

SETTLEMENT AGREEMENT AND GENERAL RELEASE OF ALL CLAIMS

THIS SETTLEMENT AGREEMENT AND GENERAL RELEASE OF ALL CLAIMS (hereinafter the "Agreement") is entered into this ___ day of December, 2004, by and among the City of Spokane (hereinafter "City"), Citizens Realty Company, Lincoln Investment Company of Spokane, RPS II, L.L.C., and River Park Square, L.L.C. (hereinafter sometimes referred to collectively as "the RPS Parties"), and Cowles Publishing Company (hereinafter "Cowles Publishing").

RECITALS

WHEREAS,

A. The RPS Parties are defendants and cross-claimants against the City and third-party claimants against certain former City officials in an action entitled *Eugster v. City of Spokane, et al.*, under Cause No. 00-204265-0, in the Superior Court for the State of Washington in and for the County of Spokane, which action involves, among other claims, disputes over the obligation of the City to make operating loans to the Spokane Parking Public Development Authority (hereinafter "the PDA"), a public corporation which is indebted to both the City and the RPS Parties in connection with its operation of the River Park Square parking garage (hereinafter "the Parking Garage");

B. By terms of its Ordinance C-31823 (hereinafter "the Ordinance"), the City created a contingent liability to offer loans to the PDA in the event its revenues from operation of the Parking Garage were insufficient to make payment of Operating Expenses and Ground Lease Payments, as those terms are defined by the Ordinance. The City has heretofore loaned several hundred thousand dollars to the PDA which the PDA has failed to repay, and as to which it is in default. Members of the Spokane City Council are presently subject to court order requiring them to offer further loans to the PDA, but the PDA and City have been unable to come to agreement on the terms of further loans over a period of many months, and members of the PDA board have expressed reservations about accepting further substantial loans from the City where it is clear that it will be unable to repay them;

C. Citizens Realty Company and Lincoln Investment Company of Spokane (hereinafter "Citizens Realty" and "Lincoln Investment," respectively) are plaintiffs and have asserted causes of action against the City and the City has asserted counterclaims against Citizens Realty and Lincoln Investment in Cause Nos 01-201878-1 and 03-2-05997-2 in the Superior Court of the State of Washington in and for the County of Spokane which actions involve, among other things, alleged defaults in payment by the RPS Parties of amounts owed under a Promissory Note from Citizens Realty and Lincoln Investment to the City dated August 8, 1998 (hereinafter the "Promissory Note"), whereby the City loaned to the promissors thereunder the sum of \$22,650,000, an amount which the City had borrowed, in turn, through notes issued by the U.S. Department of Housing and Urban Development (hereinafter "HUD," and the "HUD Notes"). The City's HUD Notes are secured by block grants for community programs received by the City from HUD;

D. As of December 1, 2004, over \$3.5 million is owing to the City as principal and interest on the Promissory Note. The City asserts that the entire \$22.65 million principal balance remains outstanding and the RPS parties assert the principal balance owing is \$22,280,000. Of that principal balance, approximately \$15 million is partially recourse against the RPS Parties, but is secured only by percentage rents provided by the RPS Parties' lease with Nordstrom, Inc., by a deed of trust on the Nordstrom building, and by a Guaranty of Cowles Publishing, payable upon a Notice of Inadequate Security issuable by HUD. Although the City is current in payment of the HUD Notes and has reduced its principal balance to \$21.35 million, the insufficient collateral for the Promissory Note and defaults in payment by the RPS Parties has caused approximately \$1.5 million of the City's HUD block grants to be called on as collateral;

E. The RPS Parties and the City and its former officials have denied and continue to deny the claims that remain outstanding in the several state court actions identified above, which are hereinafter collectively referred to as the "State Actions";

F. Nuveen Quality Income Municipal Fund, Inc., Nuveen Premium Income Municipal Fund IV, Inc., Smith Barney Municipal Fund Limited Term, Smith Barney Municipal High-Income Fund, and Vanguard High-Yield Tax-Exempt Fund (hereinafter "the Institutional Bondholders"), U.S. Bank, National Association, in its capacity as Indenture Trustee pursuant to an Indenture Trust dated August 1, 1998 ("U.S. Bank"), and Asset Guaranty Insurance Company, now known as Radian Asset Assurance, Inc. (hereinafter "AGIC"), were plaintiffs in an action in the United States District Court for the Eastern District of Washington under Cause No. CS-01-0127-EFS (hereinafter the "Federal Action");

