

When Recorded, Mail To:  
Read R. Hellewell  
Kirton McConkie  
50 East South Temple  
Salt Lake City, UT 84111

11787571  
01/09/2014 04:23 PM \$50.00  
Book - 10204 Pg - 5040-5059  
GARY W. OTT  
RECORDER, SALT LAKE COUNTY, UTAH  
LANDMARK TITLE  
BY: ZJM, DEPUTY - WI 20 P.

For Information Only:  
Affects Tax Parcel Nos.: 28-30-151-056, 28-30-151-057 and 28-30-151-058

### AGREEMENT REGARDING ADMINISTRATION OF RECIPROCAL EASEMENT AGREEMENT

THIS AGREEMENT REGARDING ADMINISTRATION OF RECIPROCAL EASEMENT AGREEMENT (the "Agreement") is made this 9<sup>th</sup> day of January, 2014, by and between DRAPER SPECTRUM, L.C., a Utah limited liability company ("Spectrum") and DRAPER ENTERTAINMENT, LLC., a Utah limited liability company ("DE") in contemplation of the following facts and circumstances:

A. This Agreement governs certain matters related to the ownership, use and maintenance of specific parcels of real property located within the commercial shopping center commonly known as Draper Spectrum which is located at approximately 12101 South State Street, Draper, Utah (the "Shopping Center") and which are specifically described on Exhibit A which is attached hereto and incorporated herein by this reference.

B. Spectrum is the owner of Lot 101A and Lot 102A and DE is the owner of Lot 103A (collectively, the "Lots"), which, together with other real property and improvements, comprise the "Property" which is the Shopping Center.

C. The Property is subject to that certain Amended and Restated Comprehensive Reciprocal Easement Agreement with Covenants, Conditions and Restrictions dated January 9, 2009 (the "REA") and recorded January 12, 2009 as Entry No. 10596862, in Book 9673 and beginning at Page 6168 in the official records of the office of the Salt Lake County Recorder, State of Utah (the "Official Records").

D. The REA originally encumbered the real property located in Salt Lake County, Utah (the "Eastgate Property") which is subject to that certain subdivision plat for Eastgate Subdivision recorded December 15, 2008 as Entry No. 10579318 in Book 2008P at Page 303 of the Official Records (the "Original Eastgate Plat").

E. A portion of the Eastgate Property is subject to that certain subdivision plat entitled Eastgate Subdivision Amended recorded November 26, 2013 as Entry No. 11766290 Book 2013P at Page 247 of the Official Records (the "Amended Plat"), a copy of which is attached hereto as Exhibit B and incorporated herein by this reference.

F. The Property remains subject to the terms and conditions of that certain Declaration of Covenants and Reciprocal Easements, recorded October 11, 1995 as Entry No. 6187092, in Book 7246 and beginning at Page 1646 in the Official Records, and as amended by that certain First Amendment to Declaration of Covenants and Reciprocal Easements recorded June 3, 2009 as Entry No. 10719914, in Book 9731 and beginning at Page 5352 of the Official Records, and further as said First Amendment was amended and supplemented by that certain Affidavit recorded June 9, 2009 as Entry No. 10724160, in Book 9733 and beginning at Page 3141 of Official Records (the "October 1995 REA").

G. The Property also remains subject to the terms and conditions of that certain Declaration of Covenants and Reciprocal Easements, recorded November 3, 1995 as Entry No. 6205722, in Book 7263 and beginning at Page 2549 in the Official Records, and as amended by that certain First Amendment to Declaration of Covenants and Reciprocal Easements recorded August 29, 2008 as Entry No. 10510325, in Book 9638 and beginning at Page 9863 of the Official Records, and as amended by that certain Second Amendment to Declaration of Covenants and Reciprocal Easements recorded August 29, 2008 as Entry No. 10510326, in Book 9638 and beginning at Page 9868 of the Official Records, and as amended by that certain Third Amendment to Declaration of Covenants and Reciprocal Easements recorded March 22, 2011 as Entry No. 11153598, in Book 9912 and beginning at Page 8399 of the Official Records (the "November 1995 REA").

H. The Property also remains subject to the terms and conditions of that certain Amended and Restated Declaration of Covenants and Reciprocal Easements, recorded June 3, 2009 as Entry No. 10719950, in Book 9731 and beginning at Page 5555 in the Official Records (the "June 2009 REA").

I. The Property also remains subject to the terms and conditions of that certain Reciprocal Easement and Development Agreement, recorded August 10, 2010 as Entry No. 11007754, in Book 9848 and beginning at Page 850 in the Official Records, as the same has been amended by that certain First Amendment to Reciprocal Easement and Development Agreement dated December 26, 2013 and recorded January 3, 2014 as Entry No. 11784991, in Book 10203 and beginning at Page 4333 in the Official Records (the "August 2010 REA").

