition and to substantially the same appearance, configuration and layout as existed immediately prior to such damage or destruction (subject to the effect of Section 2.4 of the Parking Covenants) and so as to comply with the design standards set forth in Exhibit B attached hereto, as nearly as practicable in full compliance with the Permitted Exceptions and all legal requirements; provided, however, that modifications to conform to applicable laws, rules and regulations or available means of construction may be made. Notwithstanding the foregoing, the obligations of the Owners and/or the Association to restore the Garage to a first-class condition shall be limited to the extent of proceeds of insurance which was in fact carried with respect to the Garage or which was required to be carried with respect to the Garage, whichever is greater.

(2) In the event the Owners are not required under the terms of the Parking Covenants and/or the Declaration to repair but the Owners elect to repair, restore or reconstruct the Garage or the Condominium of which the Garage is a part, the Owners, or if the Declaration so provides, the Association shall promptly repair, restore or reconstruct the Garage and/or the Condominium of which the Garage is a part and diligently prosecute such reconstruction to completion so as to restore the Garage or the Condominium of which the Garage is a part to first-class condition and to substantially the same appearance, configuration and layout as existed immediately prior to such damage or destruction and so as to comply with the design standards set forth in Exhibit B attached hereto, as nearly as practicable in full compliance with the Permitted Exceptions and all legal requirements; provided, however, that modifications to conform to applicable laws, rules and regulations or available means of construction may be made.

(3) In the event the Owners are not required under the Parking Covenants and/or the Declaration to repair or restore and have elected not to repair or restore the Garage or the Condominium, of which the Garage is a part, all insurance proceeds allocable to the Parking Garage Unit under the Declaration shall be paid to the Owner of that Unit and all insurance proceeds allocable to the Systems Block Retail Unit under the Declaration shall be paid to the Owner of that Unit.

C. Condemnation.

(1) Condemnation Prior to Leasing Date. Prior to the Leasing Date if there is a partial Condemnation of the Garage or the Condominium of which the Garage is a part and reconstruction of the Garage is not required under the terms of the Parking Covenants, CDP, PSD and/or CDP and PSD as tenants-in-common shall have the right to terminate this Agreement without liability to City by giving City notice of such election to terminate this Agreement within one hundred eighty (180) days following the Condemnation Date. In the event CDP, PSD and/or CDP and PSD as tenants-in-common do not elect to terminate this Agreement CDP, PSD and/or CDP and PSD as tenants-in-common shall repair or restore the Garage as nearly as practicable in full compliance with the requirements set forth in this Agreement and the Parking Covenants and all legal requirements and to the same condition, character and at least equal value and utility to that existing prior to such taking and so as to comply with the design standards set forth in Exhibit B attached hereto; provided, however, that modifications to conform to applicable laws, rules and regulations or available means of construction may be made. Notwithstanding the foregoing, the obligations of CDP, PSD and/or CDP and PSD as tenants-in-common to restore the Garage or the Condominium of which the Garage is a part to a first-class condition shall be limited to the extent of condemnation proceeds paid in connection with such partial Condemnation. If there is a total condemnation of the Systems Block Property prior to the Leasing Date by a condemning authority (other than City) this Agreement shall terminate as of the date that title to the Systems Block Property is transferred to the condemning authority.

(2) Condemnation After the Leasing Date. From and after the Leasing Date, the following provisions shall apply with respect to Condemnation:

(a) Total Taking. If all of the Garage is taken by Condemnation, this Agreement shall terminate as of the date possession of the Garage or the Condominium of which the Garage is a part (or any part thereof) is taken by the condemning authority or the date when title to the Garage or the Condominium of which the Garage is a part (or any part thereof) vests in the condemning authority. The portion of the condemnation award allocable to the Parking Garage Unit under the Declaration and the Condominium Act shall be paid to the Owner of that Unit and the portion of the condemnation award allocable to the Systems Block Retail Unit under the Declaration and the Condominium Act shall be paid to the Owner of that Unit.

(b) Partial Taking. In the event there is a partial taking of the Garage or the Condominium of which the Garage is a part, the following provisions shall apply:

(i) In the event the Owner of the Parking Garage Unit is not required under the terms of the Parking Covenants or the Declaration to restore the Garage, and elects not to restore, the portion of the condemnation award allocable to the Parking Garage Unit under the Declaration and the Condominium Act shall be paid to the Owner of that Unit and the portion of the condemnation award allocable to the Systems Block Retail Unit under the Declaration and the Condominium Act shall be paid to the Owner of that Unit.

(ii) In the event that the Owner of the Parking Garage Unit is required under the terms of the Parking Covenants or the Declaration to restore the Garage, the Owners, or if the Declaration so provides, the Association shall repair, restore or reconstruct within the time and in the manner specified in the Parking Covenants and the Declaration, the Garage or the Condominium of which the Garage is a part and diligently prosecute such reconstruction to completion so as to restore the Garage or the Condominium of which the Garage is a part to first-class condition and to substantially the same appearance, configuration and layout as existed immediately prior to such condemnation and so as to comply with the design standards set forth in Exhibit B attached hereto, as nearly as practicable in full compliance with the Permitted Exceptions and all legal requirements; provided, however, that modifications to conform to applicable laws, rules and regulations or available means of construction may be made. Notwithstanding the foregoing, the obligations of the Owners and/or the Association to restore the Garage or the Condominium of which the Garage is a part to a first-class condition shall be limited to condemnation proceeds paid in connection with such partial Condemnation. Any condemnation proceeds remaining after all costs of repair or restoration have been paid in full shall be allocated between the Owners of the Units in accordance with the Declaration and the Condominium Act.

(iii) In the event that the Owner of the Parking Garage Unit is not required under the terms of the Parking Covenants or the Declaration to restore the Garage, but the Owners have elected to repair, restore or reconstruct the Garage or the Condominium of which the Garage is a part, the Owners, or if the Declaration so provides, the Association shall promptly repair, restore or reconstruct the Garage and/or the Condominium of which the Garage is a part as nearly as practicable in full compliance with the Permitted Exceptions and so as to comply with the design standards set forth in Exhibit B attached hereto;

provided, however, that modifications to conform to applicable laws, rules and regulations or available means of construction may be made. Any condemnation proceeds remaining after all costs of repair or restoration have been paid in full shall be allocated between the Owners of the Units in accordance with the Declaration and the Condominium Act.

26. Successors and Assigns.

A. Successors and Assigns of City.

(1) Transfers to Successor Public Owner. From and after the Leasing Date, the City shall have the right to sell, transfer, donate, convey, assign, lease (including the execution of parking management contract(s) with a qualified parking operator and/or a qualified valet parking operator selected by City in accordance with the Parking Agreement) or otherwise dispose of the Parking Garage Unit or any portion thereof or any interest therein, whether voluntarily, involuntarily, by operation of law or otherwise, to any city, county, state, governmental subdivision or agency, municipal corporation, public development authority or non-profit corporation exempt from taxation under Section 501(c)(3) of the Code (collectively, "Successor Public Owner") without the prior written consent of the Owner of the Systems Block Retail Unit. Such Successor Public Owner shall assume City's obligations under this Agreement, the Parking Covenants and the Parking Agreement by execution and delivery of assumption agreements in form and substance satisfactory to the parties to this Agreement, the Parking Covenants and the Parking Agreement.

(2) Transfers to Persons Other Than Successor Public Owners. From and after the Leasing Date and until the expiration of the Transfer Period, any sale, transfer, donation, conveyance, assignment, lease (other than a parking management contract with a qualified parking operator and/or a qualified valet parking operator selected by City in accordance with the Parking Agreement), or other disposition of the Parking Garage Unit or any portions thereof or any interest therein to any Person other than a Successor Public Owner shall be subject to the prior written consent of the Owner of the Systems Block Retail Unit, the execution of any necessary and appropriate amendments to the Parking Agreement to reflect the fact that the new Owner is a private Person and not a Successor Public Owner and the assumption by such Person of City's obligations under this Agreement, the Parking Covenants and the Parking Agreement, as amended, by execution of assumption agreements in form and substance satisfactory to the parties to this Agreement, the Parking Covenants and the Parking Agreement as applicable. Upon any sale, transfer, donation, conveyance, assignment, lease, or other disposition of the Parking Garage Unit or any portion thereof or any interest therein to any Person other than a Successor Public Owner without the prior written consent of the Owner of the Systems Block Retail Unit, the City's Transfer Rights shall automatically terminate and City shall, upon request by the Owner of the Systems Block Retail Unit, execute, acknowledge and deliver a termination of its Transfer Right under Section 20 of this Agreement and a full reconveyance of the City Mortgage in form and substance satisfactory to the Owner of the Systems Block Retail Unit; provided, however, the consent of the Owner of the Systems Block Retail Unit shall not be required for any such sale, transfer, donation, conveyance, assignment, lease, or other disposition of the Parking Garage Unit or any portion thereof or any interest therein to any Person, and there shall be no termination of

the City's Transfer Right under Section 20 of this Agreement, if the Owner of the Systems Block Retail Unit is in default under the provisions of Section 20 of this Agreement.

After the expiration of the Transfer Period, City shall have the right to sell, transfer, donate, convey, assign, lease, or otherwise dispose of the Parking Garage Unit or any portion thereof or any interest therein to any Person without the prior written consent of the Owner of the Systems Block Retail Unit; subject, however, to the right of first refusal granted the Owner of the Systems Block Retail Unit in Section 26(A)(3) below.