G. On June 22, 2004, the City paid \$29,824,336.22 to the plaintiffs in the Federal Action. At or about the same time, the City directed the plaintiffs to dismiss and the plaintiffs did dismiss their claims against all remaining defendants. The City later directed the plaintiffs to release and the plaintiffs did release all claims against all third-party defendants. The City currently asserts claims in the Federal Action against all remaining defendants, including the RPS Parties and third-party defendants for contribution, indemnity and other relief under related causes of action;

H. The RPS Parties have denied and continue to deny any liability to the plaintiffs under the claims and contentions they alleged in the Federal Action, deny any liability to the City for contribution, and deny the claims and adverse contentions of all other parties;

I. The RPS Parties and the City, having taken into consideration the delays and costs associated with further conduct of the Federal Action and State Actions, including the prospect of appeals, and having taken into consideration the uncertainty and risks inherent in any litigation, have determined that it is desirable and beneficial that the various claims in the State and Federal Actions and the issues which remain over the City's, the PDA's and the RPS Parties' rights and obligations as to garage operating loans be settled in the manner and upon the terms and conditions set forth in this Agreement;

J. Cowles Publishing is the shareholder of Citizens Realty and has agreed, on terms separately bargained for between it and its affiliates, to the exchange of values between it and the City provided by this agreement;

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and benefits and stipulations contained herein, the receipt and sufficiency of which are hereby acknowledged, and for such other good and valuable consideration, each of the parties agrees as follows:

1. **State Actions and Issues.** The City desires to protect its HUD block grants from further exposure as collateral for its HUD Notes, and to that end, desires to dedicate the value represented by its interest in its Parking Meter Revenues and the Parking Garage as additional collateral for its HUD notes. Cowles Publishing desires to acquire the Parking Garage. If the City will dedicate its Parking Meter Revenues and the value of the Parking Garage not only to its HUD Notes, but also to the Promissory Note, Cowles Publishing is willing to guarantee the Promissory Note, backed by letter of credit, and to make future reimbursement for a portion of the City's block grant fund exposure to date. The RPS Parties are willing to release their demands and claims for PDA loans provided the City will allow its enhanced collateral to be applied toward the Promissory Note in exchange for a Cowles Publishing Guaranty, and provided that the State Actions and Issues are thereby fully resolved. To these ends, the City and the RPS Parties agree to resolve the State Actions, and Cowles Publishing agrees to acquire the Parking Garage and provide its guaranty, as follows:

1.1 **Transfer of Title to Parking Garage for Purposes of Settlement Hereunder.** For purposes of settlement hereunder, the RPS Parties agree that the City became entitled to fee title to the Parking Garage on or about June 30, 2004. The City and the RPS Parties shall enter into a Stipulated Judgment in the Federal Action that provides for title in the garage to be transferred to the City and thereupon to Cowles Publishing, in accordance with the terms of this Agreement. The City agrees that it shall be responsible for the payment or other discharge or cancellation of assessment of all delinquent real property taxes plus interest and penalties thereon alleged to be owing to Spokane County through the date of Closing and for payment of any excise taxes due upon transfer of title of the garage.

1.2 **Promissory Note.** The City, the RPS Parties and Cowles Publishing agree that the remaining principal balance owing by Citizens Realty and Lincoln Investment and by River Park Square, L.L.C. (as assignee of the rights and obligations of Citizens Realty and Lincoln Investment pursuant to an Assignment dated February 2, 1999) under the Promissory Note shall be hereby reduced to \$21,350,000.