J. Spectrum and DE desire set forth in writing certain agreements of the parties related to the administration and application of the REA to the Lots as it relates to such parties and to provide notice of the existence of such agreements.

NOW, THEREFORE, in consideration of the mutual obligations set forth herein and for other good and valuable consideration, the legal sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. **Defined Terms.** Terms not specifically defined herein shall have the meaning set forth in the REA. Use of the term "Lot" shall refer to a specific legal parcel of real property which is a portion of the Property as such Lots are identified and platted on the Amended Plat or, if applicable, the Original Eastgate Plat. A reference to a Lot accompanied by a number shall refer to the specific parcel of real property identified by that number as defined by and shown on

the Amended Plat. The October 1995 REA, the November 1995 REA, the June 2009 REA and the August 2010 REA shall be collectively referred to herein as the "Existing REAs."

2. **Plat Note Reference.** This Agreement, shall constitute the conditions, covenants and restrictions referenced in "Note '2)" which is set forth on the Amended Plat.

3. **Owners.** The party which shall hold fee simple title to Lot 101A, Lot 102A and/or Lot 103A, shall each be an "Owner" as that term is defined in the REA. References to Spectrum or DE shall refer to those named parties and any other party which becomes a successor in interest to such named party as the owner of fee simple title to the applicable Lot as shown in the Official Records.

4. **Application of REA.** The REA shall continue to be fully applicable to the Property and this Agreement shall not be construed to constitute an amendment to the REA, but shall be an agreement between the Owners of Lot 101A, Lot 102A and Lot 103A regarding certain matters related to the administration and application of the REA for the time period(s) set forth herein. To the extent that this Agreement includes covenants, conditions or restrictions applicable to Lot 102A and/or Lot 103A, this Agreement shall be deemed to supplement the REA.

5. **Owner of Lot 102A.** The Owner of Lot 102A shall be entitled to unilaterally exercise the right to take any actions previously reserved to or belonging to the Owner of Lots 101 and 103 as shown on the Original Eastgate Plat. Upon the written request of Spectrum, DE or the then current owner of Lot 103A, shall execute and deliver documents reasonably required to evidence the exercise of rights reserved to or belonging to the Owner of either Lot 101 or Lot 103 as shown on the Original Eastgate Plat.

6. **Future Modifications of REA.** The REA shall not be amended without the consent of the Owner of Lot 101A, Lot 102A and Lot 103A as shown on the Amended Plat and as otherwise required by Section 6.2 of the REA. Provided that the proposed modification or amendment to the REA or an Existing REA does not, in the commercially reasonable judgment of the Owner of Lot 103A, materially and adversely impair the parking for, access to and from and/or the use of Lot 103A or increase the financial burdens upon an Owner of Lot 103A, upon the request of the owner of Lot 102A, the owner of Lot 103A shall execute modifications or amendments to the REA and/or an Existing REA.

7. **Application of Rights, Duties and Obligations.** Unless otherwise specifically set forth in this Agreement, the rights, duties and obligations of an Owner of a portion of the Property shall be applicable to the Owner of each Lot shown on the Amended Plat, including specifically by way of illustration and not of limitation, the utilization of Easements established by the REA, indemnification obligations, and maintenance and repair obligations. Each Owner shall have the right to enforce any remedies set forth in the REA.

8. **Lot 103A Maintenance.** The Owner of Lot 103A, at its sole cost and expense and without reimbursement from any other Owner, shall maintain, operate, repair and replace, or cause to be maintained, operated, repaired and replaced, the building, including the roof thereof,

and all other improvements located on Lot 103A, in good order in an economical and efficient manner, consistent with good shopping center management practices prevailing in the metropolitan area where the Property is located for retail shopping centers of similar age and character, and in full compliance with all applicable laws, codes, ordinances and regulations. To the extent that sidewalks, landscaping or other similar improvements exist on Lot 103A outside the building located thereon, such areas may be used by all patrons of the Shopping Center as Common Areas; provided, however, the Owner of Lot 103A shall maintain, repair and replace such improvements in accordance with standards set forth in the REA at the sole cost and expense of the Owner of Lot 103A. The provisions of Section 3.3 of the REA may be exercised by the Owner of Lot 102A in the event that the buildings and other improvements located on Lot 103A are not maintained in accordance with the provisions of Section 3.1 of the REA.