(3) Right of First Refusal. City hereby grants the Owner of the Systems Block Retail Unit commencing upon the expiration of the Transfer Period a right of first refusal to purchase the Parking Garage Unit on the following terms and conditions. In the event City receives a bona fide offer from any Person to purchase the Parking Garage Unit, City shall immediately send the Owner of the Systems Block Retail Unit a true and complete copy of the proposed contract and notify the Owner of the Systems Block Retail Unit of City's intent to accept the same. The Owner of the Systems Block Retail Unit shall thereupon have the right for a period of thirty (30) days following its receipt of said proposed contract to notify City that it intends to exercise its right of first refusal and purchase the Parking Garage Unit either in its own name or in the name of a nominee for the purchase price equal to 101.5% of the purchase price set forth in such proposed contract and on the other terms and conditions set forth in such proposed contract. In the event the Owner of the Systems Block Retail Unit elects to exercise its right of first refusal, the Owner of the Systems Block Retail Unit shall thereafter purchase the Parking Garage Unit either in its own name or in the name of a nominee at the time, for a purchase price equal to 101.5% of the purchase price set forth in the proposed contract and on the other terms and conditions set forth in such proposed contract. In the event the Owner of the Systems Block Retail Unit elects not to exercise its right of first refusal and notifies City within said thirty (30) day period, City shall thereafter be free for a period of one (1) year to sell the Parking Garage Unit to the buyer identified in the proposed contract at the purchase price and on the other terms and conditions set forth in the proposed contract, a true and correct copy of which was provided to the Owner of the Systems Block Retail Unit. In the event City does not (a) sell the Parking Garage Unit to the proposed purchaser at the purchase price or on the terms and conditions set forth in the proposed contract or (b) close the sale of the Parking Garage Unit within one (1) year following the expiration of the Owner of the Systems Block Retail Unit's right of first refusal, City shall not thereafter sell the Parking Garage Unit without again providing the Owner of the Systems Block Retail Unit with a copy of the proposed contract and providing the Owner of the Systems Block Retail Unit with an opportunity to exercise its right of first refusal.

B. Successors and Assigns of CDP or PSD Through Voluntary Transfers. City acknowledges that the acquisition and development of the Systems Block Property, the construction and thereafter Operation of the Garage, the lease of the Garage to the City pursuant to a lease purchase agreement executed pursuant to the provisions of RCW 35.42.010-.090 and other exercise of the rights and performance of the obligations under this Agreement may be through a series of corporations, partnerships, joint ventures, limited liability companies, co-tenancy arrangements, trusts or other entities in which CDP or PSD may have an ownership interest. CDP or PSD, as applicable, will be responsible for assembling the necessary parties to

accomplish the obligations under this Agreement. CDP or PSD, as applicable, reserves the right to assign its rights or delegate its duties under this Agreement to one or more such Persons and City consents to such assignment(s) of the rights and delegation of the duties and obligations of CDP or PSD, as applicable, under this Agreement to one or more such Persons so long as such Person(s) assume(s) the rights assigned and assume(s) the duties and obligations delegated by CDP or PSD, as applicable, to such Person(s) pursuant to an assumption agreement in form and substance reasonably satisfactory to City, CDP or PSD, as applicable, and each such successor.

(i) Voluntary Transfer by CDP or PSD or as Tenants-in-Common On or Prior to the Leasing Date. In the event of a voluntary assignment by CDP, PSD or CDP and PSD as tenants-in-common of its rights or delegation of its duties under this Agreement to any Person on or prior to the Leasing Date, such Person shall assume the rights assigned and assume the duties and obligations delegated by CDP, PSD or CDP and PSD as tenants-in-common to such Person, including, if applicable, all obligations of the Owner of the Systems Block Retail Unit under Section 20 of this Agreement pursuant to an assumption agreement in form and substance reasonably satisfactory to City, CDP, PSD or CDP and PSD as tenants-in-common, as applicable, and each such successor. Upon execution of such assumption agreement by City, CDP, PSD or CDP and PSD as tenants-in-common, as applicable, and such successor, such successor shall automatically succeed to all rights, duties and obligations of CDP, PSD or CDP and PSD as tenants-in-common, as applicable, under this Agreement so assigned and/or delegated, and thereafter all such obligations and liabilities shall be the primary responsibility of the Person to whom the rights, duties and obligations of CDP, PSD or CDP and PSD as tenants-in-common, as applicable, were so assigned or delegated, and CDP, PSD or CDP and PSD as tenants-in-common, as applicable, shall remain liable for the performance of such obligations or liabilities arising on or before or required to be performed prior to the Leasing Date. In the event that CDP transfers the Parking Garage Unit to such Person who has executed an assumption agreement described above, and CDP and/or such Person together perform the obligations of CDP under this Agreement relating to the design, construction and interim operation of the Garage and satisfy all conditions precedent to City's obligations set forth in Sections 9 and 14(A) of this Agreement, City agrees to pay the Lease Transfer Amount to such Person and perform all other obligations of City under Section 14 of this Agreement for the benefit of such Person on the Leasing Date. In the event of a subsequent further assignment or transfer of the interest of the initial successor owner prior to the Leasing Date, and the assumption by the subsequent successor owner of the rights assigned and assumption of the duties and obligations delegated by the initial successor owner pursuant to an assumption agreement which meets the requirements of this Section 26(B)(i), all obligations and liabilities of the initial successor owner which were so assigned or delegated shall automatically terminate and thereafter all such obligations and liabilities shall be the responsibility of the subsequent successor owner to whom the rights, duties and obligations of the initial successor owner were so further assigned or delegated.

(ii) Voluntary Transfer by the Owner of the Systems Block Retail Unit After the Leasing Date. In the event of a voluntary assignment by the Owner of the Systems Block Retail Unit of its rights or delegation of its duties under this Agreement after the Leasing Date, such Person shall assume the rights assigned and assume the duties and obligations delegated by the Owner of the Systems Block Retail Unit to such Person pursuant to an assumption agreement

in form and substance reasonably satisfactory to City, the Owner of the Systems Block Retail Unit and each such successor. Upon execution of such assumption agreement by City, the Owner of the Systems Block Retail Unit and such successor, such successor shall automatically succeed to all rights, duties and obligations of the Owner of the Systems Block Retail Unit under this Agreement so assigned and/or delegated, and all obligations and liabilities of the Owner of the Systems Block Retail Unit which were so assigned or delegated shall automatically terminate and thereafter all such obligations and liabilities shall be the responsibility of the Person to whom the rights, duties and obligations of the Owner of the Systems Block Retail Unit were so assigned or delegated. In the event any such successor becomes the owner of the Systems Block Retail Unit prior to the expiration of the Transfer Period as a result of such assignment and assumption, such successor of the Systems Block Retail Unit shall be obligated to perform all obligations of the Owner of the Systems Block Retail Unit under Section 20 of this Agreement and shall have all of the rights of the Owner of the Systems Block Retail Unit under Sections 21 and 26(A)(3) of this Agreement; provided, however, that such successor owner of the Systems Block Retail Unit shall incur no liability beyond such successor owner's interest in the Systems Block Retail Unit and City shall limit its recovery to the collateral securing the City Mortgage for the payment and discharge of any obligations imposed on such successor owner under Section 20 of this Agreement. Upon request by City, such successor owner of the Systems Block Retail Unit shall execute, acknowledge and record an agreement in form reasonably satisfactory to City and such successor owner of the Systems Block Retail Unit acknowledging the obligation of such successor owner to perform the obligations of the Owner of the Systems Block Retail Unit under Section 20 of this Agreement to the extent and on the terms and conditions set forth in this Agreement and acknowledging the obligations of the City to perform the obligations of City under Sections 21 and 26(A)(3) of this Agreement to the extent and on the terms and conditions set forth in this Agreement. In the event of the subsequent further assignment or transfer of the interest of such successor owner of the Systems Block Retail Unit, and the assumption by the subsequent successor owner of the rights assigned and assumption of the duties and obligations delegated by the initial successor owner of the Systems Block Retail Unit pursuant to an assumption agreement which meets the requirements of Section 26(B)(i) above, all obligations and liabilities of the initial successor owner of the Systems Block Retail Unit which were so assigned or delegated shall automatically terminate and thereafter all such obligations and liabilities shall be the responsibility of the subsequent successor owner to whom the rights, duties and obligations of the initial successor owner of the Systems Block Retail Unit were so further assigned or delegated.

C. Involuntary Transfers of the Rights of CDP and PSD as Tenants-in-Common or the Owner of the Systems Block Retail Unit Under this Agreement. In the event of a foreclosure of a Project Mortgage or upon a sale of the Systems Block Property, the Parking Garage Unit or the Systems Block Retail Unit pursuant to the trustee's power of sale contained in a Project Mortgage, or upon a transfer of the Systems Block Property, the Parking Garage Unit or the Systems Block Retail Unit by conveyance in lieu of foreclosure, whereby a Project Lender or any purchaser at such foreclosure or trustee's sale becomes the successor owner of the Systems Block Property, the Parking Garage Unit or the Systems Block Retail Unit, as applicable, prior to the Leasing Date then the following provisions shall apply:

(1) Involuntary Transfer by CDP or PSD or as tenants-in-common or the Owner of the Systems Block Retail Unit on or Prior to the Leasing Date. The Project Lender or the successor owner of the Systems Block Property, the Parking Garage Unit or the Systems Block Retail Unit, as applicable, shall automatically succeed to all rights of CDP, PSD or CDP and PSD as tenants-in-common or the Owner of the Systems Block Retail Unit under this Agreement upon recording of a deed to the Systems Block Property, the Parking Garage Unit or the Systems Block Retail Unit, as applicable, and in the event the Project Lender or any successor owner of the Systems Block Property, the Parking Garage Unit or the Systems Block Retail Unit performs the obligations of CDP, PSD or CDP and PSD as tenants-in-common or the Owner of the Systems Block Retail Unit under this Agreement relating to the design, construction and interim operation of the Garage and satisfies all conditions precedent to City's obligations set forth in Sections 9 and 14(A) of this Agreement, City agrees to pay the Lease Transfer Amount to Project Lender or such successor owner of the Systems Block Property, the Parking Garage Unit or the Systems Block Retail Unit, as applicable, and perform all other obligations of City under Section 14 of this Agreement for the benefit of the Project Lender or such successive owner of the Systems Block Property, the Parking Garage Unit or the Systems Block Retail Unit on the Leasing Date.

