

### RECIPROCAL ACCESS AND PARKING AGREEMENT

This Reciprocal Access and Parking Agreement, (herein "Agreement") is made as of the <u>M</u> day of <del>MCCADER</del>, 1999 1994 between ANTTA M. MCGILL (herein "McGill") and FRED MEYER, INC., a Delaware corporation (herein "Fred Meyer"), with METROPOLITAN LIFE INSURANCE COMPANY, a New York corporation ("Fee Owner") and the lenders shown on the attached forms of Consent and Agreement executing the same for the purposes stated therein.

### RECITALS

Owner is the fee owner of the real property described on Exhibit "A" attached hereto (herein the "Real Property"). Frod Meyer is the master lessor of the Real Property. McGill is the sub-lessee of that portion of the Real Property described on Exhibit "B" (herein the "McGill Property"). Fred Meyer is the lessee and operator of the adjacent portion of the Real Property as described on Exhibit "C" attached hereto (the "Fred Meyer Property").

NOW, THEREFORE, for value received and in consideration of the mutual promises contained herein, the parties hereby agree as follows:

1. <u>Grant of Non-Exclusive Parking and Access Rights</u>. Fred Meyer (with respect to the Fred Meyer Property) and McGill (with respect to the McGill Property), and the agents, independent contractors, tenants, and sub-tenants of Fred Meyer and/or McGill, and the customers and other inviteos of such parties, shall have the nonexclusive right to use in common the parking and access road areas on the Real Property, the rights

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granted herein of use shall include (but not be limited to) the right to cross from one property to the other and the rights to use AU perking even, accoss reach and delyoways located on the Real respecty. The period shall take auch rescond to steps as hay be necessary to prevent any unauthorized use of the marking area, access reads and driveways on the Real respecty by other parties. Neither McGill nor Fred Mayer shall be prevented from changing the arrangement of the improvements situated on their respective portion of the Real Property, provided that the number of parking spaces on their respective portion of the Real Property is not thereby reduced.

2. <u>No Barriers</u>. No fences, walls or barriers to access will be erected on the common boundary lines between the Fred Meyer Property and the McGill Property that would unreasonably interfere with the access between the Fred Meyer Property and the McGill Property without prior written concent of the parties hereto.

3. <u>Rights of Use Generally</u>. With respect to the accessways and parking areas located on the property owned or leased by a party to this Agreement, the party will be free to construct, maintain, improve, repair and reconstruct utility lines over, under or across such accessways and parking areas, to change from time to time the location of accessways and parking areas on its respective portion of the Real Property, and to engage in other uses of such accessways and parking areas that are compatible with their use for ingress and egress and parking, provided that any such actions do not unreasonably interfere with or impair the parties' right of use of such areas for ingress and egress to the respective properties and for parking. The provisions of this paragraph will not supersede any limitations on alt rations or changes set forth in the respective leases under which the parties are leasing their respective portion of the Keal Property.

4. <u>Rules and Regulations</u>. Fred Meyer (with respect to the Fred Meyer Property) and McGill (with respect to the McGill Property) may make and enforce reasonable rules and regulations consistent with this Agreement for the purpose of regulating the use of the accessways and parking areas, and enforcement of the provisions of this Agreement and areas, and enforcement of the provisions of this Agreement and areas, and enforcement of the provisions of this Agreement and areas, and enforcement of the provisions of this Agreement and areas, and enforcement of the provisions of the Agreement and areas, and enforcement of the provisions of the Agreement and areas, and enforcement of the provisions of the Agreement and areas, and enforcement of the provisions of the Agreement and areas and regulations of the and regulations.

5. <u>Survival of Agreement</u>. In the event of the foreclosure of McGill's interest or other foreclosure upon Fred Meyer's or Fee Owner's interest in the McGill Property or any

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Toulingifon of Fiel Mayor's interest with respect to the Fred Mayor Buoparty, this Agreement whill remain in full force and offect, and each of Fee Owner and the Tenners Shoen on the stached forms of Consent and Agreement execute the same for purposes of confirming and agreeding to the same.

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6. <u>General Standard of Haintenance</u>. Free Meyer (with respect to the Fred Meyer Property) and Hogill (with respect to the McGill Froperty) shall each be responsible to maintain and keep in good repair their respective portions of the Real Property.

7. Term. This Agreement shall be perpetual (except as provided bolow) and shall be appurtenant to and run with the land and shall be binding on and shall inure to the benefit of the parties hereto, their heirs, successors and assigns. By unanimous consent, the Fee Owner, McGill and Fred Heyer (or their successors and assigns, as owner of the respective property or of a leasehold estate covering the respective property) may agree to terminate this Agreement only with the written consent of any current Lender, in which case they shall cause to be recorded an instrument acknowledging such termination.