9. **Lot 102A and Common Areas Maintenance.** The Owner of Lot 102A shall maintain, operate, repair and replace, or cause to be maintained, operated, repaired and replaced, the Common Areas located on Lot 102A, together with the building located on Lot 102A, including the roof thereof, in good order in an economical and efficient manner, consistent with good shopping center management practices prevailing in the metropolitan area where the Property is located for retail shopping centers of similar age and character, and in full compliance with all applicable laws, codes, ordinances and regulations. For purposes related to the of the maintenance of Common Areas, the Common Areas shall be deemed to include those portions of Lot 101A that are being utilized from time to time, for access between the Shopping Center and State Street. The Owner of Lot 102A's obligations relative to the Common Areas on Lot 102A shall include repairing and replacing paving; keeping the Common Areas reasonably free of ice, snow, mud, rubbish and other obstructions and in a neat, clean, orderly and sanitary condition; maintaining signs, markers, painted lines and other means and methods of pedestrian and vehicular traffic control; maintaining all pylon and monument signage, all planting and landscaped areas, and all storm sewerage and drainage utilities and other utilities; keeping the Common Areas open and operating during business hours; and keeping the Common Areas and all pylon or monument signage suitably lighted throughout all non-daylight hours during all periods of operation for the Shopping Center.

10. **Use of Lots.** Generally, no Owner shall be permitted to use its Lot for any purpose prohibited under any Existing REA, including specifically, but without limitation, for a waterpark or similar facility or movie theater, without the express prior written consent of the party required to grant such consent and the Owner of Lot 102A. Neither Lot 102A nor Lot 103A shall be used for the construction and operation of a transient lodging facility such as a hotel without the express prior written consent of the Owner of Lot 101A. So long as an "Activity/Entertainment Center" is being operated on Lot 103A, Lot 101A and Lot 102A shall not be used for the operation of any "Activity/Entertainment Center" which includes bowling lanes, pool tables, arcade games or skating rink without express prior written consent of the Owner of Lot 103A. Notwithstanding the foregoing, in the event that a component or element of the Activity/Entertainment Center Lot 103A which shall be in operation on the date of the "grand opening" of the Activity/Entertainment Center shall cease to operate on Lot 103A, then the exclusive right to operate such component or element of the Activity/Entertainment Center shall cease and the component or element may be conducted on other Lots. For purposes of this section, a component or element shall be deemed to be a distinct part of the operation of the

Activity/Entertainment Center such as, by way of illustration and not of limitation, bowling lanes, pool tables, arcade games, skating rink, private party rooms, children's party services, children's amusement rides, etc. No portion of Lot 101A, Lot 102A, or Lot 103A shall be used for any use listed on Exhibit D, which is attached hereto and incorporated herein by this reference.

10.1. **Use of Lot 101A.** Neither the Owner of Lot 102A nor the Owner of Lot 103A shall have any right to determine or control the use of Lot 101A and such use shall be determined by the Owner of Lot 101A; provided, however, that Lot 101A shall not be used for the operation of an Activity/Entertainment Center. Such limitation shall not prohibit the construction and operation of a game or activity center, including pool tables and arcade games, intended for the use of guests of a hotel or other lodging facility constructed on Lot 101A. So long as there shall remain commercially reasonable access to and from State Street to the Common Areas located on Lot 102A and, therefore, access to and from State Street and Lot 103A across such Common Areas, whether such access be located, in whole or in part, on Lot 101A or on the real property located south of Lot 101A, the Owner of Lot 101A shall be permitted to determine the configuration of improvements to be constructed and maintained on Lot 101A.

10.2. **Use of Lot 102A.** Except as otherwise expressly limited by this Agreement or any Existing REA, Lot 102A may be used as permitted by law. Except for transient lodging facility which is reserved to the Owner of Lot 101A and the Activity/Entertainment Center which is reserved to the Owner of Lot 103A, the Owner of Lot 102A shall have the right to grant exclusive use rights to a tenant in occupancy of a portion of Lot 102A which shall be binding upon Lot 101A and Lot 103A. Lot 102A shall be subject to the right of the Owner of Lot 103A to grant an exclusive use to a "Qualified Tenant" as set forth in Section 10.3 below.

10.3. **Use of Lot 103A.** In the event that Lot 103A, or any portion thereof, shall cease to be used as an Activity/Entertainment Center, such part of Lot 103A (the "Leased Premises") may be used only for one or more retail stores or restaurants and provided that such use shall not be (i) in violation of any exclusive use then existing in favor of any other tenant or occupant of the Shopping Center at the time a change of use is to occur, or (ii) in violation of any Existing REA. Notice of each proposed use of the Leased Premises shall be delivered to the Owner of Lot 102A. In the event that the Owner of Lot 102A shall object to the use proposed for the Leased Premises, the Owner of Lot 102A shall have the option to lease the Leased Premises upon the same terms and conditions offered for the objectionable use. Notice of such election to lease the Leased Premises must be given by the Owner of Lot 102A within fifteen (15) days of date the Owner of Lot 102A receives the request for approval and the lease for the Leased Premises must be signed not later than thirty (30) days after the date the option to lease is exercised. In the event that the Leased Premises shall comprise a minimum of twenty-five thousand (25,000) leasable square feet (*e.g.* rent is to be paid on a minimum of 25,000 square feet), then the Owner of Lot 103A may grant the tenant of that Leased Space (a "Qualified Tenant") an exclusive use of the Leased Space provided that the proposed exclusive use shall not be (i) be in violation of any exclusive use then existing in favor of any other tenant or occupant of the Shopping Center at the time a change of use is to occur, or (ii) in violation of any Existing