(2) Involuntary Transfers Resulting From Foreclosure After Leasing Date. Since the effect of a foreclosure of a Project Mortgage or a sale of the Systems Block Retail Unit pursuant to the trustee's power of sale contained in a Project Mortgage after the Leasing Date but prior to the expiration of the Transfer Period will be to eliminate the City Mortgage and the City's right to require the Owner of the Systems Block Retail Unit to acquire the Parking Garage Unit under Section 20 of this Agreement, the Owner of the Systems Block Retail Unit's right to reacquire the Parking Garage Unit under Section 21 of this Agreement and the right of the Owner of the Systems Block Retail Unit to exercise its right of first refusal under Section 26(A)(3) shall automatically terminate upon the date a deed to the Systems Block Retail Unit is recorded in favor of Project Lender or any purchaser at foreclosure or trustee's sale. Following any such foreclosure or trustee's sale and upon request by Project Lender, or any purchaser at foreclosure sale or any of their successors and assigns, City and the Owner of the Systems Block Retail Unit shall execute, acknowledge and deliver an agreement confirming the termination of their rights under Section 20, Section 21 and 26(A)(3) of this Agreement, respectively. Notwithstanding any provision of this Agreement to the contrary, however, the consent of the Owner of the Systems Block Retail Unit shall not be required for any sale, transfer, donation, conveyance, assignment, lease, or other disposition of the Parking Garage Unit or any portion thereof or any interest therein to any Person.

(3) Involuntary Transfers Resulting from Conveyance in Lieu of Foreclosure After Leasing Date. In the event there is a conveyance in lieu of foreclosure by the Owner of the Systems Block Retail Unit to a Project Lender or an affiliate of the Project Lender after the Leasing Date but prior to the expiration of the Transfer Period which does not eliminate the City Mortgage, the City's right to require the Owner of the Systems Block Retail Unit to acquire the Parking Garage under Section 20 of this Agreement, the right of the Owner of the Systems Block Retail Unit to reacquire the Parking Garage Unit under Section 21 of this Agreement and the right of the Owner of the Systems Block Retail Unit to exercise its right of first refusal under Section 26(A)(3) shall not terminate but shall remain in full force and effect in

accordance with the terms of this Agreement and consent of the Owner of the Systems Block Retail Unit shall be required for a transfer by the City of the Parking Garage Unit to the extent required under Section 26(A) of this Agreement.

D. Voluntary Transfers by and Obligations of Project Lender or Successor Owners Prior to Expiration of Transfer Period. In the event a Project Lender forecloses on the Systems Block Retail Unit prior to the Leasing Date or any successor Owner of the Systems Block Retail Unit becomes the Owner of the Systems Block Retail Unit prior to the Leasing Date, from and after the Closing such Project Lender or successor Owner of the Systems Block Retail Unit shall be obligated to perform all obligations of the Owner of the Systems Block Retail Unit under Section 20 of this Agreement and shall have all of the rights of the Owner of the Systems Block Retail Unit under Sections 21 and 26(A)(3) of this Agreement; provided, however, that such Project Lender or any successor Owner of the Systems Block Retail Unit shall incur no liability beyond Project Lender's or such successor Owner's interest in the Systems Block Retail Unit and City shall limit its recovery to the collateral securing the City Mortgage for the payment and discharge of any obligations imposed on the Project Lender or such successor Owner of the Systems Block Retail Unit under Section 20 of this Agreement. Upon request by City, Project Lender or such successor Owner of the Systems Block Retail Unit shall execute, acknowledge and record an agreement in form reasonably satisfactory to City and Project Lender or such successor Owner of the Systems Block Retail Unit confirming the obligation of Project Lender or such successor Owner of the Systems Block Retail Unit to perform the obligations of the Owner of the Systems Block Retail Unit under Section 20 of this Agreement to the extent and on the terms and conditions set forth in this Agreement and confirming the obligations of the City to perform the obligations of the City under Sections 21 and 26(A)(3) of this Agreement to the extent and on the terms and conditions set forth in this Agreement. In the event of the subsequent further assignment or transfer of the interest of Project Lender or the initial successor Owner of the Systems Block Retail Unit after the Leasing Date, all obligations and liabilities of Project Lender or the initial successor Owner of the Systems Block Retail Unit shall automatically terminate and thereafter all such obligations and liabilities shall be the responsibility of the subsequent successive Owner of the Systems Block Retail Unit to whom the interest of the Project Lender or the initial successor Owner, in the Systems Block Retail Unit were so further assigned or transferred and the general provisions of Section 26(B)(ii) dealing with voluntary transfers by the Owner of the Systems Block Retail Unit after the Leasing Date shall apply.

E. Rights and Obligations of the Owner of the Systems Block Retail Unit. From and after the Leasing Date and until the expiration of the Transfer Period the Owner of the Systems Block Retail Unit and each successor owner thereof shall have the obligations of the Owner of the Systems Block Retail Unit under Section 20 of this Agreement and the rights of the Owner of the Systems Block Retail Unit under Section 21 and 26(A)(3) of this Agreement. Such rights, duties and obligations cannot be transferred separately from the ownership of the Systems Block Retail Unit.

F. Subject to the foregoing provisions of this Section 26, this Agreement shall be binding upon, and shall inure to the benefit of the parties and their respective successors and assigns.

27. Foreclosure of Project Mortgage After the Leasing Date; Disposition of Surplus Proceeds. In the event there is a foreclosure of a Project Mortgage or upon a sale of the Systems Block Retail Unit pursuant to the trustee's power of sale contained in a Project Mortgage after the Leasing Date and prior to the thirtieth (30th) anniversary of the Leasing Date, and there is a surplus remaining after application of the proceeds of sale to the expenses of sale, including reasonable attorney's fees and trustee's fees as allowed under Washington law and payment in full of the obligations secured by the Project Mortgage, such surplus, if any, less the clerk's filing fee, shall be deposited with the clerk of the superior court for King County as provided by RCW 61.24.080, and the liens or claims of liens against the Systems Block Retail Unit eliminated by sale under the provisions of the Deed of Trust Act of the State of Washington Chapter RCW 61.24., including, but not limited to the City Mortgage, shall attach to such surplus in the order of priority that it had attached to the Systems Block Retail Unit. The clerk shall not disburse such surplus except upon order of the superior court for King County or as otherwise provided by law.

28. Legal Opinions.

A. CDP Legal Opinions. Upon execution of this Agreement and again on the Leasing Date, CDP shall deliver or cause to be delivered to City, PSD and each of its members and each Project Lender an opinion reasonably satisfactory to the addressees from Hillis, Clark, Martin & Peterson with respect to: (i) the authority of CDP, under all applicable law, to execute, deliver and perform its obligations under this Agreement, the Parking Covenants and the Parking Agreement, and, only on the Leasing Date, the Lease and the Declaration, and (ii) the validity and enforceability of this Agreement, the Parking Covenants and the Parking Agreement and, only on the Leasing Date, the Declaration against CDP in accordance with the terms hereof and thereof.

B. PSD Legal Opinions. Upon execution of this Agreement and again on the Leasing Date, PSD shall deliver or cause to be delivered to City an opinion reasonably satisfactory to City from Preston Gates & Ellis with respect to: (i) the authority of PSD, under all applicable law, to execute, deliver and perform its obligations under this Agreement, the Parking Covenants the Parking Agreement and the Facade Easement, and only on the Leasing Date, the Declaration (including the Air Space Easement), and the City Mortgage, and (ii) the validity and enforceability of this Agreement, the Parking Covenants, the Parking Agreement and the Facade Easement and, only on the Leasing Date, the Declaration (including the Air Space Easement), and the City Mortgage against PSD in accordance with the terms hereof and thereof.

C. City Legal Opinions. Upon execution of this Agreement and again on the Leasing Date, City shall deliver or cause to be delivered to CDP, PSD and each of its members and each Project Lender an opinion reasonably satisfactory to CDP, PSD and each of its members and each Project Lender from Foster Pepper & Shefelman, Bond Counsel to the City, with respect to: (i) the authority of the City, under all applicable law, to execute, deliver and perform its obligations under this Agreement, the Parking Covenants and the Parking Agreement and, only on the Leasing Date, the Lease and the Declaration, and (ii) the validity and enforceability of this

Agreement the Parking Covenants and the Parking Agreement and, only on the Leasing Date, the Lease and the Declaration against the City in accordance with the terms hereof and thereof.

29. Definitions. As used in this Agreement, the following capitalized terms shall have the following meanings:

Access Area means the Skybridge and the portions of the Common Areas within the Systems Block Retail Unit including stairways, ramps, corridors, escalators, elevators and walkways which provide pedestrian access to and from the F&N Building and the Garage via the Skybridge, and to and from the Garage and the 6th Avenue entrance to the Systems Block Retail Unit.

Access Easement means a non-exclusive access easement for the benefit of the Owner of the Parking Garage Unit and its Permittees over, across and through such portions of the Systems Block Retail Unit as is necessary for such Owner and its Permittees to enter and exit the Garage for its intended purpose.

Agreement means this Umbrella Agreement, as the same may from time to time be amended, supplemented or modified.

Air Space Easement means the easement set forth in Exhibit K hereto.

Allocated Interests means the undivided interest in the Common Elements, the Common Expense Liability, and votes for each Unit in the Condominium determined in accordance with the Declaration.

Alternate Permitted Use means a use of the Garage (other than the Permitted Use) permitted on the terms and conditions set forth in Section 15(B) of this Agreement.

Americans With Disabilities Act means the Americans With Disabilities Act of 1990, 42 U.S.C. Section 1201, et seq., as amended from time to time.

Annual Profits and Losses has the meaning set forth in Section 20 of this Agreement.

Approved Garage Plans and Specifications means the final plans, drawings and specifications for the Garage prepared by the Architect.

Architect means NBBJ, Inc. in collaboration with Elkus Manfredi Architects Ltd. or such other architect licensed to practice in the State of Washington as may from time to time be designated by CDP and PSD as tenants-in-common in connection with construction of the Condominium, including the Garage.

Assessment means all sums chargeable by the Association against a Unit, including, without limitation (a) general and special Assessments for Common Expenses, Limited Common Expenses, Special Allocations, fees, charges and fines imposed by the Association; (b) interest and

late charges on any delinquent account; and (c) costs of collection, including reasonable attorneys' fees, incurred by the Association in connection with the collection of a delinquent Unit Owner's account, all as set forth in the Declaration.

Association means the Owners' association created in the Declaration.

Board means the board of directors of the Association as described in the Declaration.

Business Day means any day other than a Saturday, Sunday or legal holiday that City offices are open.

Bylaws means the Bylaws of the Association as they may be amended from time to time.

