

Record and return to:

STEVE TATE
MOUNTAIN WEST COMMERCIAL
343 EAST 500 SOUTH
SALT LAKE CITY, UT 84111

INWEST Title 149627

PT 13-042-0013

13-042-0010

RESTRICTIONS AND EASEMENTS AGREEMENT

THIS RESTRICTIONS AND EASEMENTS AGREEMENT (“**REA**”) is made to be effective as of the __ day of July, 2009, by and between D.W. ASSOCIATES, L.L.C., a Utah limited liability company (“**DWA**”) and DJ SMITH INVESTMENTS, L.L.C., a Utah limited liability company (“**DJS**”). DWA and DJS are sometimes referred to as “**Party**” and collectively as the “**Parties**”.

RECITALS

A. DWA is the lessee of that certain property shown on the “Site Plan” attached hereto as Exhibit “A” and which is more particularly described on Exhibit “B” hereto (the “**DWA Parcel**”); DWA leases the DWA Parcel pursuant to that certain Ground Lease dated January 12, 2007 by and among NIMBUS PROPERTIES, L.C., a Utah limited liability company (“**Nimbus**”) (as Landlord) and DJ SMITH INVESTMENTS, L.L.C., a Utah limited liability company (“**DJS**”) and WGT AMERICAN FORK, LLC, a Utah limited liability company (“**WGT**”) (collectively as Tenant), pursuant to that certain Assignment and Assumption of Lease dated on or about November 2007 by and among DJS, WGT and DWA (the “**Nimbus Lease**”).

B. DJS is the lessee of that certain property contiguous to the DWA Parcel, shown on the “Site Plan” attached hereto as Exhibit “A” and which is more particularly described on Exhibit “C” hereto (“**DJS Parcel**”); DJS leases the DJS Parcel pursuant to that certain Ground Lease between INNES FAMILY, LLC, a Utah limited liability company (“**Innes**”) (as Landlord) and DJS dated January 12, 2007, October 24, 2007 (the “**Innes Lease**”).

C. As lessees of the DWA Parcel and DJS Parcel (which may collectively be referred to herein as “**Parcels**”), the Parties desire to develop and operate the Parcels as an integrated retail center (“**Center**”), and desire that such Parcels be subject to certain easements, covenants, conditions and restrictions all as hereinafter set forth, for the term and any extension periods of the Nimbus Lease and the Innes Lease.

NOW, THEREFORE, in consideration of the following encumbrances which shall be binding upon the Parcels and shall attach to and run with the Parcels during the term set forth herein, and be for the benefit of and have limitations upon all future owners and tenants of the Parcels, and in consideration of the promises, covenants, restrictions, easements and encumbrances contained herein, the Parties hereby agree as follows:

AGREEMENT

1. Common Area. As used herein "**Common Area**" shall mean all real property within the Parcels except those areas occupied by buildings. Docks, loading areas, drive-thru lanes, service areas and canopies which are attached to or serve buildings but which extend over the Common Area shall be deemed to be part of the building which they serve or to which they are attached and not part of the Common Area.

(a) Cross Access and Parking Easements. Each Party hereby grants to the other, its invitees, licensees, customers, tenants, and its tenants' invitees, licensees, and customers a non-exclusive easement in the area shown on the Site Plan for the ingress, egress, and access of vehicular traffic and parking of motor vehicles subject to the limitations set forth in Section 2, below (the "**Easement Areas**"); provided, however, that each Party may, from time to time temporarily block or restrict access to the Easement Areas as may be reasonably necessary for maintenance, repair and/or construction purposes and further provided that the other Parties be given not less than thirty (30) days prior written notice of any such temporary blockage or restricted access (except in the event of an emergency).

(b) Utility and Service Easements. The Parties shall cooperate in granting appropriate and proper easements for the installation, repair and replacement of storm drains, sewers, utilities and other proper services necessary for the orderly development and operation of the Common Area and buildings to be erected on the Parcels. Each Party will use its reasonable efforts to cause the installation of such utility and service lines prior to paving of the Common Area. At least twenty (20) days prior to any installation, maintenance, connection, repair, relocation or removal of utility lines located on another party'(s) tract pursuant to the easements granted herein (except in an emergency, the work may be initiated with reasonable notice), the grantee shall first provide the grantor with a written statement describing the need for such work, shall identify the proposed location of the utility line, the nature of the service to be provided, and the anticipated commencement and completion dates for the work.