REA. An exclusive use granted to a Qualified Tenant in compliance with the proceeding requirements shall be binding upon Lot 101A and Lot 102A. Except as provided in this Section 10.3 with respect to a Qualified Tenant, the Owner of Lot 103A shall not have the right to grant any occupant of Lot 103A any exclusive right which shall be binding upon an Owner, tenant or occupant of either Lot 101A or Lot 102A. The Owner of Lot 103A shall provide written notice of an exclusive granted to a Qualified Tenant to each Owner of a Lot in the Shopping Center. A proposed sale of all or part of Lot 103A shall be subject to the right of first refusal set forth in Section 24 below.

10.4. **Use of Building Area.** The provisions of this Section 10.4 shall be applicable only to the "Potential Building Area" identified on Exhibit C as the "Option Parcel" located in the northwest corner of Lot 102A. The Option Parcel shall not be used for any "full service restaurant." A full service restaurant shall be restaurant with food service such as Olive Garden, TGI Fridays or Macaroni Grill's. The Option Parcel may be used for other types of restaurants or food service facilities. In the event that the Option Parcel shall be acquired pursuant to the "Option" described in Section 23, then the use of the Option Parcel shall be strictly limited to non-exclusive surface parking for all users of the Shopping Center. At the closing of the acquisition of the Option Parcel, there shall be recorded a restrictive covenant against the Option Parcel, which shall be senior to any and all monetary liens or encumbrances and which shall (i) restrict the use of the Option Parcel to surface parking, (ii) prohibit the construction of any building or any improvements unrelated to surface parking, (iii) permit all users of the Shopping Center to park and drive upon the Option Parcel, and (iv) prohibit the construction of any barriers between the Option Parcel and any other portion of the Common Areas within the Shopping Center. The form of restrictive covenant must be acceptable to the Owner of Lot 102A in its sole discretion.

11. **Maintenance Costs.** Lot 103A does not include any Common Areas to be maintained in accordance with the provisions of Section 3.2(a) of the REA and, therefore, the Owner and invitees using improvements located on Lot 103A shall utilize Common Areas located on other Lots, including primarily Lot 102A and the access road on Lot 101A, pursuant to the Easements granted by the REA. Therefore, the Owner of Lot 103A shall pay its proportionate share (the "Lot 103A Share") of any and all costs and expenses incurred (i) in the ownership, operation, maintenance, repair and replacement of the Common Areas located on Lot 102A, including without limitation, "Real Property Taxes," as defined below, attributable to the Common Areas on Lot 102A and "Insurance Costs," as defined below, for insurance maintained on the Common Areas, (ii) in the ownership, maintenance and repair of the access drive and entrance from State Street east to the eastern boundary of Lot 101A, (iii) pursuant to the August 2010 REA including the "Truck Turn-Around Area" which are required to be paid pursuant to Section 3(c) thereof, and (iv) pursuant to any other Existing REA which, according to the terms thereof, are required to be paid by the Owner of the real property which is now included in Lot 103A by the terms of the applicable Existing REA (collectively, the "Common Costs"). Common Costs shall not include costs and expenses incurred in the maintenance and repair of the building or buildings located on Lot 102A from time to time, including, without limitation, all exterior portions of such buildings and the roof thereof. Common Costs shall include the cost of repairs; lighting; cleaning; sweeping; trash removal from the Common Areas only; ice and snow removal; restriping; landscape maintenance; the employment of personnel as is reasonably

necessary to directly accomplish the foregoing; and other reasonable costs of maintaining the Common Areas in a clean and safe condition; plus an "Administrative Fee" in an amount equal to five percent (5%) of Common Costs; provided, however, that the following Common Costs shall be excluded from the calculation of the Administrative Fee: (i) costs of utility service for the Common Area, and (ii) the Administrative Fee. In no event shall any Administrative Fee be payable with respect to Insurance Costs, or Real Property Taxes.

11.1. **Commencement of Payment Obligation.** The obligation of the Owner of Lot 103A to pay such Common Costs shall commence March 1, 2017, subject to the provisions of Section 11.3 below. Prior to March 1, 2017, the Owner of Lot 102A shall pay the Lot 103A Share of Common Costs. The commencement date for the payment of Common Costs shall be subject to the exception set forth in Section 11.5 below.