1.3 **Cowles Publishing Guaranty.** Cowles Publishing agrees to guarantee to the City the payment of principal under the Promissory Note in the amount of \$21,350,000, the payment of interest accruing thereon from August 1, 2004 until paid, and the payment by the RPS Parties of an additional \$1.05 million to the City in equal installments of \$350,000 due December 31 of 2016, 2017 and 2018, by the form of guaranty agreement annexed hereto (hereinafter the "Cowles Publishing Guaranty"). Cowles Publishing shall secure the

performance of its obligations under this paragraph with an unconditional and irrevocable letter of credit in favor of the City in the form annexed hereto (hereinafter the "Letter of Credit"). The issuer of the Letter of Credit shall be a member of the Federal Reserve System, have a rating of at least "A2" for its long term bank deposits as determined by Moody's Bank Credit Report Service. Funds transferred to the Loan Repayment Account pursuant to paragraph 1.4 and thereafter applied to the City's HUD Notes shall be credited at the same time to the Promissory Note and operate to reduce the Cowles Publishing Guaranty.

1.4 **Retention and Distribution of Parking Meter Revenues.** The City is presently holding or has paid into Superior Court in excess of \$8.3 million of parking meter revenue (hereinafter the "Parking Meter Revenues"), including for periods following retirement of the financing debt. River Park Square, LLC claims to be owed \$4,878,685 for Ground Rent and interest thereon under its Ground Lease with the Spokane Downtown Foundation (and assumed by the PDA) dated August 1, 1998, and RPS II, LLC claims to be owed \$3,201,039 for operation and maintenance costs under the Parking Facility Operators Agreement with the PDA dated September 28, 1998. Those figures have not been independently reviewed. The parties agree that at the City's election and expense, the amount of Operating Expense (as that term is defined in Ordinance C31823) owed RPS II, LLC may be reviewed by Schoedel & Schoedel or another mutually-agreed accountant, for the period from the date of last review by Schoedel & Schoedel to the date of Closing. The parties further agree that while the City has engaged Bruce C. Allen to arrive at a fair market value Ground Rent for the Parking Garage and the RPS Parties have engaged Terry Savage for the same purpose, the parties have not arrived at a binding Ground Rent for periods on and after June 7, 2004, following the procedures set forth in paragraph 4(a) of the City Ground Lease dated September 18, 1998. At the City's election, and provided the City compensates the third appraiser, Allen and Savage shall mutually agree on a third appraiser, and the Ground Rent for which River Park Square is entitled to be paid for the period from June 7, 2004 through the date of Closing shall be the average of the two closest rents arrived at by the three appraisers, as provided by paragraph 4(a) of the City Ground Lease. The City claims to be owed over \$2 million for its assigned share of Ground Rent and interest thereon under the Ground Lease, and for prior loans made and insurance expense advanced on behalf of the PDA

As an alternative to the City's most recent loan offer extended to the PDA on November 15, 2004 and which remains outstanding, and in consideration of the disputed claims in the State Actions, the City and the RPS Parties agree to make the following alternative offer to the PDA:

1.4.1 The RPS Parties shall release any and all claims to the Parking Meter Revenues and any future parking meter revenue collected by the City and shall cause U.S. Bank to conditionally assign its security interest in such funds to the City. The RPS Parties, the City and the PDA shall stipulate in Spokane County Cause No. 00-204265-0 to the release of funds held in escrow therein to the City.

1.4.2 The City shall initially deposit \$6,079,000 in that certain bank account with U.S. Bank numbered 1-535-9080-4099, entitled City of Spokane MIA Acct Debt Pymts and hereinafter called the "Loan Repayment Account" for application to payment on the City's Section 108 HUD Notes, all said funds deposited in said account to be distributed in

accordance with the terms of the Loan Agreement dated August 10, 1998 between the City and Citizens Realty and Lincoln Investment. The \$6,079,724 deposit shall comprise all of the funds presently being held by the court in Spokane County Cause No. 00-204265-0, and the balance shall be paid out of Parking Meter Revenues held by the City. The City has asserted offset rights in said amount and has a security interest in a portion of said amount pursuant to the Partial Assignment of Rents between Citizens Realty and River Park Square, LLC, as assignor, and the City, as assignee dated August 10, 1998, and the RPS Parties shall cause U.S Bank N.A., to conditionally assign its security interest in said funds to the City. The \$6,079,724 deposit is subject to adjustment, and shall be reduced by the full amount, if any, of any overstatement of Operating Expenses or Ground Rent determined by the independent review and appraisal processes described in paragraph 1.4, with any overpayment to be returned to the City.