Calendar Year means a calendar year commencing with January 1 and ending with December 31.

Certificates of Participation means the issuance by City of certificates of participation in rental payments to be made by City under the Lease pursuant to the provisions of Section 13 of this Agreement.

City means The City of Seattle, a first-class city of the State of Washington or its successors and assigns, in its capacity as Owner of the Parking Garage Unit.

City Mortgage means a deed of trust in favor of City in substantially the form of Exhibit H to this Agreement.

Closing means the closing of the transfer of the Property Interests from CDP to City or its designee as described in and pursuant to this Agreement.

Code means the Internal Revenue Code of 1986, as amended from time to time and the applicable Department of Treasury regulations.

Common Area means the Skybridge and all areas within the Systems Block Retail Unit that are or are to be made available for the nonexclusive use, convenience and benefit of all Occupants and their respective Permittees, including the Access Area.

Common Elements means all portion of the Condominium other than Units and the Limited Common Elements as will be set forth in the Declaration.

Common Expense Liability means the liability for Common Expenses allocated to each Unit, as will be set forth in the Declaration.

Common Expenses means expenditures made by or financial liabilities of the Association in connection with the management, repair, replacement and insurance of the Common Elements

or which are related to the Common Elements and the general operation of the Association, including allocations to reserves.

Complex means the F&N Property, the Systems Block Property and the Nordstrom Properties.

Condemnation means a taking or damaging of all or any portion of the Systems Block Property or any Unit by the exercise of any governmental power, whether by legal proceedings or otherwise, by a governmental agency with jurisdiction or a transfer by the Owner of the Systems Block Property or any Unit thereof either under threat of condemnation or while legal proceedings for condemnation are pending.

Condemnation Date means the earlier of (a) the date when possession of the condemned property (or any portion thereof) is taken by the governmental agency, or (b) the date when title to the condemned property (or any portion thereof) vests in the governmental agency.

Condominium means a condominium to be created under the Declaration and the Survey Map and Plans.

Condominium Act means Chapter RCW 64.34, as amended from time to time.

Contractor means the contractor selected by CDP and PSD as tenants-in-common to construct the Garage.

CDP means Community Development Properties, King County II, Inc., a Delaware nonprofit corporation, its successors and assigns.

Daytime Full Capacity means that 98% of the self-park spaces in the Garage are occupied for more than one hour between the hours of 9:00 a.m. and 5:00 p.m. on seven days during any thirty (30) day period other than (i) the period from Thanksgiving through the end of December, or (ii) during regularly scheduled "event sales" for the F&N Owner, presently known as the Men's Half-Yearly Sale, Women and Children's Half-Yearly Sale and Anniversary Sale, or (iii) during up to three (3) additional special events in the Complex of not more than one week's duration each, or (iv) during special events for which the City closes Pine Street between Fourth and Fifth Avenues.

Debt Capacity has the meaning set forth in Section 13 of this Agreement.

Declaration means the Condominium Declaration for a condominium, as it may be amended from time to time.

Environmental Conditions means conditions with respect to soil, surface waters, groundwater and other waters of the state and other similar environmental conditions on-site and off-site of the Garage and/or the Systems Block Property.

Environmental Law means, as amended from time to time, the Federal Resource Conservation and Recovery Act of 1976, 42 U.S.C. Section 6901 et seq., Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Section 9601 et seq., Federal Hazardous Materials Transportation Control Act, 49 U.S.C. Section 1801 et seq., Federal Clean Air Act, 42 U.S.C. Section 7401 et seq., Federal Water Pollution Control Act, Federal Water Act of 1977, 93 U.S.C. Section 1251 et seq., Federal Insecticide, Fungicide and Rodenticide Act, Federal Pesticide Act of 1978, 7 U.S.C. Section 136 et seq., Federal Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq., Federal Safe Drinking Water Act, 42 U.S.C. Section 300f et seq., Washington Water Pollution Control Act, RCW Chapter 90.48, Washington Clean Air Act, RCW Chapter 70.94, Washington Solid Waste Management Recovery and Recycling Act, RCW Chapter 70.95, Washington Hazardous Waste Management Act, RCW Chapter 70.105, Washington Hazardous Waste Fees Act, RCW Chapter 70.95E, Washington Model Toxics Control Act, RCW Chapter 70.105D, Washington Nuclear Energy and Radiation Act, RCW Chapter 70.98, Washington Radioactive Waste Storage and Transportation Act of 1980, RCW Chapter 70.99, Washington Underground Petroleum Storage Tanks Act, RCW Chapter 70.148, or any other local, state or federal laws, rules, ordinances, regulations and orders now or hereafter enacted relating to (a) environmental protection, (b) the use, storage, generation, production, treatment, emission, discharge, remediation, removal or disposal of Hazardous Substances or (c) any other environmental matter.

Escrow Holder means Transnation Title Insurance Company or another nationally recognized title insurance company selected by CDP and not objected to by City which shall act as the escrow agent and provide the title insurance policies to be delivered in connection with the Closing.

Evening Full Capacity means that 98% of the self-park spaces in the Garage are occupied for more than one hour between the hours of 5:00 p.m. and 11:00 p.m. on seven days during any thirty (30) day period other than (i) the period from Thanksgiving through the end of December, or (ii) during regularly scheduled "event sales" for the F&N Owner presently known as the Men's Half-Yearly Sale, Women and Children's Half-Yearly Sale and Anniversary Sale, or (iii) during up to three (3) additional special events of not more than one week's duration each in the Complex or (iv) during special events for which the City closes Pine Street between Fourth and Fifth Avenues.

F&N Building means that certain 10 story building presently located on the F& N Property.

F&N Owner means the owner of the F&N Property. If the ownership of the F&N Property is held by a nominee, or trustee for security purposes, a sale-leaseback lessor, or other Person whose interest does not entitle such Person to possession or use of the F&N Property, such Person shall not be the F&N Owner, and the Person who is entitled to the possession or use of the F&N Property shall be considered to be the F&N Owner. For purposes of this definition, the tenants of space leases in the F&N Property shall not be considered to be the F&N Owner, and the landlord of the space leases shall be the F&N Owner.

F&N Property means certain real property commonly known as the Frederick & Nelson Building and legally described in Exhibit A-2 attached hereto and by this reference incorporated herein.

Facade Easement means the Facade Easement set forth in Exhibit L attached hereto.

Fair Market Value means the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus.

Implicit in this definition is a consummation of sale as of a specified date, and the passing of title from the seller to the buyer under conditions whereby:

- a. The buyer and seller are typically motivated.
- b. Both parties are well informed or well advised, and each acting in what they consider their own best interest.
- c. A reasonable time is allowed for exposure in the open market.
- d. Payment is made in terms of U.S. dollars, or in terms of financial arrangements comparable thereto; and
- e. The price represents a normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

Financing Costs means any and all costs incurred or payable by City in connection with and/or relating to the issuance of the Certificates of Participation or other forms of obligations, including, but not limited to legal fees, financial advisor fees, printing fees, trustee fees, underwriter's discount and other costs that City is obligated to pay in connection therewith.

Floor Area means, from time to time, the aggregate of the actual number of square feet of floor space in any building located within the Complex, exclusively appropriated or designated for use by a Person pursuant to a lease, license or otherwise, whether or not actually occupied.

Floor Area includes:

- (a) basement space and subterranean areas;
- (b) balcony and mezzanine space; and
- (c) space occupied by columns, stairs, escalators, dumb-waiters, conveyors or other interior equipment within the building involved (except as excluded below);

Notwithstanding the foregoing provisions, Floor Area shall not include:

- (a) the upper levels of any permanent or temporary multi-deck stock areas;
- (b) areas used exclusively to house mechanical, electrical, telephone, telecommunication, computer, air-conditioning and similar equipment and spaces, and any garbage (or other waste) collecting area or waste bailing or compacting area;
- (c) truck loading areas;
- (d) any Common Area;
- (e) parking stalls within the Garage.

Floor Area shall be measured from the exterior faces of the exterior walls (including basement walls), except that where party and interior common walls are involved, the Floor Area shall be measured from the center thereof instead of from the exterior faces thereof.

FIRREA Appraisal means an appraisal prepared at the request of a Project Lender which meets the requirements of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 and regulations issued thereunder, each as amended from time to time.

Fully Utilized means that on any day the peak parking usage within the Garage is equal to or greater than the total number of parking spaces within the Garage minus the number of parking spaces located on the lowest floor of the Garage.

Garage means a parking garage containing five levels of below-grade parking with a minimum capacity of twelve hundred (1,200) multi-passenger motor vehicles of which 240 may be valet parked. The Garage will be one of the two Units in the Condominium and will be designated as the Parking Garage Unit in the Declaration.

Garage Debt Service means the lesser of principal and interest payments required to be paid each year on either (a) the Certificates of Participation or other obligations issued by the City to finance its acquisition of the Property Interests on the Leasing Date, or (b) any debt or obligation then outstanding which refinanced such Certificates of Participation or other obligations.

Garage Construction Contract(s) means the contract or contracts entered into between Contractor and CDP for construction of the Garage.

Garage Construction Documents means the Approved Garage Plans and Specifications and the Garage Construction Contract(s) and subcontract(s).

Gross Receipts means, for the period of time in question, the entire gross receipts of the Owner of the Garage from operation of the Garage (exclusive of retail sales and other taxes, if any, related to the parking of vehicles collected by the Owner of the Garage for which the Owner

of the Garage is directly accountable to the taxing authorities) from parking fees and all services, including, but not limited to, valet parking, rendered in or from the Garage. All cash sales, validated ticket sales for customers of the Complex, credit card sales and insurance receipts from claims which have been previously paid shall be included in Gross Receipts in the month of payment, validation, sale, or receipt, as applicable.