11.2. **Other Costs.** In addition to Common Costs set forth above, the Owner of Lot 103A shall pay the Lot 103A Share of any and all costs and expenses which should reasonably be paid by an owner of real property pursuant to (i) any document or instrument which encumbers Lot 103A as of the date of the recording of this Agreement in the Official Records or (ii) which shall be subsequently levied or assessed against such Lot by appropriate governmental entities with authority to levy and assess real property.

11.3. **Real Property Taxes on Common Areas.** Common Area Costs shall include any and all Real Property Taxes levied or assessed against (i) the Common Areas located on Lot 102A, and (ii) that portion of Lot 101A which is used for ingress and egress to and from State Street.

11.4. **Insurance Costs for Common Areas.** Common Area Costs shall include any and all Insurance Costs attributable to (i) the Common Areas located on Lot 102A, and (ii) that portion of Lot 101A which is used for ingress and egress to and from State Street.

11.5. **Exception to Commencement Date.** Notwithstanding the commencement date for the payment of Common Costs set forth in Section 11.1, commencing as of the date of this Agreement, DE shall pay Spectrum the amount of any increase in Real Property Taxes levied against the Common Areas which is in excess of the amount of such Real Property Taxes levied against the Common Areas for the calendar year 2011. The parties agree that the amount of the Real Property Taxes levied against the Common Areas for the calendar year 2011 was \$7,604.39 (the "2011 Common Area Taxes"). The amount of Real Property Taxes levied against the Common Areas for each tax year shall be calculated using the same formula originally used to determine the amount for the 2011 Common Area Taxes. The amount by which the Real Property Taxes levied against the Common Areas for a current tax year exceed the 2011 Common Area Taxes shall be paid by DE to Spectrum once each calendar year not later than sixty (60) days after the date DE receives from Spectrum, a copy of a receipt evidencing payment of the Real Property Taxes attributable to the Common Areas for the year for which payment is requested. In the event that a request for payment is not received prior to the end of the year following the year such Real Property Taxes were due, DE shall have no obligation to pay any amount for such year pursuant to this section.

12. **Payment of Lot 103A Share.** Common Costs shall be paid in accordance with the provisions of this Section 12. Based on the improvements now existing within the Shopping Center, the Lot 103A Share shall be 34.85% of the total Common Costs. Such percentage is calculated based upon the agreement that the improvements on Lot 103A contain 68,747 square feet of rentable space and the improvements on both Lot 102A and Lot 103A contain 197,254 square feet of rentable space. In the event that there shall be a change in the rentable square feet on either Lot, the Lot 103A Share shall be recalculated. The amount of the Lot 103A Share shall be calculated after subtracting from the total Common Costs, amounts actually received from any other owner of a portion of the Shopping Center as partial payment of Common Costs pursuant to any Existing REA. Amounts received by an Owner from tenants pursuant to leases or other agreements which provide for the occupancy of a portion of the Shopping Center shall not be subtracted from total Common Costs prior to the calculation of the Lot 103A Share.

12.1. **Payments and Annual Adjustments.** Prior to the beginning of each calendar, the Owner of Lot 102A shall provide to Owner of Lot 103A an estimate of the Common Costs for the coming year together with a breakdown of such calculation in reasonable detail and in a form consistent with prior years to allow comparison. The Owner of Lot 103A shall pay to the Owner of Lot 102A monthly during each year, one twelfth (1/12) of the Lot 103A Share of such estimated Common Costs, in advance on or before the first day of each month. Within one hundred twenty (120) days after the end of each calendar year, the Owner of Lot 102A shall submit to the Owner of Lot 103A a reconciliation of the actual Common Costs for the prior year. If the Lot 103A Share of the actual Common Costs exceeds the aggregate amount(s) previously paid by Owner of Lot 103A, the Owner of Lot 103A shall pay to the Owner of Lot 102A the deficiency within thirty (30) days following receipt by Owner of Lot 103A of the reconciliation. However, if the aggregate amount(s) previously paid by Owner of Lot 103A with respect thereto exceeds the Lot 103A Share for such calendar year, then the surplus shall be applied as a credit to the next payment due from the Owner of Lot 103A. The Owner of Lot 103A shall have the right during regular business hours to inspect copies of receipted invoices or equivalent documentation showing the amount and purpose of Common Expenses.