1.4.3 The Ground Lease dated August 1, 1998 and the Parking Facility Operators Agreement dated September 28, 1998 shall be deemed terminated and cancelled.

1.4.4 The RPS Parties shall release the PDA from any and all claims and the RPS Parties and the PDA shall acknowledge that the City has no further liability under Ordinance C31823.

1.4.5 The PDA's liability for principal and interest on monies borrowed from the City, for ground rent and for insurance and other expense payments advanced on its behalf by the City shall be deemed fully satisfied and discharged.

1.4.6 The PDA may accept this alternative by duly-authorized resolution of its board, which resolution shall explicitly reference and attach a copy of this agreement, shall approve the actions to be taken by the City under this paragraph 1.4 and release the City and its officials from liability therefor, shall agree to the termination of agreements provided by 1.4.3, shall accept the actions of the City provided by this paragraph 1.4 in lieu of its obligation to offer a loan under the Ordinance and shall acknowledge that the City has no further liability under the Ordinance.

1.5 **Satisfaction of Judgments and Payment of Interest.** The RPS Parties shall file a satisfaction of judgment in state Cause No. 01-201878-1, and the City shall file a satisfaction of judgment in state cause No. 00-2-02777-4. The City shall transfer to the Loan Repayment Account all amounts on deposit in its US Bank Account number 1-535-9080-4081 (\$114,572.95, as of October 31, 2004), representing interest earnings on a previously withheld retainage under the Loan Agreement.

1.6 **Security Interest for Promissory Note.** Nothing in this Agreement shall be deemed to release any security interest pledged to the City and to HUD to secure the obligations of the promisor under the Promissory Note, other than that the City for itself, and without purporting to be act for HUD, shall release the RPS Parties Guarantee, the Cowles Publishing Guarantee and the Partial Assignment of Rents, all dated August 10, 1998, at Closing. The City shall be obligated at the request of the promisor to release all security (including its security interest in the building occupied by Nordstrom, the Nordstrom Lease, and Nordstrom

Lease payments) for the Promissory Note upon any refinance by River Park Square, L.L.C. of the Promissory Note, pursuant to which the balance of the Promissory Note is paid off.

1.7 **Dismissal of Claims.** Upon the Closing of this Agreement, the parties shall dismiss the State Actions as follows:

(a) The City shall dismiss with prejudice all claims against the RPS Parties pending in Cause No. 00-204265-0 in the Superior Court of the State of Washington in and for the County of Spokane;

(b) The City shall dismiss with all prejudice all claims against Citizens Realty and Lincoln Investment in Cause Nos. 01-201878-1 (and satisfaction of judgment concerning the same shall be entered) and 03-2-05997-2 pending in the Superior Court of the State of Washington in and for the County of Spokane;

(c) The RPS Parties shall dismiss with prejudice all claims against the City pending in Cause No. 00-204265-0 in the Superior Court for the State of Washington in and for the County of Spokane. It shall additionally dismiss with prejudice its claims against any other party to that action in exchange for such other party's dismissing with prejudice its claims against the RPS Parties, provided, however, that this offer of mutual dismissal must be accepted by other parties within thirty (30) days following the Closing. However, the Agreement hereunder between the RPS Parties, the City and Cowles Publishing is not contingent on mutual dismissals by the RPS Parties and other parties but only on the option of mutual dismissals being made available to other parties;. and

(d) Citizens Realty and Lincoln Investment shall dismiss with prejudice all claims pending against the City of Spokane in Cause Nos. 01-201878-1 (and satisfaction of judgment concerning the same shall be entered) and 03-2-05997-2 pending in the Superior Court of the State of Washington in and for the County of Spokane;