(c) Drainage. Each Parcel shall have nonexclusive easements in, to, over, under and across the other Parcels for reasonable drainage purposes.

2. Use of Common Area.

(a) Use. Subject to existing easements of record, the Common Area shall be used for roadways, walkways, ingress and egress, parking of motor vehicles, loading and unloading of commercial and other vehicles, driveway purposes and the access, comfort and convenience of customers, invitees and employees of all businesses and occupants of the buildings constructed on the Parcels.

(b) No Barriers. No walls, fences, or barriers of any kind shall be constructed or maintained on the Easement Areas of record, Common Area or any portion thereof, by any future owners or their tenants which shall prevent or impair the use or exercise of any of the easements

granted herein, or the free access and movement over the Common Area, including without limitation, pedestrian and vehicular traffic between the Parcels.

(c) Limitations on Common Area Use.

i. Customers. Customers and invitees shall not be permitted to park on the Common Area except while shopping or transacting business with the owners or tenants of the Parcels.

ii. Employees. The employees of each Party (or each Party's tenant(s), as applicable), shall park only on such portion of the Common Area immediately adjacent to and located on their respective employers' Parcel or premises, as applicable.

iii. General. All of the uses permitted within the Common Area shall be used with reason and judgment so as not to interfere with the primary purpose of the Common Area which is to provide parking for customers, invitees and employees of the businesses conducted within the buildings on the Parcels and for servicing and supplying of such businesses.

3. Maintenance of Respective Parcels, Buildings and Easement Areas.

(a) At all times during the term of this REA, the Parties and tenants shall keep their respective Parcel and Common Area in a clean and sightly condition and in good condition and repair, consistent with the character and quality of improvements constructed on the Parcels.

(b) The Parties and tenants thereof shall maintain and keep the exterior portion of the buildings located on their respective Parcels in first-class condition and state of repair, in compliance with all governmental requirements, and in compliance with the provisions and requirements of this REA.

(c) The Parties and tenants thereof shall store all trash and garbage on their respective Parcels in adequate containers, locate such containers so that they are not readily visible from the customer parking areas of the Parcels and arrange for regular removal of such trash or garbage.

(d) The Parties and tenants thereof shall maintain the surfaces in their respective Parcels in a level, smooth and evenly covered condition with the type of surfacing material originally installed or such substitute as shall in all respects be equal in quality, use and durability.

(e) The Parties and tenants thereof shall maintain their respective Parcel by:

i. Promptly removing all papers, debris, filth and refuse and thoroughly sweeping the area to the extent reasonably necessary to keep the area in a clean and orderly condition, and free of snow, ice, dirt, and debris.

ii. Placing, keeping in repair and replacing any necessary or appropriate directional signs, markers and lines.

iii. Operating, keeping in repair and replacing, where necessary, such artificial lighting facilities as shall be reasonably required for adequate lighting.

iv. Maintaining all landscaped areas in a healthy and trimmed condition and making such replacements of shrubs and other landscaping as is necessary.

v. At all times during the term of this REA, each Party, its successors and assigns, shall share the reasonable cost of maintaining, repairing, and renewing any storm drain facilities on a pro rata basis based upon the total size of each Party's Parcel.

(f) The Parties may individually maintain their own Parcels, or if agreed by the Parties, jointly maintain or have a third party perform maintenance on one or more of the Parcels. Also, the Parties may grant any future owner or tenant the right to maintain the portion of the Parcel it occupies should it so elect.