12.2. **Audit Rights.** The Owner of Lot 102A shall maintain for a period of at least two (2) years following the end of the period to which they pertain complete and accurate books and records of all Common Costs. The Owner of Lot 103A or its auditors shall have the right, with reasonable notice, to inspect, copy and audit such books and records at any time during normal business hours, and may also have the right to receive from Owner of Lot 102A reasonable back up documentation of such costs, provided that the Common Costs for any calendar year may be audited by Owner of Lot 103A only one time. The Owner of Lot 102A, within thirty (30) days after request therefor, shall reimburse the Owner of Lot 103A for any overpayments that Owner of Lot 103A or its auditors identify. If such overpayments exceed five percent (5%) of the Lot 103A's Share of the Common Costs for such period, the Owner of Lot 102A shall pay for the reasonable cost of the audit within thirty (30) days following receipt of the invoice therefor. Any such audit shall be completed and notice of such results delivered to Owner of Lot 102A not later than two (2) years from the end of the calendar year being audited. Audits shall be conducted by independent auditors and fees for such audit shall not be based on any contingency.



13. **Lot 103A Real Property Taxes.** “Real Property Taxes” means all real property taxes and assessments levied or assessed by any governmental authority upon the Property. The Owner of Lot 103A shall pay prior to delinquency, any and all Real Property Taxes levied or assessed against the land and improvements which comprise Lot 103A. For time periods prior to March 1, 2017, Spectrum shall reimburse the Owner of Lot 103A for the amount of Real Property Taxes levied against Lot 103A for the calendar year 2011 (the “2011 Lot 103A Base Amount”) which amount is agreed to be \$17,382.73. The 2011 Lot 103A Base Amount shall be paid by Spectrum once each calendar year not later than sixty (60) days after the date Spectrum receives from DE, a copy of a receipt evidencing payment of the Real Property Taxes levied against Lot 103A for the year for which reimbursement is requested. In the event that a request for reimbursement is not received prior to the end of the year following the year such Real Property Taxes were due, Spectrum shall have no obligation to reimburse the 2011 Lot 103A Base Amount for such year pursuant to this section. Spectrum shall have no reimbursement obligation pursuant to this section for any Real Property Taxes applicable to any period beginning March 1, 2017. In no event shall the reimbursement paid by Spectrum pursuant to this section exceed the amount of the Real Property Taxes actually levied by Salt Lake County against Lot 103A for the applicable tax year.

14. **Common Areas Insurance.** The Owner of Lot 102A shall maintain at all times commercial general liability insurance covering the Common Areas located on Lot 102A including contractual liability coverage in the minimum amounts of One Million and No/100 Dollars (\$1,000,000.00) per occurrence, with an annual aggregate limit of Two Million and No/100 Dollars (\$2,000,000.00) for personal or bodily injury and damage to property. The costs to the Owner of Lot 102A of the premiums for the required insurance are referred to herein as the “Insurance Costs” which shall be part of the Common Costs. Upon written request, the Owner of Lot 102A shall provide to Owner of Lot 103A a copy of the insurance invoice for the Common Areas. Such Insurance Costs shall be reconciled at the end of each calendar year as set forth in Section 12.1 above.

15. **Lot 103A Insurance.** The Owner of Lot 103A shall maintain in respect of the building and other improvements located on Lot 103A (a) commercial general liability insurance, (a) in the minimum amount of One Million and No/100 Dollars (\$1,000,000.00) per occurrence, with an annual aggregate limit of Two Million and No/100 Dollars (\$2,000,000.00) for personal or bodily injury and damage to property; and (b) property insurance coverage in an amount not less than the replacement value of the building and other improvements located on Lot 103A.

16. **Insurance Generally.** Each party shall promptly deliver to the other certificates evidencing the insurance required to be carried by such party under this Agreement and shall thereafter deliver to the other party certificates evidencing renewal of such policies at least five (5) days prior to the expiration of any existing policy. To the extent applicable, each commercial general liability policy maintained by any party shall identify the other as an additional insured thereunder. All insurance required to be provided by Owner of Lot 102A or Owner of Lot 103A shall be (a) written by companies licensed to write insurance in the State of Utah, provided such companies have a Best’s financial strength/financial size category minimum rating of “A /VII”

or better in the most recent edition of Best's Insurance Report or as otherwise approved by the Owner of Lot 102A in the event such rating system shall be modified or discontinued, (b) written on an "occurrence basis," and (c) except as otherwise provided herein, primary and non-contributory with respect to any other insurance which may be maintained by the other party. If the standard practice of either party's insurance carrier is to provide notice of cancellation only to the policyholder and not to any additional insured or other entity, then such party shall deliver a copy of such cancellation notice to the other party within ten (10) days after receipt of such cancellation notice. Each of the Owner of Lot 103A and the Owner of Lot 102A shall have the right to provide any insurance required to be carried by it hereunder under blanket policies; provided that to the extent any such blanket policies do not provide the full coverage required hereunder, such additional amounts of coverage shall be deemed to be self-insured by the party utilizing such blanket policy. Nothing herein shall prevent either party from maintaining additional amounts or types of insurance coverage in excess of the minimum amounts at its own sole cost and expense.