1.8 **Withdrawal of Notices of Default, Release of Guaranties and Cancellation of Leases.** Upon the Closing of this Agreement, the City shall be deemed to withdraw all notices of default previously served, and shall be deemed, upon behalf of itself, but without purporting to have authority to do so for HUD, to release Citizens Realty and Lincoln Investment and their assignee, River Park Square, L.L.C., from all claims arising out of that certain Guaranty Agreement dated August 8, 1998, and Cowles Publishing Company of its Guaranty of the Promissory Note, and said Guaranties shall be deemed terminated as between the City, the RPS Parties and Cowles Publishing. In light of Cowles Publishing's undertakings provided by Section 2 of this Agreement, the City shall also diligently seek HUD's release and termination of the Guaranties. Upon the Closing of this Agreement, the Ground Lease dated August 1, 1998, by and between the Foundation and Citizens Realty and River Park Square, L.L.C. (the lessor under which is currently River Park Square, L.L.C.), and the City Ground Lease dated September 18, 1998, between the City and Citizens Realty and River Park Square, L.L.C., and all rights thereunder, shall be terminated and shall be of no further force and effect.

2. **Federal Action.** The City, and the RPS Parties agree to resolve the Federal Action as follows:

2.1 **City Retention of Funds.** As consideration for the City's dismissal and release of its claims asserted in the Federal Action the RPS Parties have caused Cowles Publishing to agree that the City may retain two million dollars (\$2,000,000.00) of the City's Parking Meter Revenues, and which the City had otherwise pledged or agreed to deposit to the Loan Repayment Account, with the Cowles Publishing Guaranty and letter of credit being substituted therefor. Having negotiated extensively and at arms' length, the RPS Parties and the City agree that \$2,000,000 represents the entire value being paid and received for the City's release of its claims against the RPS Parties in the Federal Action.

2.2 **Bar Order.** Subject to approval of the RPS Parties and as soon as possible following execution of this Agreement, the City shall have primary responsibility to prepare and file with the Court in the Federal Action joint motions for approval of a bar order. The motion shall request entry of a Bar Order substantially in the form annexed hereto. Unless waived in writing by the RPS Parties, for the benefit of RPS Parties, this settlement is conditioned on a bar order substantially as described above being entered by the Court in the Federal Action

2.3 **Reasonableness Determination.** As soon as possible following execution of the Agreement, the City shall have primary responsibility to prepare and file with the Court in the Federal Action a motion for a determination that the terms set forth in this section 2 are reasonable, within the meaning of RCW 4.22.060, as a basis for resolving the City's claims against the RPS Parties in the Federal Action.. The RPS Parties shall not oppose the City's request for a reasonableness determination, nor shall they hereafter oppose the City's position that such a determination is required. The Agreement hereunder between the RPS Parties and the City is not contingent on the holding or outcome of a reasonableness hearing.

2.4 **Dismissal of Claims.** At the time of Closing, the City shall dismiss with prejudice all claims against the RPS Parties and RWR Management, Inc., in Cause No. CS-01-0127-EFS pending in the United States District Court for the Eastern District of Washington

3. **RWR Management Writ of Garnishment.** RWR Management, Inc. has served a writ of garnishment on the PDA, and RWR Management's attorneys have directed notice and demand to the City Attorney that the City not unlawfully derogate its rights with respect to its writ and its underlying judgment. With respect to such writ, and such claims as RWR Management, Inc. may hereafter assert against the City, the RPS Parties and Cowles Publishing hereby represent, warrant and agree as follows:

3.1 **Representation and Warranty.** The RPS Parties have previously represented to the City, and hereby affirm, represent and warrant that all amounts they are owed

by the PDA have previously been pledged as security to U.S. Bank N.A. or the City, and that all amounts the RPS Parties are owed by the PDA are subject to security interests which are superior to any claim by RWR Management based on its judgment and writ.

3.2 **Prejudice by Delay.** The RPS Parties have previously represented to the City, and hereby affirm, represent and warrant that time is of the essence in reaching settlement terms with the City, and that the press of trial requires that the parties' settlement be agreed at the present time, and without awaiting judicial determination of disputes, if any, arising out of the writ.