8. <u>Status of Title</u>. This Agreement is granted subject to all prior easements and encumbrances of record. Each party warrants that it will defend the title and the other parties' interest under this Agreement against any mortgage, tax lien or construction lien claim affecting the Fred Meyer Property or McGill Property, respectively, which asserts priority over the interest of the other party under this Agreement and which is attributable to the party itself or its tenants.

9. <u>Protection of Rights of Nortgagees</u>. No breach of the provisions in this Agreement shall defeat or render invalid the lien of any mortgage(s) or deed(s) of trust now or hereunder executed which affects the parties' respective interests pursuant to this Agreement; provided, however, that upon any sale under foreclosure of any mortgage(s) or under the provisions of any deed(s) of trust, any purchasor at such sale, and its successors and assigns, shall held our and all interest so purchased subject to all of the provisions of this Agreement.

10. <u>General Provisions</u>.

10.1 <u>Waiver</u>. Failure at any time to require performance of any provision of this Agreement shall not limit a party's right to enforce the provision. Any waiver of any breach of any provision shall not be a waiver of any succeeding breach or a waiver of any provision of this Agreement.

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10.2 Appropriets' Form. On the event wold of another is instituted to interpret or enforce the terms of this Aqueston, the movelling party shall be entitled to recover two the chose party such sum as the court may adjungs reasonable as attorneys' fees at trial, on appear of such suit or aution, and on any pathtics for needed, in endicion to all other sums provided by law.

10.3 Indepuity. Each party shall defend, indennify and hold the other harmless from any claim, loss, liability or expense (including reasonable attorneys' fees) arising out of or in connection with the party's own negligence or failure to comply with the terms, restrictions and provisions of this Agreement.

10.4 Entire Agreement. This Agreement supersades and replaces all written and oral agreements proviously made or existing between the parties with respect to the matters set forth above.

10.5 <u>Governing Law</u>. This Agreement will be governed and construed in accordance with the laws of the State in which the Real Property is situated. <u>.</u>

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10.6 <u>Appurtemant Rights</u>. This Agreement shall be binding upon the parties hereto, their respective successors and assigns, and appurtemant to the real property described on the attached Exhibits.

10.7 <u>Dominant and Servient Estates</u>. Each right granted pursuant to the provisions of this Agreement are expressly or the benefit of the property described above. The property so benefited shall be the dominant estate and the property burdened by the obligations shall be the servient estate.

10.8 <u>Status Certificate, Information</u>. Within 20 days after receipt of a written request, a party shall promptly deliver a written status certificate to the other party stating (i) whether this Agreement is unmodified and in full force and effect, and (ii) whether (to the best of the party's knowledge) the other for a statistic with the other party is knowledge) the other for a statistic with the other party is knowledge) the other for a statistic with the other party is knowledge) the other for a statistic with the other party is knowledge) the other for a statistic with the other party is knowledge.

10.9 Notices. Notices given under this Agreement shall be in writing and will be deemed given and effective when delivered in person to the other party of three (3) business days after being deposited in the U.S. Mails, postage prepaid, and sent by registered or certified mail to the other party's

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10.10 <u>Amendmenta</u>. Except as otherwise set forth herein, this Agreement may not be modified, amended, or terminated except by a formal written agreement excepted by the parties. A party may valve one or more of its rights under this Agreement in writing signed by the party, and such writing need not be recorded. Otherwise, no modification or amendment of any provision of this Agreement shall be binding unless signed by both parties and recorded in the real property records of the County in which the Real Property is located.

10.11 <u>Effect of Invalidation</u>. If any provision of this Agreement is held to be invalid or unenforceable for any reason, the validity of the remaining provisions of this Agreement: shall not be affected thereby.

10.12 <u>Counterparts</u>. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.

IN WITNESS WHEREOF, this instrument has been duly executed as of the date and year first written above.

FRED MEYER:

McGILL:

FRED MEYER, INC., a Delaware corporation

with Wighel Bv:

Date:

ANITA M. MCGILL

By:\_\_\_\_\_

Date:\_\_\_\_\_

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10.10 Amendments. Except as otherwise set forth herein, this Agreement ray not be modified, amended, or terminated except by a formal written agreement executed by the parties. A party may waive one or more of its rights under this Agreement in writing signed by the party, and such writing heed not be Facorded. Otherwise, no modification or amendment of any provision of this Agreement shall be binding unless signed by both parties and recorded in the real property records of the County in which the Real Property is located.