17. **Release; Waiver of Subrogation.** The Owner of Lot 102A and the Owner of Lot 103A (each a "Waiving Party") each hereby releases the other from any liability for damage or destruction, whether or not caused by acts or omissions of the Waiving Party, its employees or agents, and hereby releases and waives any and all claims and right of recovery and/or any right of subrogation against the other party or its employees for damage, loss or injury caused by or resulting from fire and/or other perils, to the extent that any such claims for damages, losses or injuries are or would be covered by any special form property insurance policies that such party does or is required to maintain hereunder. Each Waiving Party shall look to its respective insurance coverage, without regard to deductibles or self-insurance or self-insured retentions, for recovery of any insured property damage. Each of the Owner of Lot 102A and the Owner of Lot 103A shall cause any special form property insurance policies that it maintains to contain a provision whereby the insurer waives any (a) rights of subrogation, and (b) rights of recovery against the other party.

18. **Indemnification.** The Owner of Lot 103A covenants and agrees to indemnify, protect, defend and hold the Owner of Lot 102A harmless from and against any and all losses, claims, demands, damages (but not consequential damages), liabilities or expenses (including reasonable attorneys' fees) to the extent caused by (a) the negligence or willful acts or omissions of any of the Owner of Lot 103A or its agents, contractors, subcontractors, employees and invitees (the "Lot 103A Parties") regarding the use, occupancy, operation, maintenance, repair or alteration of the improvements located on Lot 103A or the Common Areas. The foregoing shall not apply to any loss, claim, damage, liability or expense arising out of or resulting from any negligent, willful or otherwise wrongful act or omission of the Owner of Lot 102A, agents, contractors, subcontractors and employees (the "Lot 102A Parties").

19. **Alterations to Lot 103A Improvements.** The Owner of Lot 103A may from time to time make such interior, non-structural alterations, additions, restorations, changes, replacements or installations (hereinafter called "Alterations") in, of or to the building located on Lot 103A as the Owner of Lot 103A deems necessary or desirable. Any exterior or structural Alterations to the building shall require prior written consent of the Owner of Lot 102A, which consent shall not be unreasonably withheld, delayed or conditioned' provided, however, that the

Owner of Lot 102A shall not be required to provide consent if (i) the proposed structural alteration shall effect improvements located on Lot 102A or any right to occupy same or (ii) the Owner of Lot 102A shall determine, in its discretion, that the proposed exterior Alterations shall cause the building on Lot 103A to be incompatible with the building located on Lot 102A. In making any such Alteration, the Owner of Lot 103A shall comply with all applicable laws, orders and regulations of federal, state, county and municipal authorities having jurisdiction. The Owner of Lot 103A shall obtain or cause to be obtained all building permits, licenses, temporary and permanent certificates of occupancy and other governmental approvals that may be required in connection with the making of the Alterations. The Owner of Lot 103A shall pay all costs and expenses in connection with the making of Alterations and shall discharge any mechanic's lien filed against the Common Areas and shall indemnify, defend and hold the Owner of Lot 102A harmless for, from and against any claims arising out of such work.

20. **Changes to Common Areas.** The Owner of Lot 101A or Lot 102A shall have the right to reconfigure and reconstruct Common Areas or the entrance drive to the Property from State Street in such manner as the Owner of the applicable Lot shall determine; provided that such reconfiguration does not materially and adversely impair the parking for Lot 103A or access to and from Lot 103A or Lot 102A. Temporary circumstances caused by the construction of the reconfigured Common Areas including the drive access shall not be construed to be an impairment for the purposes of this section. Further, the consent of the Owner of Lot 103A shall not be required for the Owner of Lot 102A to construct buildings in the locations identified as "Potential Building Areas" on Exhibit C which is attached hereto and incorporated herein by this reference. The Owner of Lot 102A shall not have the right to construct a building in the Potential Building Area also designated on Exhibit C as the "Option Parcel" prior to January 1, 2017 and such right shall be further subject to the right to acquire the Option Parcel identified in Section 23 below.

21. **Project Sign.** There is and there shall be maintained a pylon sign that shall advertise individual tenants located on the Property and the tenant(s) in occupancy of the parcel identified as Lot 102 on the Original Eastgate Plat (the "Project Sign"). Any and all costs and expenses incurred in the ownership, operation and maintenance of the structural components of the Project Sign, excluding fabrication, maintenance and replacement of sign panels of individual occupants of the Shopping Center or related parcels, shall be included in Common Costs. The Owner of Lot 103A shall be entitled to one (1) panel on each side of the Project Sign. Any reference to a "panel" in this section shall refer to a panel on each side of the Project Sign. The Owner of Lot 103A shall pay the cost for the fabrication and installation of any Lot 103A Panel it elects to install on the Project Sign, including any panel to be installed on the existing Project Sign or a new panel required by any refurbishment or replacement of the Project Sign.