3.3 **Indemnity.** The RPS Parties and Cowles Publishing agree to defend, through counsel selected by the City in consultation with the RPS Parties, and reasonably acceptable to them, and to indemnify and hold harmless the City against any claim, including but not limited to attorney fees and costs, arising from, or related to, the RWR Management writ, and/or the alternative to be offered to the PDA provided by section 2 of this Agreement, including the City's deposit to the Loan Repayment Account and the \$2 million retained by the City as consideration for dismissal of the City's claims in the Federal Action. Counsel engaged shall take his or her direction from the City, provided, however, that the City agrees that it shall not settle any such claim without the written consent of the RPS Parties, which consent shall not be unreasonably withheld, conditioned or delayed. The indemnity shall extend only to monetary loss incurred and attorneys' fees by the City and shall not include reimbursement for staff or administrative time spent by the City concerning any such claim.

4. **Effective Date.**

The Effective Date of this settlement shall be the date on which the last of the events or conditions set forth below have occurred or have been met or waived.

4.1 **Bar Order.** The Bar Order provided by paragraph 3.2 shall have been entered.

4.2 **PDA Action.** The PDA shall have taken the action provided by paragraph 1.4.5 and made available to the City and the RPS Parties a certified copy of its resolution.

4.3 **Acceptable Title.** Title to the Parking Garage shall be free and clear of all liens and encumbrances not acceptable to Cowles Publishing.

5. **Closing.** The closing of the transactions contemplated by the settlement shall occur at City Hall, on the earliest possible date following the Effective Date. The Closing shall be evidenced by the completion of the following events:

5.1 **Execution of Guaranty.** Cowles Publishing shall sign and deliver to the City and to HUD the Cowles Publishing Guaranty.

5.2 **Delivery of Letter of Credit.** Cowles Publishing shall cause the Letter of Credit to be issued by a qualified issuer and delivered to the City and to HUD.

5.3 **Distribution of Parking Meter Revenues.** The City shall cause the Parking Meter Revenues to be applied in accordance with the terms of Paragraph 1.3 and 3.1 of this Agreement.

5.4. **Assignment of Security Interest.** U.S Bank, N.A., shall deliver a conditional assignment to the City of its security interest in the City funds to be distributed by the City in accordance with Paragraph 1.4 and 23.1 of this Agreement.

5.5 **Transfer of title.** The City shall execute and record a Quit Claim Deed to the Parking Garage.

5.6 **Dismissals.** The RPS Parties and the City shall execute the dismissals of claims provided by paragraphs 1.7 and 3.1 of this Agreement and shall cause them to be filed with the appropriate court.

6. **Mutual Release.** Upon the Effective Date, the RPS Parties, and the City and each of them, on behalf of their past, present and future descendants, successors, heirs, partners, parent and subsidiary corporations, affiliates, joint venturers, stockholders, officers, directors, employees, predecessors, assigns, attorneys, agents and representatives, and each of them, shall be deemed to have, and by operation of this Agreement shall have fully, finally, and forever released, relinquished and discharged one another and their past, present and future parent and subsidiary corporations, divisions, affiliates, partners, joint venturers, stockholders, predecessors, successors, assigns, officers, directors, employees, attorneys, agents, representatives, and any other person, firm, corporation with whom any of them is now, or may hereafter be, affiliated, and each of them, from any and all claims, demands, obligations, losses, causes of action, whether in law or in equity, costs, expenses, attorneys' fees, liabilities and indemnities of any nature whatsoever, whether based on contract, tort, statute or other legal theory of recovery, whether known or unknown, expected or unexpected, which, from the beginning of time to the execution of this Agreement, either had, now have, or claims, or may claim to have against the other which was, or could have been a part of Cause No. CS-01-0127-EFS pending in the Federal Court for the Eastern District of Washington, or Cause Nos. 00-204265-0, 01-201878-1 and 03-2-05997-2 pending in the Superior Court of the State of Washington in and for the County of Spokane, provided, however, nothing herein shall in any manner release the parties' obligation to execute all required documents, as set forth herein.

7. **Representations of Authority.**

7.1 Each person who executes this Agreement on behalf of a corporation, limited liability company, or any other entity, represents to each party hereto that he or she has the authority of the Board of Directors or managers of said entity to do so.