Hazardous Substances shall include without limitation:

(a) Those substances included within the definitions of "hazardous substances," "hazardous materials," "toxic substances," or "solid waste" in the Federal Resource Conservation and Recovery Act of 1976, 42 U.S.C. Section 6901 et seq., the Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Section 9601 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., and the Toxic Substance Control Act, 15 U.S.C. Section 2601 et seq., and in the regulations promulgated pursuant to said laws, all as amended from time to time;

(b) Those substances defined as "dangerous wastes," "hazardous wastes" or as "hazardous substances" under the Water Pollution Control Act, RCW 90.48.010 et seq., the Hazardous Waste Management Statute, RCW 70.105.010 et seq., the Washington Toxic Substance Control Act RCW 70.105B.010 et seq., the Washington Model Toxics Control Act, RCW 70.105D.010 et seq., and the Toxic Substance Control Act, 15 U.S.C. Section 2601 et seq., and in the regulations promulgated pursuant to said laws, all as amended from time to time;

(c) Those substances listed in the United States Department of Transportation Table (49 C.F.R. 172.101 and amendments thereto) or by the Environmental Protection Agency (or any successor agency) as hazardous substances (40 C.F.R. Part 302 and amendments thereto);

(d) Storm water discharge regulated under any federal, state or local law, ordinance or regulation relating to storm water drains, including, but not limited to, Section 402(p) of the Clean Water Act, 33 U.S.C. Section 1342 and the regulations promulgated thereunder, all as amended from time to time.

(e) Such other substances, materials and wastes which are or become regulated under applicable local, state or federal law, or the United States government, or which are classified as hazardous or toxic under federal, state or local laws or regulations, all as amended from time to time; and

(f) Any material, waste or substance which is (A) petroleum, (B) asbestos, (C) polychlorinated biphenyls, (D) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. Section 1251, et seq. (33 U.S.C. Section 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. Section 1317) (E) flammable explosives; or (F) radioactive materials.

Land means the land described in Exhibit A-1.

Land Use Code means the Land Use Code of The City of Seattle codified as Chapter 23 of The City of Seattle Municipal Code, as amended from time to time.

Law means any constitution, statute, ordinance, regulation, rule, resolution, judicial decision, administrative order or other requirement of any federal, state, county, municipal or other governmental agency or authority having jurisdiction over the parties or the Garage, or both, in effect either at the time of execution of this Agreement or at any time during the term of this Agreement, including without limitation, any regulation or order of a quasi official entity or body (e.g. board of fire examiners or public utilities); all rules, laws and regulations arising under Title III of the Americans with Disabilities Act and the regulations issued thereunder by the United States Department of Justice.

Lease means that certain Lease Purchase Agreement entered into by and among CDP as initial landlord, Trustee as successor landlord, and City as tenant pursuant to the provisions of Sections 5, 8, 11, 13 and 14 of this Agreement, as amended by the City and the Trustee from time to time.

Lease Transfer Amount means SEVENTY-THREE MILLION DOLLARS (\$73,000,000).

Leasing Date means any Business Day designated by CDP which Business Day shall be no earlier than one (1) year and no later than three (3) years following the Opening Date. CDP shall provide City with at least five (5) months prior written notice of the Leasing Date.

Limited Common Element means a portion of the Condominium other than the Units for the exclusive use of one but less than all Units as will be set forth in the Declaration.

Limited Common Expense means expenditures made by or financial liabilities of the Association which are related to the maintenance, repair, replacement or insurance of the Limited Common Elements, including allocations to reserves as will be set forth in the Declaration.

Limited Common Expense Liability means the liability for Limited Common Expenses allocated to the Units to which the Limited Common Elements are assigned, in proportion to each Unit's respective Limited Common Expense Liability, as will be set forth in the Declaration.

Loan or Loans means all construction and permanent loan or loans or other financing obtained by the Owner of the Systems Block Property or the Owner of the Systems Block Retail Unit in connection with the design, development, construction and ownership of the Garage, the remainder of the Systems Block Project and tenant improvements for tenants of the Systems Block Retail Unit.

Major Retailer means Nordstrom or any other retailer which is Operating 200,000 square feet of Floor Area in the F&N Building as a retail specialty or retail department store in accordance with the requirements of the REA.

Memorandum of Agreement means that certain memorandum of agreement dated June 27, 1995 by and between City and PSA.

Monthly Long-Term Parking Contracts means contracts between the Owner, operator or lessee of the Garage and members of the general public (who may be Occupants or individuals who work for Occupants) for Required Long-Term Parking for a term of thirty (30) days or less.

Mortgagee means any person who holds a mortgage, deed of trust, financing lease or other lien which encumbers a Unit as security for an indebtedness incurred by an Owner in favor of the Mortgagee.

MTCA means the Washington Model Toxics Control Act, RCW Chapter 70.105D and implementing regulations promulgated thereunder, as the same may be amended from time to time.

Net Loss has the meaning set forth in Section 20 of this Agreement.

Nordstrom means Nordstrom, Inc., a Washington corporation, or its successors or assigns under the REA.

Nordstrom Properties means Nordstrom's fee and leasehold interests in the buildings comprising the present Nordstrom Store in downtown Seattle and the Seaboard Building and legally described in Exhibit A-3 attached hereto and by this reference incorporated herein.

Occupant or Occupants means the F&N Owner, the Owner of the Systems Block Property, the Owner of the Parking Garage Unit, the Owner of the Systems Block Retail Unit, and any other Person entitled by lease, license or otherwise to use and occupy Floor Area within the Complex, including the Garage (but not including the users of the Garage), or one or more of them, or their officers or employees as the context may require.

Opening Date means the first day following Substantial Completion of the Garage that the Garage is open to members of the general public for parking of vehicles.

Operate, or Operating, or Operation means: (a) with respect to the Floor Area within the F&N Building, that at least 200,000 square feet of Floor Area is open to the general public for business for retail purposes during its business hours except while it is not so open for business by reason of damage or destruction, the events described in Article 3 of the Parking Covenants (subject to the provisions of any agreement to which the F&N Owner is a party which may establish time periods within which improvements must be repaired and reopened) or while temporarily not so open for business by reason of repairs, remodeling or reconstruction or by reason of such reasonable interruptions as may be incidental to the conduct of business, and (b) with respect to the retail stores and entertainment facilities within the Systems Block Retail Unit, that retail stores and entertainment facilities therein are open to the general public for retail business during business hours which are normal for the Complex, except while any are not so open for business by reason of damage or destruction, the events described in Article 3 of the

Parking Covenants or while temporarily not so open for business (subject to the provisions of any agreement to which the Owner of the Systems Block Retail Unit is a party which may establish time periods within which improvements must be repaired and reopened) by reason of repairs, remodeling or reconstruction, or by reason of such reasonable interruptions as may be incidental to the conduct of business and (c) with respect to the Garage, that the Garage is open to the general public for parking of vehicles and is being operated and maintained in accordance with the terms of the Parking Covenants and/or the Parking Agreement, except while the Garage is not so open for business by reason of damages or destruction, the events described in Article 3 of the Parking Covenants or while temporarily not so open for business (subject to the provisions of any agreement to which the Owner of the Garage is a party which may establish time periods within which improvements must be repaired and reopened), by reason of repairs, remodeling or reconstruction, or by reason of such reasonable interruptions as may be incidental to the conduct of business. This provision is merely definitional and shall not be deemed to create independent covenants for any Person.

Operating Expenses means all costs, fees and expenses paid or incurred by the Owner of the Garage and directly related to the interest of the Owner of the Garage in, and operation and maintenance of, the Garage whether such expenses are paid directly by the Owner of the Garage or are the responsibility of the Owner of the Garage under the Lease, including, without limitation:

- (1) all utilities;
- (2) all reasonable and necessary expenses of maintaining or repairing the Garage in or to the condition required under the Parking Covenants and the Parking Agreement plus reasonable reserves, including depreciation or amortization of capital expenditures made subsequent to the Leasing Date either required by governmental ordinances, laws or regulations for continued operation of the Garage for parking or those which are designed with a reasonable probability of improving the operating efficiency of the Garage, provided that such amortization costs shall not exceed expected increased Gross Receipts resulting from such capital improvements;
- (3) management fees paid to the parking operator and valet parking operator, if any, selected by the Owner of the Garage in accordance with this Agreement and the Parking Agreement;
- (4) all insurance premiums;
- (5) real estate taxes and assessments, if any, paid by the Owner of the Garage;
- (6) license fees, permit fees or other fees or charges which may be imposed from time to time on the use or possession of the Garage; and
- (7) reasonable replacement reserves set aside for capital expenditures and maintenance.

Owner means any Person who owns the Systems Block Property or a Unit, but if ownership is held by a nominee, or trustee for security purposes, a sale-leaseback lessor, or other Person whose interest does not entitle such Person to possession or use of the Systems Block Property or a Unit, such Person shall not be the Owner, and the Person who is entitled to the possession or use of the Systems Block Property or a Unit shall be considered to be the Owner. For purposes of this definition, the tenants of space leases in the Systems Block Retail Unit shall not be considered to be the Owner of the Systems Block Retail Unit and the landlord of the space leases shall be the Owner of the Systems Block Retail Unit.

Parking Agreement means that certain Parking Agreement entered into by and among CDP, PSD, City and Nordstrom as the same may be amended from time to time in accordance with its terms.

Parking Covenants means that certain agreement entitled Parking Covenants by and among CDP, PSD and Nordstrom as the same may be amended from time to time in accordance with its terms.

Parking Garage Unit means a parking garage containing five levels of below-grade parking with a minimum capacity of twelve hundred (1,200) multi-passenger motor vehicles, of which 240 may be valet parked, together with an undivided interest in land, the Common Elements and the Limited Common Elements allocated to the Garage as set forth in the Declaration including appurtenant easements, and which will be designated as the Parking Garage Unit in the Declaration, the boundaries of which will be shown on the Survey Map and Plans. The Parking Garage Unit will be one of the two Units in the Condominium.

Parking Oversight Committee means the Parking Oversight Committee established pursuant to the Parking Agreement to provide guidance and advice to the City on matters of Garage Operation.

Party or Parties has the meaning set forth in the Parking Covenants.

Permitted Exceptions means (i) this Agreement, the Declaration, the Parking Covenants and the Parking Agreement, (ii) general governmental building or use restrictions consistent with then applicable zoning regulations for the Systems Block Property, (iii) utility and other easements not inconsistent with the use of the Garage as a parking garage, (iv) all easements, covenants, conditions and restrictions which may be imposed on the Systems Block Property during the course of construction as a result of permits or other conditions imposed by any governmental authority as a condition to issuing a master use permit, building permit or any other license or approval, (v) the rights of patrons of the Garage under Monthly Long-Term Parking Contracts, Special Use Long-Term Parking Contracts and Special Use Valet Parking contracts, and (vi) any exception to title to the Systems Block Property approved by City as of the date of this Agreement, and listed in Exhibit M to this Agreement.