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FRED MEYER:

McGILL:

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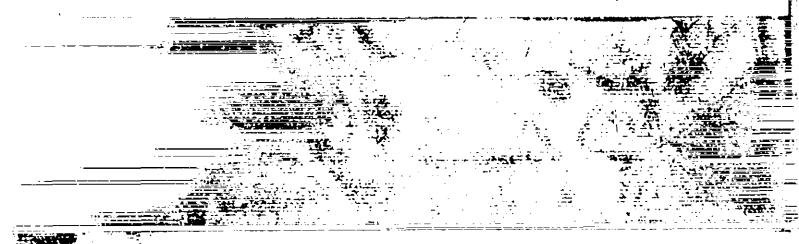
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ANITA M. MCGILL

- <u>F. -</u> )], <u>M. a. C. 1</u> Date: <u>1-28-84</u>

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# (DY LEA DIMES)

Whe undersigned is the described of the real property in Washington County, oregon described on the attached Echibit A (the "Newl Decey") and holds the landlord's interest under the Master Lease ("Imase") to Fred Meyer, Inc. ("Fred Meyer") described in the Memorandum of First Amendment to Lease Agreement (Beaverton, Oregon) dated November 25, 1986, recorded on December 9, 1986 as Recorder's Fee No. 86-57266, Official Records of Washington County, Oregon.

NOW, THEREFORE, the undersigned hereby convents to the execution of the foregoing Reciprocal Access and Parking Agreement ("Agreement") by FRED MEYER, INC. and ANITA M. MCGILL, and agrees that the Real Property is bound thereby and that termination of the Lease of the Real Property vill not terminate the Agreement.

IN WITNESS WHEREOF, the undersigned has executed this Consent and Agreement on this  $\frac{R^{\prime\prime}}{R^{\prime\prime}}$  day of <u>February</u>, 1994.

FEE OWNER:

METROPOLITAN LIFE INSURANCE COMPANY By: 4 war 1's: Assistant

STATE OF <u>CALIFORNIA</u> ) ) ss. County of <u>SAN MAICA</u> )

The foregoing instrument was acknowledged and sworn to or affirmed before me this <u>8<sup>H</sup></u> day of <u>February</u>, 1994, by <u>Edward O Hanco</u>, the <u>Assistant Vice frendent</u> of METROPOLITAN LIFE INSURANCE COMPANY, a New York corporation, on behalf of the corporation.

PAMELA P. WIDMER MATEO COUNTY . Ecs. Mar. 22, 19

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My commission expires: 2/22/94 Residing at: Son Courtes, Colfornic

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#### CONSENT AND AGREEMENT (By Ideahaldes)

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STATE OF ILA OF 88. county or BOLK. title instrument wan actional good in the Let on king ong 28 , 1992 by proppled B. Franklin and Larol I. Frills , the director of Decretary and (1200Sel , respectively, of PRINCIPAL APTORN F.CFF CHOURANCE COMPANY, an Iova congeration, on behalf of the nnd. Corporation. ...... almar, Hanciont Notary Public of: sya TOWN My commission expires ALMA H. HA JKBAHT Residing at: ar 4. 1996 ."IAN-Jown STATE OF 68. County of \_ POLK This instrument was acknowledged before me on <u>January 28</u>, 1994, by <u>Donald B. Franklin</u> and <u>Sprak 17</u>, Pilts, the <u>Director 4 Socretary</u> and <u>OunSel</u>, respectively, of PRINCIPAL NATIONAL LIFE INSURANCE COMPANY, an Iowa corporation, on behalf of the corporation. Image Dachnet PA: Notary Public of: Jowo My commission expires: Gy10, Residing at: NY COMMESSION EDP. ES HovernLer 4, 1976 A MARK in the states Ξ = LL01-18160.1 49900 0046 11 1.17 3.5