7.2 The parties each warrant and represent to the other that none of them has heretofore assigned or transferred or purported to assign or transfer to any person or entity, not a party hereto, any released matter or any part apportioned thereof, and each

agrees to indemnify and hold harmless the other from and against any claim based on, in connection with, or arising out of any such assignment or transfer or purported or claimed assignment or transfer.

7.3 The parties each warrant and represent to the other that none of its undertakings hereunder is in breach of its obligations to other persons or entities not a party hereto, and each agrees to indemnify and hold harmless the other from and against any claim based on, in connection with, or arising out of any such breach or purported or claimed breach.

8. **Binding Effect.** This Agreement shall be binding on, and inure to the benefit of, the successors and assigns of the parties hereto. Nothing in this Agreement, express or implied, is intended to confer upon any person other than the parties hereto to their respective successors and assigns, any rights or benefits under or by reason of this Agreement.

9. **Integration Clause.** This Agreement represents and contains the entire agreement and understanding among the parties hereto with respect to the subject matter of this Agreement and supersedes any and all prior oral and written agreements and understandings, provided, however, that it does not supersede the parties' written agreements relating to the City's \$22.65 million loan to the RPS Parties or Cowles Publishing's Guaranty related to that indebtedness except as expressly provided herein; and no representation, warranty, condition, understanding or agreement of any kind with respect to the subject matter hereof shall be relied upon by the parties unless incorporated herein. This Agreement may not be amended or modified except by an agreement in writing signed by the party against whom the enforcement of any modification or amendment is sought.

10. **Attorneys' Fees and Costs.** If any party is required to pursue litigation to enforce or construe any of the terms of this Agreement, the prevailing party shall be entitled to reimbursement of its reasonable attorneys' fees and costs from the non-prevailing party at all trial and appellate levels. Each party agrees that it shall pay its own attorneys' fees and costs with respect to the preparation and review of this Agreement.

11. **Representation and Comprehension of Document.** In entering into this Agreement, the City, the RPS Parties and Cowles Publishing Company, and each of them, represent that they have relied upon the legal advice of their attorneys, who are the attorneys of their own choice. They further represent that the terms of this Agreement have been completely read and explained to them by their attorneys, and that those terms are fully understood and voluntarily accepted by them. The parties further agree that to the extent that this Agreement would operate as a defense, it may be asserted as such, by any of them, against any and all claims or causes of action whatsoever, that any of them may have against the other, which exists as of the day hereof.

12. **Rules of Construction.**

12.1 Each party and counsel for each party have reviewed this Agreement and accordingly the normal rule 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.

12.2 In the event that one or more of the provisions, or portions thereof, of this Agreement is determined to be illegal or unenforceable, the remainder of this Agreement shall not be affected thereby, and each remaining provision or portion thereof shall continue to be valid and effective and shall be enforceable to the fullest extent permitted by law.

12.3 It is agreed by the parties that this Agreement is entered into in the State of Washington and shall be construed and interpreted in accordance with the laws of the State of Washington, without regard to its conflict of law provisions.

13. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which together shall be deemed one and the same instrument.

14. **Effective Agreement.** This Agreement may be pleaded as a full and complete defense to, and may be used as the basis for, an injunction against any action, suit or other proceeding which may be instituted, prosecuted or attempted in challenge of or in breach of this Agreement.

15. **Recitals and Exhibits.** The agreements annexed Exhibits attached hereto are hereby incorporated into the substantive provisions of this Agreement.

16. **Representations Not Binding.** All representations and statements hereunder are made for purposes of proposed settlement only and shall not be binding on the City, the RPS Parties, or Cowles Publishing unless and until this Agreement is executed by all listed signators and Closing in fact occurs as provided herein.

CITIZENS REALTY COMPANY

By: _____
Its: _____

LINCOLN INVESTMENT COMPANY
OF SPOKANE

By: _____
Its: _____

RIVER PARK SQUARE, L.L.C.

By: _____
Its: _____

RPS II, L.L.C.

By: _____
Its: _____

COWLES PUBLISHING COMPANY

By: _____
Its: _____

CITY OF SPOKANE

By: _____
Its: _____

Approved by:

SPOKANE PARKING PUBLIC DEVELOPMENT
AUTHORITY

By: _____
Its: _____