Permitted Use means use of the Garage solely as a first-class parking garage for the parking of vehicles by members of the general public (including Required Long-Term Parking and valet parking) in accordance with the requirements of this Agreement, the Declaration, the Parking Covenants and the Parking Agreement.

Permittees means all Occupants and their respective officers, directors, employees, agents, partners, members, managers, contractors, customers, visitors, invitees, licensees and concessionaires.

Person means a natural person, corporation, trust, partnership, limited partnership, limited liability company, government subdivision or agency, municipal corporation, city or other legal entity.

Project Lender means, individually and collectively, any lender providing initial, additional or supplementary construction or permanent loan funds or refinancing a Loan secured by an encumbrance upon the Systems Block Property or any portion thereof.

Project Loan Documents means all documents executed by CDP, PSD, CDP and PSD as tenants-in-common or the Owner of the Systems Block Property or any portion thereof in favor of a Project Lender.

Project Mortgage means, individually and collectively, a mortgage, deed of trust, encumbrances or other liens and such other or additional documents as a Project Lender may require including, but not limited to, an assignment of the interest of CDP and PSD under this Agreement which secure a Loan and constitute a first lien on the Systems Block Project or any portion thereof.

Property Interests means the real property, easements and other real property interests to be transferred to the City or its designee including the Trustee on the Leasing Date and more particularly described in Section 8 of this Agreement.

PSA means Pine Street Associates L.L.C., a Washington limited liability company, its successors and assigns.

PSD means Pine Street Development L.L.C., a Washington limited liability company, its successors and assigns.

REA means that certain Construction, Operation and Reciprocal Easement Agreement entered into by and among CDP, PSD and Nordstrom setting forth certain construction, operation, reciprocal easements and other agreements by and among CDP, PSD and Nordstrom, as amended from time to time.

Reacquisition Date means the date, specified by the Owner of the Systems Block Retail Unit in its notice to City of its intention to reacquire the Parking Garage Unit, on which the

Reacquisition Price is paid to City and the Parking Garage Unit is conveyed to the Owner of the Systems Block Retail Unit.

Reacquisition Period means a period of ten years commencing on the twentieth (20th) anniversary of the Leasing Date and terminating upon the close of business in Seattle, Washington, on the date that is the thirtieth (30th) anniversary of the Leasing Date.

Reacquisition Price has the meaning set forth in Section 21 of this Agreement.

Remedial Work means all activities performed in connection with or the investigation, assessment, cleanup, removal, mitigation, monitoring or containment of Hazardous Substances on the Systems Block Property or the Garage or any portion thereof to meet the requirements of any Environmental Laws (including common law) relating to the cleanup or remediation of Hazardous Substances (in light of the reasonably intended use of the Systems Block Property or the Garage or any portion thereof at the time the Remedial Work commences) or as ordered by any court or any other federal or state governmental agency. Remedial Work includes all costs reasonably necessary to comply with MTCA standards or other then applicable Environmental Laws in connection with the presence, suspected presence, release or suspected release of a Hazardous Substance in or into the air, soil, groundwater, surface water or soil vapor, at, on or within the Systems Block Property or the Garage or any portion thereof. The term "Remedial Work" also includes the defense or prosecution of any proceedings before a federal or state court, administrative judge or tribunal or federal or state governmental agency, and any and all negotiations with any federal or state governmental agency or its employees or consultants and any fines or penalties assessed against the then-owner of the Systems Block Property or the Parking Garage Unit, as applicable, in connection therewith.

Rental Payments means the sum of the principal and interest payments payable by the City on each rent payment date set forth in the Lease for the use and occupancy of the Garage.

Required Long-Term Parking means the 136 regular and 35 carpool parking spaces in the Garage which under applicable provisions of the Land Use Code are intended to be rented for use by the same owner or motor vehicle for six hours or more and generally used by persons who commute to work by private motor vehicle.

Retail Unit Permitted Exceptions means (i) this Agreement, the Declaration, the REA, the Parking Covenants, the Parking Agreement and the Project Mortgage, (ii) general governmental building or use restrictions consistent with the then applicable zoning regulations for the Systems Block Property, (iii) utility and other easements not inconsistent with the use of the Systems Block Retail Unit as a retail, restaurant and entertainment complex; (iv) all easements, covenants, conditions and restrictions which may be imposed on the Systems Block Property during the course of construction as a result of permits or other conditions imposed by any governmental authority as a condition to issuing a master use permit, building permit or any other license or approval, (v) the rights of tenants, as tenants only, under leases of space in the Systems Block Retail Unit (subject to the terms of any subordination, non-disturbance and attornment or subordination and attornment provisions set forth in their individual leases), and (vi) any

exception to title to the Systems Block Property approved by City as of the date of this Agreement, and listed in Exhibit M to this Agreement.

Schematic Plans means the schematic plans, drawings and specifications for the Garage prepared by the Architect, copies of which are attached to this Agreement as Exhibit D and by this reference incorporated herein.

Short-Term Parking means a parking space occupied by individual motor vehicles for less than six (6) hours and generally used intermittently by shoppers or visitors.

Skybridge means a skybridge connecting the fourth level of the F&N Building with the third level of the Systems Block Retail Unit.

Special Allocations means those costs which are allocated to the Units in accordance with usage or on some basis other than Common Expense Liability as will be provided in the Declaration, including allocations to reserves.

Special Use Long-Term Parking Contracts means the contract(s) between the Owner of the Garage on the one hand and Occupants or members of the general public designated by the Owner of the Systems Block Retail Unit on the other hand for Required Long-Term Parking for a term of thirty (30) days or more, which may be subcontracted or assigned by the Systems Block Retail Unit Owner to Occupants and/or members of the general public.

Special Use Valet Parking means one or more contracts for a term of thirty (30) days or more between the Owner of the Garage and Occupants of the Complex for short-term valet parking to be operated by a valet parking operator selected by the F&N Owner and/or the Owner of the Systems Block Retail Unit, respectively, to park cars in one of the valet parking spaces in the Garage.

Substantial Completion of the Garage has the meaning set forth in Section 4(K) of this Agreement.

Substantial Completion of the Systems Block Retail Unit has the meaning set forth in Section 9(A) of this Agreement.

Successor Public Owner means any city, county, state, governmental subdivision or agency, municipal corporation, public development authority or non-profit corporation exempt from taxation under Section 501(C)(3) of the Code which acquires the Parking Garage Unit at any time after the Leasing Date and prior to the termination of this Agreement in accordance with its terms.

Survey Map and Plans means the survey map and plans filed simultaneously with the recording of the Declaration and any amendments, corrections and addenda thereto subsequently filed.

Systems Block Project means a mixed-used commercial condominium consisting of the Parking Garage Unit and the Systems Block Retail Unit.

Systems Block Property means certain real property commonly known as the Systems Block and legally described in Exhibit A-1 attached hereto and by this reference incorporated herein.

Systems Block Retail Construction Documents means the Systems Block Retail Plans and Specifications and the construction contract(s) and subcontract(s) for construction of the Systems Block Retail Unit.

Systems Block Retail Plans and Specifications means the final plans, drawings and specifications for the Systems Block Retail Unit prepared by the Architect.

Systems Block Retail Unit means a commercial building containing a minimum of 300,000 square feet of gross leasable area for retail, restaurant and entertainment uses on the concourse level and up to five additional levels, which is structurally integrated with, and constructed on top of the Parking Garage Unit, and which will be designated as the Systems Block Retail Unit in the Declaration, the boundaries of which will be as shown on the Survey Map and Plans.

Title VII of the Civil Rights Act of 1964 means the federal law by that name codified at 42 U.S.C. Section 2000e et seq., as amended from time to time.

Title Company means Transnation Title Insurance Company or another nationally recognized title insurance company selected by CDP and not objected to by City which will be issuing the title insurance policies to be issued at the Closing on the Leasing Date.

Transfer Date means the date specified by City in its notice to the Owner of the Systems Block Retail Unit of its exercise of its right under Section 20 of this Agreement to transfer the Parking Garage Unit to the Owner of the Systems Block Retail Unit when the Transfer Price is paid to City and the Parking Garage Unit is conveyed to the Owner of the Systems Block Retail Unit.

Transfer Period means a period of ten years commencing on the twentieth (20th) anniversary of the Leasing Date and terminating upon the close of business in Seattle, Washington, on the date that is the thirtieth (30th) anniversary of the Leasing Date.

Transfer Price has the meaning set forth in Section 20 of this Agreement.

Trust Agreement means the Trust Agreement governing the issuance of any Certificates of Participation issued by the City on or before the Leasing Date.

Trustee means the trustee selected by the City to act as the bond trustee under the Trust Agreement or such other successor to CDP as the initial landlord under the Lease as may be designated by City on or before the Leasing Date.

Unit means a physical portion of the Condominium designated for separate ownership, the boundaries of which will be described in the Declaration and shown on the Survey Map and Plans. The Condominium will consist of two Units, both of which will be restricted to nonresidential use: the Parking Garage Unit and the Systems Block Retail Unit as described in the Declaration and shown on the Survey Map and Plans.

30. Co-Tenant Performance. As the co-tenant with CDP in the Systems Block Property, PSD covenants to the City that in the event CDP fails to perform any obligation of CDP to the City, or sustain any representation or warranty made by CDP to the City, as set forth in this Agreement, whether as CDP alone or as a tenant in common with PSD, PSD shall cure or shall cause the cure of such failure and shall be liable therefor.

31. Miscellaneous.

A. Brokerage Fees. Each party represents to the other that no broker has been involved in this transaction. In the event of a claim for broker's fee, finder's fee, commission or other similar compensation in connection herewith, CDP and PSD, if such claim is based upon any agreement alleged to have been made by CDP and PSD, hereby agree to indemnify City against and hold City harmless from any and all damages, liabilities, costs, expenses and losses (including, without limitation, reasonable attorneys' fees and costs) which City may sustain or incur by reason of such claim and City, if such claim is based upon any agreement alleged to have been made by City, hereby agrees to indemnify CDP and PSD against and hold CDP and PSD harmless from any and all damages, liabilities, costs and expenses (including, without limitation, reasonable attorneys' fees and costs) which CDP and PSD may sustain or incur by reason of such claim. The provisions of this Section 31(A) shall survive the termination of this Agreement or the Leasing Date.