(g) If any Party fails to carry out its obligations with respect to the maintenance of the Easement Areas or Common Area referenced herein, and such failure shall continue for a period of thirty (30) days for non-emergency matters after written notice thereof, another Party may maintain and repair the Easement Areas or Common Area and invoice the non-complying Party for its portion of such costs. In the event of an emergency, a Party may immediately maintain and repair the storm drain and the Easement Areas after reasonable efforts to notify the other Party. The notified Party shall reimburse the repairing Party for such costs within thirty (30) days from the date of an invoice therefor. If a Party fails to reimburse the repairing Party within such thirty (30) day period, the repairing Party may, at its discretion, place a lien for unpaid costs, with interest at an annual rate of fifteen percent (15%), upon the title to the Parcel of the nonpaying Party by recording a lien claim and notice.

4. Not a Public Dedication. Nothing contained herein shall be deemed to be a gift or dedication of any portion of the Easement Areas to the general public or for the general public or for any public purposes whatsoever, it being the intention of the Parties that this REA be strictly limited to and for the purposes herein expressed. The right of the public or any person to make any use whatsoever of the Easement Areas or Common Area of the Parcels herein affected, or any portion thereof (other than any use expressly allowed by a written or recorded map, agreement, deed or dedication) is by permission, and subject to the control of the Parties. Notwithstanding any other provisions herein to the contrary, the Party or owner affected hereby may periodically restrict ingress and egress from the Easement Areas in order to prevent a prescriptive easement from arising by reason of continued public use. Any restriction on ingress and egress shall be limited to the minimum period necessary to prevent the creation of a prescriptive easement and shall occur at such at time as to have a minimum effect on the Parties.

5. Miscellaneous.

(a) Covenants Running with the Land. This REA and all of the terms and conditions contained herein shall inure to the benefit of, and be binding upon the Parties hereto and their respective successors and assigns, and shall be "covenants running with the land".

(b) Duration. The easements, rights and privileges created hereby shall continue for a period for fifty (50) years, and except that if any restrictive covenant set forth herein would expire by operation of law if not renewed, then it shall be automatically renewed for successive ten (10) year periods unless the Parties shall execute and record a statement terminating such restrictive covenant within sixty (60) days of the expiration of such statutory period or any ten (10) year renewal thereof.

(c) No Waiver. A delay in enforcing or a failure to enforce any breach or violation of any restriction herein contained shall not be deemed to be a waiver or abandonment of any such restriction, or a waiver of the right to enforce any subsequent breach or violation of such restriction. The foregoing shall apply regardless of whether any person affected hereby (or having the right to enforce these restrictions) had knowledge of the breach or violation.

(d) Severability. If any one or more of the provisions of this REA or the applicability of any such provision to a specific situation shall be held invalid or unenforceable by a court of competent jurisdiction, the validity and enforceability of all the provisions of this REA and all other applications of such provisions shall not be affected thereby.

(e) Captions. Any captions contained in this REA are inserted as a matter of convenience, and in no way define, limit, extend or describe the scope of this REA, or the intent of any provision hereof. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural, and vice versa.

(f) Governing Law. This REA shall be construed and enforced in accordance with the laws of the State of Utah.

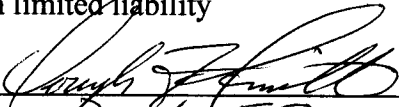
(g) Attorneys' Fees. If any legal action or other proceeding is brought for the enforcement of this REA, or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this REA, the successful or prevailing party or parties shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which it or they may be entitled.

[signatures on following page]

IN WITNESS WHEREOF, authorized representatives of the respective Parties have executed this REA as of the day and year written above.

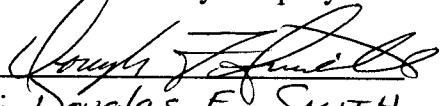
DJS


DJ SMITH INVESTMENTS, L.L.C.,
a Utah limited liability

By: 
Name: Douglas F. SMITH
Its: Manager

DWA

D.W. ASSOCIATES, L.L.C.,
a Utah limited liability company

By: 
Name: Douglas F. SMITH
Its: Manager


WARREN G. TATE
Manager

STATE OF UTAH
COUNTY OF UT

On this 10 day of AUG, 2009, _____, personally appeared before me
WARREN G. TATE, the Manager of D.W. ASSOCIATES, L.L.C, a Utah limited liability
company, and acknowledged that he executed the foregoing instrument in that capacity.