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North 01°30'52" West 99.99 feet to a found 5/8 inch iron rod; thence North 07'36'05" East 1.26 feet to a found 3/4 inch iron pipe; thence South 89'14'35" Nost 120.46 feet to a point on the Easterly right of way line of S.W. Lombard Avenue; thence North 00'40'08" West 149.10 feet along the Easterly line of said right of way to a found brass tack; thence North 89°14'55" East 116.10 feet to a found 5/8 inch iron rod; thence North 02'12'31" West 25.07 feet; thence North 11'11'10" West 45.05 feet; thence North 57'36'15" Bast 74.99 feet to a found 5/8 inch iron rod; thence North 24'47'49" West 88.79 feet; thence North 57'33'45" East 182.01 feet; thence 30.90 feet along the aro of a 148.61 foot radius curve to the sight said curve having a chord bearing of North 73'09'27" East and a chord distance of 79.90 feet; thence North 88'40'53" East 136.15 feet to a point of tangency; thence 48.60 feet along the arc of 235.00 foot radius curve to the left through a central angle of 11'50'54" (the long chord of which bears North 82'49'43" East 48.51 feet) to a point of compound curvature and the intersection of the Southerly line of that tract of land conveyed to the public in Deed No. 79030206; thence 181.49 feet along the arc of a 232.50 foot radius curve to the left through a central angle of 44'43'32" (the long chord of which bears North 53'01'37" 176.92 feet) to a point of commound survature; thence 98.43 feet along the arc of a 240.50 for a radius surve to the left through a central angle of 23° 26'56" (the Jung chord of which bears North 18'56'07" East 97.74 feet) to the beginning point of that tract of land conveyed to the public and described in need My. /9030208 as being on the southerry right or way or tanyon Road; thende North 63" 55' 31" East 8.00 feet, more or less, to the most Northerly Northwest corner of that tract of land conveyed to Frad Meyer Real Estate Properties, Ltd., as described in Statutory Bargain and Sale Deed No. 81041397; thence North 64'40'33" East 93.88 feet to the most Northwesterly corner of a parcel of land deeded to Fred Meyer,

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Beginning at a 5/8 inch iron rod with an alusinum cap, said iron rod being North 84,82 feet and East 892,66 feat from the Southwast comer of the William Loukarman Donation Land Claim ho. 45, sold know word also buing the point of change from spiral to a 1,722.95 foot radius circular outve to the right on the North right of way line at Engineer's center ling Station 136+74.12 on the Beaverton-Hillwdale Highway; thence continuing Westerly along the arc of anid circular curve 38.51 feet (chord equals 38.51 feet and shord bearing equals North 87'53'28" West); thence North 1'08'22" West 725.65 feet; thence North 88'58'04" East 180.00 feet; thence North 01'01'56" West 136.11 foot; thence South 88'50'04" Wost 180.00 feet to the West line of Land deeded to Fred Mayer, Inc. recorded January 3, 1980, Recorder's Fee No. 80003624 of Washington County Deed Records; thence North 01'01'56" West 35.00 fost along the West line of said parcel of land to the South right of way line of S.W. Canyon Road; thonog North 64'40'33" Hast, 46.17 feet; thenos North 70'40'16" East, 224.49 feet to a point marking the point of a cusp of a 50.00 foot radius curve, said point being the most Northerly Northwest corner of that tract of land described in CF 1927, Washington County Deed Records and County Survey No. 13710, Washington County Survey Records; thence Southwesterly along the arc of said curve to a found 5/8 inch iron rod at the point of tangency, the long chord bears South 13'29'53" West, 52.01 feet; thence South 17'54'39" East, 78.14 feet to a found 5/8 inch iron rod marking the most Southerly Southwest corner of said tract of land; thence North 89'05'15" East, 154.13 feet to a found 5/8 inch iron rod marking the Southeast corner of said tract of land; thence North 0'51'31" West coincident with the Easterly boundary of said tract of land, 67.945 feet to a found 5/8 inch iron rod; thende North 89°04'22" East, 324.84 feet to a found 5/8 inch iron rod on the West line of a 50 foot ingress and egress easement to Shell Oil, and others recorded in Book 929. and Paue 561 of Washington County Deed Regords, then an North U 52'35" West, 220.43 feet to a found 5/8 inch iron rod on the Southerly right of Way line of Canyon Road; thende continuing along said right of way, North 70'40'16" East,

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55.55 feat to a 5/8 inch from nod matking the Northeast corner of their trait of land described in Sock 929, Pace 561. Nashington County Deed Records: thence along the lesservies of and tract as follows:

South 00'56'44" East, 286.96 foot to a 5/8 inch iron rod, North 89'06'24" E490, 162.00 Econ to a found 5/0 hack from rod and North 00'56'444 West, 309.31 feet to a found 5/0 inch iron rod with aluminum cap; thence South 53'44'06" East, 39.39 feet to a found 5/8 inch iron rod with aluminum cap marking an angle point on the Westerly right of Way line of the Beaverton-Tigard Highway at Engineer's center line Station 174+10; thence coincident with said Westerly right of way as follows:

South 04 46 46" East, 286.86 feet to a found 5/8 inch iron rod with aluminum cap marking the point of curve of a 2,231.83 foot radius ourve right at Engineer's center line Station 177+00, Southwesterly along the are of said curve right, 584.8 feet to a 5/8 inch iron rod with aluminum cap marking the point of tangency of Engineer's center line Station 183+00 (the long chord bears South 07'00'58" Most, 382.51 feet); South 14'55'04" West, 224.42 feet to a found 5/8 inch iron rod with aluminum cap at Engineer's center line Station 185+30.21, South 20'17'08" Wost, 60.81 feet to a found 5/8 inch iron rod with aluminum cap denoted as marking the point of curve of a 459.26 foot radius curve left at Engineer's center line Station 185+91.04 P.C., and Southwesterly along the arc of said curve loft (the chord bears South 12'40'42" West, 121.85 feet) to a found 5/8 inch iron rod with aluminum cap at Engineer's center line Station 187+00, said monument marks the point of intersection of the Westerly right of way line of the Beaverton-Tigard Highway and the Northerly wight of way line of the Beaverton-Hillsdale Highway; thence along the Northerly right of way line of the Beaverton-Hillsdale Highway as follows:

South 83°21'50" West, 187.50 feet to a found 5/8 inch iron wod with aluminum cap on the West line of Lot 72, STEEL'S ADDITION TO BEAVERTON, 50.00 feet Northerly from the center line of the Beaverton-Hillsdule Highway; South 89'43'38" West parallel with said center line, 45.49 feet to a found 5/0 inch iron rod with aluminum cap at Engineer's center line station, 151+50; South 86 55'51" West along said Northerly right of way line, 200.25 feet to a point at right angles from and 40.00 feet Northerly of said highway center line at Engineer's center line Station 133+50; South 89'47'36" West parallel with said highway center line, 194.12 feet to a point of spiral curve right at Engineer's center line Station 135+44.12, said spiral curve defined at highway center line as 130.00 feet in length of arc, an "A" value of 2.5

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## FRATERY BAT CONSTRUCT

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Regionizing at a 9/8 thus iten nod with an aluminum cap, ្រសេរ័ល iron rod being North 84.82 feet and East 892.66 feet from the Southwast corner of the William Lookarman Donation Land Claim Ho. 45, said iron rod also being the point of changa from spinal to a 1,722.95 foot radius circular curve to the sight on the North right of way line at Engineer's center line Station 136+74,12 on the Beaverton-Hillsdals Highway; thence continuing Westerly along the arc of said circular curve 38.51 feet (chord aquals 38.51 feet and chord bearing cquals North 87'53'28" Feut); thonge North 1'08'22" West 725.65 feet; thonge North 88'58'04" East 180.00 feet; thenge North 01'01'56" West 136.11 feet; thence South 88'58'04" West 180.00 feet to the West line of land deeded to Fred Meyer, Inc. recorded January 3, 1980, Recorder's Fee No. 00003624 of Mashington County Deed Records; thence North 01'01'56" West 35.00 feet along the West line of said parcel of land to the South right of way line of S.W. Canyon Road; thence North 64'40'33" East, 46.17 foot; thence North 70'40'16" East, 224.49 feet to a point marking the point of a cusp of a 50.00 foot radius curve, said point being the most Northerly Northwest corner of that tract of land described in CF 1927, Washington County Deed Records and County Survey No. 13710, Washington County Survey Records; thence Southwesterly along the arc of said curve to a found 5/8 inch iron rod at the point of tangency, the long chord bears South 13'29'53" West, 52.01 feet; thence South 17'54'39" East, 78.14 fost to a found 5/8 inch iron rod marking the most Southorly Southwest corner of said tract of land; thence North 89'05'15" East, 154.13 foot to a found 5/8 inch iron rod marking the Southeast corner of said tract of land; thence North 0'51'31" West coincident with the Easterly boundary of said tract of land, 67.945 feet to a found 5/8 inch iron rod; thence North 89'04'22" East, 324.84 feet to a found 5/8 inch iron rod on the West line of a 50 foot ingress and egress casement to Shell Oil, and others recorded in Book 929, and Page 561 of Washington County Deed Records, thence rod on the Southerly right of way line of Canyon Road; thence continuing along said right of way, North 70°40'16" East,

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STATE OF OREGON

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I. Jorry R. Hanson, Diroctor of Assessment and Taxation and Exopheto County Clork for said county, to heroby cardly that the within Instrument of writing was received and recorded in boost of seconds of cald county.

Klingor

Harry R. Hanson Director of Assoc Coord and Taxallon, Ex-Officia Courts Clerk

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