B. Notices. All notices, demands, requests, consents and approvals which may, or are required to, be given by any party to any other party hereunder shall be in writing and shall be deemed to have been duly given if delivered, personally sent by fax, sent by a nationally recognized overnight delivery service, or if mailed or deposited in the United States mail and sent by registered or certified mail, return receipt requested, postage prepaid to:

PSD at: Pine Street Development L.L.C.
520 Pike Street, Suite 2200
Seattle, Washington 98101
Attn: Matt Griffin
Telephone: (206) 340-9897
Fax: (206) 340-9201

Copy to: Preston Gates & Ellis
5000 Columbia Center
701 Fifth Avenue
Seattle, Washington 98104
Attn: B. Gerald Johnson
Telephone: (206) 623-7580
Fax: (206) 623-7022

Copy to: Kennedy Associates Real Estate Counsel, Inc.
1215 - 4th Avenue, Suite 2400
Seattle, Washington 98161
Attn: John Parker
Telephone: (206) 623-4739
Fax: (206) 682-4769

CDP to: Community Development Properties,
King County II, Inc.
1932 - 1st Avenue, Suite 800
Seattle, Washington 98101
Attn: John Finke, Director
Telephone: (206) 448-5244
Fax: (206) 448-5246

Copy to: Hillis, Clark, Martin & Peterson
1221 Second Avenue, Suite 500
Seattle, Washington 98101-2925
Attn: Michael F. Schumacher
Telephone: (206) 623-1745
Fax: (206) 623-7729

City at: The City of Seattle
600 Fourth Avenue, Suite 102
Seattle, Washington 98104
Attn: Director of Finance
Telephone: (206) 684-5212
Fax: (206) 684-8286

Copy to: Office of the City Attorney
600 Fourth Avenue, 10th Floor
Seattle, Washington 98104
Attn: Arlene Ragozin
Telephone: (206) 233-2151
Fax: (206) 684-8284

or to such other addresses as either party hereto may from time to time designate in writing and deliver in a like manner. All notices shall be deemed to be complete upon actual receipt or refusal to accept delivery. Facsimile transmission of any signed original document, and retransmission of any signed facsimile transmission shall be the same as delivery of an original document. At the request of either party, the parties will confirm facsimile transmitted signatures by signing an original document.

C. Entire Agreement. This Agreement is the definitive agreement contemplated by the Memorandum of Agreement. This Agreement together with the exhibits attached hereto constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings between the parties hereto relating to the subject matter hereof, including, but not limited to the Memorandum of Agreement.

D. Amendment; Waiver. No modification or amendment of this Agreement may be made except by written agreement signed by each of the parties to this Agreement or as may be otherwise provided in this Agreement. No failure by CDP, PSD, the Owner of the Systems Block Retail Unit or City to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or any other covenant, agreement, term or condition. Any party hereto, by notice and only by notice as provided in Section 31(B) hereof may, but shall be under no obligation to, waive any of its rights or any condition to its obligations hereunder, or any duty, obligation or covenant of any other party hereto. No waiver shall affect or alter this Agreement and each and every covenant, agreement, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof. All the terms, provisions and conditions of this Agreement shall inure to the benefit of and be enforceable by CDP, PSD, the Owner of the Systems Block Retail Unit or City's respective successors and assigns.

E. Survival. All provisions of this Agreement which involve obligations, duties or rights which have not been determined or ascertained as of the Leasing Date or the recording of the Lease and all representations, warranties and indemnifications made in or to be made pursuant to this Agreement shall survive the Leasing Date and/or the recording of the Lease.

F. Captions. The captions of this Agreement are for convenience and reference only and in no way define, limit or describe the scope or intent of this Agreement.

G. No Joint Venture. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other arrangement between CDP, PSD, the Owner of the Systems Block Retail Unit and City. No term or provision of this Agreement is intended to be, or shall be, for the benefit of any person, firm, organization or corporation not a party hereto, and no such other person, firm, organization or corporation shall have any right or cause of action hereunder.

H. Severability. The City's right to require the Owner of the Systems Block Retail Unit to reacquire the Garage pursuant to the provisions of Section 20 of this Agreement and the receipt by the City of the City Mortgage, the Facade Easement, the Access Easement and the Air Space Easement are integral to the City's obligation to pay the Lease Transfer Amount on the Leasing Date. If such provision or agreements are held to be illegal in any material respect by the final judgment of a court of competent jurisdiction prior to the Leasing Date, the City shall not be obligated to pay the Lease Transfer Amount. Otherwise, if any provision contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provisions had never been contained herein.

I. Counterparts. This Agreement may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

J. Further Assurances. Each party hereto agrees that it will execute or furnish such documents and further assurances to the other or to proper authorities as may be necessary for the full implementation and consummation of this Agreement and the transactions contemplated hereby.

K. Fair Construction. The provisions of this Agreement shall be construed as a whole according to their common meaning not strictly for or against any party and consistent with the provisions contained herein in order to achieve the objectives and purposes of this Agreement. Each party hereto and its counsel has reviewed and revised this Agreement and agrees that the normal rules of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

L. Authority. The persons signing below represent and warrant that they have the requisite authority to bind the party on whose behalf they are signing.

M. Attorneys' Fees. In the event either party hereto finds it necessary to bring an action at law or other proceeding against the other party to enforce any of the terms, covenants or conditions hereof or any instrument executed pursuant to this Agreement, or by reason of any breach or default hereunder or thereunder, the party prevailing in any such action or proceedings shall be paid all costs and reasonable attorneys' fees by the other party and in the event any judgment is secured by such prevailing party all such costs and attorneys' fee shall be included in any such judgment. The reasonableness of such costs and attorneys' fees shall be determined by the court and not a jury.

N. Time is of the Essence. For the purposes of this Agreement and all transactions contemplated thereunder, time is of the essence.

O. Governing Law. This Agreement and the rights of the parties hereto shall be governed by and construed in accordance with the laws of the State of Washington.

P. Term.

(a) This Agreement shall remain in effect for an "Initial Term" of forty (40) years from the Leasing Date and shall be automatically renewed for additional terms of ten (10) years (subject to subsection (c) below) unless the Owner of the Garage elects, by written notice of the election by the Owner of the Garage to terminate the Parking Agreement and this Agreement, given to the other Parties to the Parking Agreement and this Agreement given not more than five (5) years prior to the end of the Initial Term or the extension period then in effect and not less than four and one half (4 1/2) years prior to the end of the Initial Term or the extension period then in effect. If the Owner of the Garage elects, in the manner described above, to terminate the Parking Agreement and the corresponding obligations of the Owner of the Garage under this Agreement to Operate the Garage in accordance with the Parking Agreement, the termination shall be effective upon the last day of the Initial Term or the extension period then in effect. If during the twelve month period immediately preceding the end of the Initial Term less than an average of one hundred and twenty (120) vehicles per day use the Garage (unless such low level of use is caused by an event described in Section 13.3 of the Parking Agreement) and if the Owner of the Garage is the City, then the City shall have the right to cease to Operate the Garage in accordance with the terms of the Parking Agreement and the corresponding provisions of this Agreement. Such right may be exercised by written notice to the other Parties to the Parking Agreement and this Agreement given within one hundred and eighty (180) days after the end of the Initial Term.

(b) Nothing contained in this Agreement shall in any way affect the expiration date of the Parking Covenants. Notwithstanding any provision of this Agreement to the contrary, the Declaration and the obligations of the Owners of the Units thereunder shall not be affected by any expiration of this Agreement, the Parking Covenants or the Parking Agreement and shall remain in full force and effect unless terminated by the unanimous agreement of the Owners of the Parking Garage Unit and the Systems Block Retail Unit in accordance with the provisions of the Declaration and the Condominium Act. Likewise, the obligation of the Owner of the Garage to provide Required Long-Term Parking in the Garage shall not be affected by any expiration of the term of this Agreement, the Parking Covenants or the Parking Agreement since it is a requirement imposed by law under the Land Use Code.

(c) Unless earlier terminated pursuant to this Agreement, this Agreement shall terminate on the "Expiration Date," which shall be the earlier of (i) the ninety ninth (99th) anniversary of the Opening Date or (ii) the date when the retail department store or specialty store containing at least 200,000 square feet of Floor Area in the F&N Building has ceased to be Operated and the Systems Block Retail Unit has ceased to be Operated.

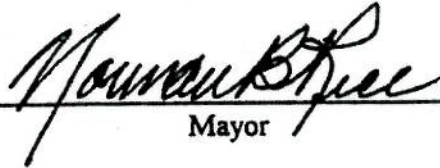
Q. Jurisdiction and Venue. In the event any action is brought to enforce any of the provisions of this Agreement, the parties agree to be subject to exclusive in personam jurisdiction in the King County Superior Court for the State of Washington or in the United States District Court for the Western District of Washington and agree that in any such action venue shall lie exclusively at Seattle, Washington.

R. Agreement for Exclusive Benefit of City, CDP and PSD. Except as specifically set forth herein, the provisions of this Agreement are for the exclusive benefit of City, CDP and PSD and their respective permitted successors and assigns and not for the benefit of any third Person. This Agreement shall not be deemed to have conferred any rights upon any third Person.

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

"City"

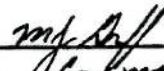
THE CITY OF SEATTLE, a first-class city of
the State of Washington

By 
Mayor

"PSD"

PINE STREET DEVELOPMENT L.L.C.,
a Washington limited liability company

By: RGHK Seattle L.L.C., a Washington
limited liability company, Manager

By 
Its Manager

"CDP"

COMMUNITY DEVELOPMENT
PROPERTIES, KING COUNTY II, INC., a
Delaware nonprofit corporation

By 
Its PRESIDENT

Ord # 118348

AMENDMENT OF
UMBRELLA AGREEMENT

This Amendment of Umbrella Agreement is entered into as of December 2, 1996 by and among Community Development Properties King County II, Inc., a Delaware non-profit corporation ("CDP"), Pine Street Development L.L.C., a Washington limited liability company ("PSD"), and The City of Seattle, a first class city of the State of Washington ("City").