Geri Lynn West
Notary Public



STATE OF UTAH
COUNTY OF UT

On this 10 day of Aug, 2009, DOUGLAS F. SMITH, personally appeared before me
DOUGLAS F. SMITH, the MANAGER of DJ SMITH INVESTMENTS, L.L.C., a Utah limited
liability company and acknowledged that he executed the foregoing instrument in that capacity.

Geri Lynn West
Notary Public



EXHIBIT "A" Site Plan

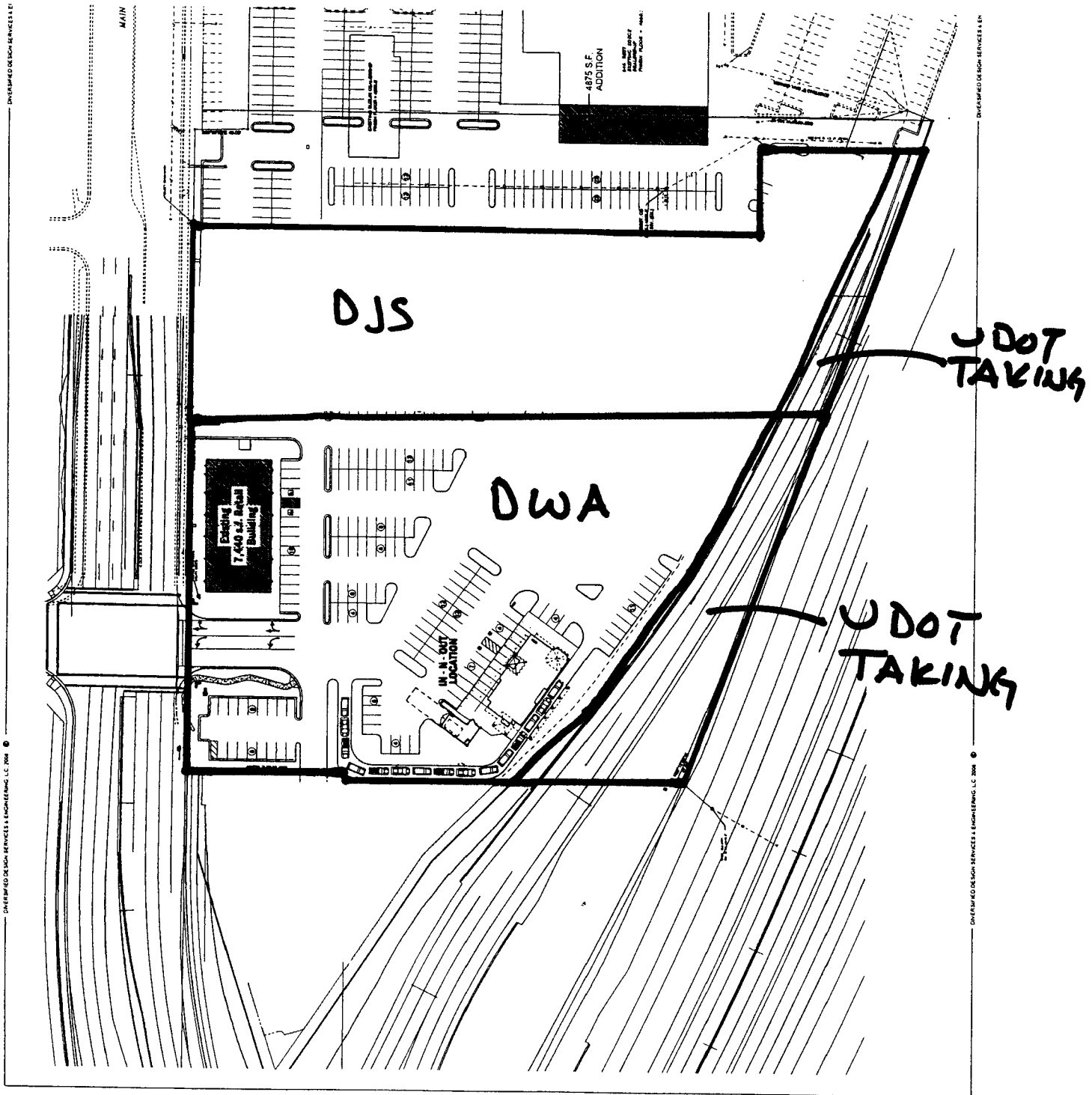


EXHIBIT "B"
Description of DWA Parcel

Original Parcel:

A PARCEL OF LAND IN THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 5 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, UTAH COUNTY, UTAH, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SECTION SECTION 22, TOWNSHIP 5 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, UTAH COUNTY, UTAH; THENCE NORTH 89°53'25" WEST ALONG THE NORTH LINE OF SAID SECTION 771.29 FEET AND SOUTH 143.72 FEET TO THE REAL POINT OF BEGINNING; THENCE SOUTH 00°56'47" EAST 593.72 FEET TO THE NORTH RIGHT OF WAY LINE OF I-15; THENCE ALONG SAID RIGHT OF WAY THE FOLLOWING 2 COURSES AND DISTANCES; (1) NORTH 69°57'50" WEST 344.14 FEET; (2) NORTH 62°12'58" WEST 27.09 FEET; THENCE NORTH 00°04'37" EAST 316.05 FEET; THENCE SOUTH 89°28'19" EAST 7.15 FEET; THENCE NORTH 00°31'00" EAST 150.09 FEET TO THE SOUTH LINE OF MAIN STREET; THENCE SOUTH 89°29'00" EAST ALONG SAID SOUTH LINE 328.55 FEET TO THE REAL POINT OF BEGINNING.

TAX SERIAL NO. 13-042-0013

Less and Excepting:

UDOT TAKING OF ORIGINAL PARCEL

A PARCEL OF LAND IN FEE, BEING PART OF AN ENTIRE TRACT OF PROPERTY, SITUATE IN THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 5 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, TO FACILITATE CONSTRUCTION OF A STATE ROAD KNOWN AS PROJECT NO. S-I15-6(175)245, AND FURTHER DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 1107.54 FEET WEST AND 446.62 FEET SOUTH OF THE NORTHEAST CORNER OF SECTION 22, TOWNSHIP 5 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN; THENCE SOUTH 44°35'46" EAST 89.20 FEET TO THE POINT OF CURVE OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 2,500.86 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 03°52'22" WHICH CHORD BEARS SOUTH 53°50'43" EAST 169.01 FEET; THENCE ALONG SAID CURVE 169.04 FEET TO THE POINT OF CURVE OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 2,469.08 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 03°53'23" WHICH CHORD BEARS SOUTH 61°34'32" EAST 167.59 FEET; THENCE ALONG SAID CURVE 167.62 FEET; THENCE SOUTH 00°53'34" EAST 46.33 FEET; THENCE NORTH 69°57'50" WEST 344.28 FEET; THENCE NORTH 62°12'58" WEST 27.09 FEET; THENCE NORTH 00°04'37" EAST 158.74 FEET TO THE POINT OF BEGINNING.

EXHIBIT B

EXHIBIT "C"
Description of DJS Parcel

DJS DESCRIPTION:

COMMENCING 149.20 FEET SOUTH AND 589 FEET NORTH 89°29'00" WEST FROM THE NORTHEAST CORNER OF SECTION SECTION 22, TOWNSHIP 5 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, UTAH COUNTY, UTAH; RUNNING THENCE NORTH 89°29'00" WEST 183 FEET; THENCE SOUTH 01°00'00" EAST 593.69 FEET; THENCE SOUTH 69°57'50" EAST 257 FEET; THENCE NORTH 151 FEET; THENCE WEST 82 FEET; THENCE NORTH 00°39'00" EAST 532 FEET TO THE POINT OF BEGINNING.

TAX SERIAL NO. 13-042-0010

Less and Excepting the UDOT Taking.

EXHIBIT C