Recitals

A. The parties have entered into that certain Umbrella Agreement dated April 1, 1996 ("the Umbrella Agreement") which contemplates, inter alia, the transfer of the Garage (as defined in the Umbrella Agreement) to the City or its designee.

B. The parties desire to amend the Umbrella Agreement to permit an earlier transfer of the Garage, subject to the conditions set forth below.

Agreement

1. Leasing Date.

A. Definition. The definition of "Leasing Date," as set forth in Section 29 of the Umbrella Agreement is amended to read as follows:

Leasing Date means any Business Day designated by CDP which Business Day shall be no earlier than one (1) year and no later than three (3) years following the Opening Date, except that if the conditions set forth in Sections 9F, 9G, 9H, and 9I are met, the Leasing Date may be less than one (1) year (but not less than six (6) months) after the Opening Date. CDP shall provide City with at least three (3) months prior written notice of the Leasing Date.

B. Section 10. The first sentence of Section 10 of the Umbrella Agreement is amended by adding the following at the end of that sentence: "except that if the conditions set forth in Sections 9F, 9G, 9H, and 9I are met, the Leasing Date may be less than one (1) year (but not less than six (6) months) after the Opening Date." The last sentence of Section 10 of the Umbrella Agreement is amended by deleting the reference to "five (5) months" and substituting therefor "three (3) months."

2. Additional Conditions to Earlier Transfer.

follows: New Sections 9F, 9G, 9H, and 9I are added to the Umbrella Agreement as follows:

RECEIVED
CITY OF SEATTLE
COMMUNITY DEVELOPMENT
DIVISION
DEC 11 1996

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

F. Retail Open. If the Leasing Date is less than twelve (12) months following the Opening Date, all public places in the Retail Unit shall be open and operational, and not less than 150,000 square feet of gross leaseable area of the Retail Unit shall be open for business.

G. Pay-on-Foot. If the Leasing Date is less than twelve (12) months following the Opening Date, the marketing and training program for the "pay-on-foot" program shall have been completed, as certified to the City by CDP at least 30 days prior to the Leasing Date.

H. F&N Building. If the Leasing Date is less than twelve (12) months following the Opening Date, the condition set forth in Section 9B shall have been satisfied at least 60 days prior to the Leasing Date.

I. November Leasing Date. If the Leasing Date is less than twelve (12) months following the Opening Date, the Leasing Date shall occur prior to Thanksgiving Day in the month of November, 1998.

3. No Other Amendments. Except as expressly amended herein, the Umbrella Agreement remains unmodified and in full force and effect.

"City"

THE CITY OF SEATTLE, a first class city of the State of Washington

By *M. Norman Rice*
Mayor

"PSD"

PINE STREET DEVELOPMENT L.L.C., a Washington limited liability company

By RG&K Seattle L.L.C., a Washington limited liability company

or By *m.p.s.*
Its *CO-MANAGER*

"CDP"

COMMUNITY DEVELOPMENT PROPERTIES, KING COUNTY II, INC., a Delaware nonprofit corporation

By *[Signature]*
As PRESIDENT

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

On this 2nd day of November, 1996, before me, the undersigned, a notary public in and for the State of Washington, duly commissioned and sworn personally appeared Norman B. Rice, to me known to be the Mayor of THE CITY OF SEATTLE, a first class city of the State of Washington, the City that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said City for the uses and purposes therein mentioned and on oath stated that he/she is authorized to execute the said instrument.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

Hazel Haralson
Notary Public
Print Name Hazel Haralson
My appointment expires 2/1/2000

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

On this 25th day of November, 1996, before me, the undersigned, a notary public in and for the State of Washington, duly commissioned and sworn personally appeared Matthew J. Griffin, to me known to be the Co-Manager of RGHK SEATTLE L.L.C., a Washington limited liability company, manager of PINE STREET DEVELOPMENT L.L.C., a Washington limited liability company, the limited liability company that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability company for the uses and purposes therein mentioned and on oath stated that he/she is authorized to execute the said instrument.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

Elaine M. Nuzum
Notary Public
Print Name Elaine M. Nuzum
My appointment expires 4-19-00

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

On this 25th day of November, 1996, before me, the undersigned, a notary public in and for the State of Washington, duly commissioned and sworn personally appeared John Senke to me known to be the President of COMMUNITY DEVELOPMENT PROPERTIES, KING COUNTY II, INC., a Delaware nonprofit corporation, a Delaware nonprofit corporation, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned and on oath stated that he/she is authorized to execute the said instrument.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.



Jacklyn D. Thomas
Notary Public
Print Name Jacklyn D. Thomas
My appointment expires 7-9-99

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

ATTACHMENT 1

SECOND AMENDMENT OF
UMBRELLA AGREEMENT

This Second Amendment of Umbrella Agreement ("Second Amendment") is made and entered into as of _____, 1998 by and among Community Development Properties King County II, Inc., a Delaware non-profit corporation ("CDP"), Pine Street Development L.L.C., a Washington limited liability company ("PSD"), and The City of Seattle, a first class city of the State of Washington ("City").

RECITALS

1. The parties have entered into that certain Umbrella Agreement dated April 1, 1996 (the "Umbrella Agreement") with regard, inter alia, to the transfer of the Garage (as defined in the Umbrella Agreement) to the City or its designee.

2. The parties to the Umbrella Agreement anticipated that the City would finance said transfer with tax-exempt debt.

3. The parties have entered into an Amendment of Umbrella Agreement dated December 2, 1996 ("First Amendment") with regard to an early transfer of the Garage (as defined in the Umbrella Agreement) to the City or its designee.

4. The parties desire to further amend the Umbrella Agreement to ensure that debt incurred by the City to finance the beneficial transfer of the Garage to the City complies with federal law regarding tax-exempt debt.

NOW, THEREFORE, for good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, the parties amend the Umbrella Agreement as follows:

AGREEMENT

1. Operation of the Garage After the Leasing Date

A. Section 15.A of the Umbrella Agreement, Use, is amended to read as follows:

Use. City shall at its sole cost and expense cause the Garage to be used, operated and maintained (including routine repairs) by a professional parking garage operator as a parking garage which can park at least 1,200 multi-passenger motor vehicles and which is open to members of the general public (including Required Long-Term Parking

and valet parking) in accordance with this Agreement, the Declaration, the Parking Covenants and the Parking Agreement, including the requirement that the Garage be Operated and maintained in first-class order, condition and repair in accordance with practices prevailing in first-class urban regional shopping centers including multi-level parking garages ("Permitted Use") and for no other purpose whatsoever.

B. Section 15.C of the Umbrella Agreement, Uses Prohibited, is amended as follows:

(i) Paragraph (5) is deleted in its entirety.

(ii) Paragraph (6) is amended to read as follows:

(6) So as not to interfere with efficient pedestrian traffic flow within the Garage and to the extent permitted by law there shall be no sales conducted within the Garage So as not to interfere with efficient pedestrian traffic flow within the Garage and to the extent permitted by law there shall be no sales conducted within the Garage, and no kiosks, pushcarts or other merchandising units or obstructions shall be placed in the Garage.

2. City Transfer Rights

Section 20.D of the Umbrella Agreement, Transfer Date, is amended by the addition of the following new paragraph (16):

(16) There shall have been delivered to the City and the Trustee the written opinion of nationally recognized bond counsel to the City to the effect that the exercise by the City of its transfer right pursuant to this Section 20 will not cause interest on any tax-exempt obligations issued to finance or refinance the Garage to be included in gross income for federal income tax purposes.

3. Right of the Owner of the Systems Block Retail Unit to Reacquire Parking Garage Unit.

Section 21.D of the Umbrella Agreement, Reacquisition Date, is amended by the addition of the following new paragraph (16):

(16) There shall have been delivered to the City and the Trustee the written opinion of nationally recognized bond counsel to the City to the effect that the exercise by the Owner of the Systems Block Retail Unit of its right to reacquire the Parking Garage Unit pursuant to this Section 21 will not cause interest on any tax-exempt obligations issued to finance or refinance the Garage to be included in gross income for federal income tax purposes.

4. No Other Amendments. Except as expressly amended herein and by the First Amendment, the Umbrella Agreement remains unmodified and in full force and effect.

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

"City"

THE CITY OF SEATTLE, a first class city
of the State of Washington

By _____
Mayor

"PSD"

PINE STREET DEVELOPMENT L.L.C.,
a Washington limited liability company

By RGHK Seattle L.L.C., a
Washington limited liability
company

By _____
Its _____

"CDP"

COMMUNITY DEVELOPMENT
PROPERTIES, KING COUNTY
II, INC., a Delaware nonprofit
corporation

By _____
Its _____

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

On this ____ day of _____, 1998, before me, the undersigned, a notary public in and for the State of Washington, duly commissioned and sworn personally appeared _____, to me known to be the Mayor of THE CITY OF SEATTLE, a first class city of the State of Washington, the City that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said City for the uses and purposes therein mentioned and on oath stated that he/she is authorized to execute the said instrument.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

Notary Public
Print Name _____
My appointment expires _____

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

On this ____ day of _____, 1998, before me, the undersigned, a notary public in and for the State of Washington, duly commissioned and sworn personally appeared _____, to me known to be the _____ of RGHK SEATTLE L.L.C., a Washington limited liability company, manager of PINE STREET DEVELOPMENT L.L.C., a Washington limited liability company, the limited liability company that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability company for the uses and purposes therein mentioned and on oath stated that he/she is authorized to execute the said instrument.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

Notary Public
Print Name _____
My appointment expires _____

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

On this ____ day of _____, 1998, before me, the undersigned, a notary public in and for the State of Washington, duly commissioned and sworn personally appeared _____, to me known to be the _____ of COMMUNITY DEVELOPMENT PROPERTIES, KING COUNTY II, INC., a Delaware nonprofit corporation, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned and on oath stated that he/she is authorized to execute the said instrument.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

Notary Public
Print Name _____
My appointment expires _____