21.1. **Existing Project Sign.** So long as the Project Sign which exists as of the date of this Agreement remains, the panel to be used by the Owner of Lot 103A (the "Lot 103A Panel") shall, at a minimum, be one (1) of the panels now being used by Planet Play. Until given notice by the Owner of Lot 102A, the Owner of Lot 103A shall be entitled to use both panels (two on each side) which were used by Planet Play.

21.2. **Refurbished Project Sign.** In the event that the existing Project Sign is refurbished or replaced, Spectrum shall make a good faith effort to maximize the size of the Lot 103A Panel, but in any event, the size of the Lot 103A Panel on the new or refurbished Project Sign shall be equal to the size of the panel for tenants of equivalent size located on Lot 102A. The Owner of Lot 103A shall have the right to select the location of its sign panel after Cinemark, Gold's Gym and VF Factory Outlet, or the tenant in possession of the premises now occupied by such parties under the existing lease, have selected. In the event that the lease for Gold's Gym or VF Factory Outlet is terminated, any replacement lease shall provide that the replacement tenant's right to select the location of its panel on the Project Sign shall be subordinate to the right of the Owner of Lot 103A to select a location for its panel on the Project Sign.

22. **Lot 103A Corridor Wall.** The wall (the "Corridor Wall") located at the north end of the central corridor of the building located on Lot 102A (the "Mall Building") is a portion of the exterior of the south wall of the building located on Lot 103A. Not later than sixty (60) days after the date of this Agreement, DE shall cause the construction of the Corridor Wall, including the installation of the emergency exit doors from Lot 103A and the doors to the emergency exit from the Mall Building through the northeast exit corridor and the finish painting of the Corridor Wall and related improvements as specified by Spectrum. The Owner of Lot 103A shall maintain any and all improvements located on the south side of the Corridor Wall that are necessary for the utilization of the emergency exit from Lot 103A through the Corridor Wall. The south face of the Corridor Wall shall not be used for any purpose other than a wall without the express prior, written consent of the Owner of Lot 102A, including specifically, but not by way of limitation, for a sign or other advertising. Such consent may be granted or withheld in the sole and absolute discretion of the Owner of Lot 102A with no reasonableness standard imposed. The Owner of Lot 103A shall maintain the Corridor Wall; provided, however, that any repainting or refurbishing of the corridor walls intersecting with the Corridor Wall by the Owner of Lot 102A shall include an equivalent repainting or refurbishing of the Corridor Wall at no cost or expense to the Owner of Lot 103A.

23. **Option to Acquire Option Parcel.** At any time after January 1, 2017, Spectrum or the then existing Owner of Lot 102A, may elect to determine the feasibility of constructing a building and related improvements on all or part of the Option Parcel. Upon such election, Spectrum or such Owner, as applicable, shall deliver the "Option Notice" required to be delivered pursuant to that certain Option Agreement executed by Spectrum and DE concurrently with this Agreement (the "Option Agreement"). Subject to and in compliance with the terms of the Option Agreement, DE or a qualified successor in interest as defined in the Option Agreement, shall have the right to acquire the Option Parcel strictly in accordance with the terms of the Option Agreement (the "Option"). DE shall be entitled to the rights set forth in the Option only upon the conditions set forth in the Option Agreement. So long as DE, or a qualified successor in interest as defined in the Option Agreement, the Option Agreement shall be binding upon any Owner of Lot 102A.

24. **Lot 103A Right of First Refusal.** The Owner of Lot 102A shall have the first right to purchase Lot 103A or any part thereof. If the Owner of Lot 103A receives an offer to acquire Lot 103A that it is willing to accept (an "Acceptable Offer"), written notice of the

Acceptable Offer, including a complete copy of the Acceptable Offer, shall be delivered to the Owner of Lot 102A. Not later than ten (10) business days after the date of its receipt of the Acceptable Offer, the Owner of Lot 102A shall send written notice to the Owner of Lot 103A stating whether or not it elects to purchase the property describe in the Acceptable Offer upon the same terms and conditions, including the closing date, set forth in the Acceptable Offer. In the event that the Owner of Lot 102A shall elect not to acquire the property described in the Acceptable Offer upon the terms set forth therein or shall fail to provide notice of its election within said ten (10) business days, then the real property in the Acceptable Offer may be sold upon the terms set forth in the Acceptable Offer. In the event that the property is sold pursuant to the preceding sentence, the right of first refusal set forth in this Section 24 shall remain in effect as to a subsequent sale thereof. Any sale or transfer of Lot 103A, or any part thereof, shall be expressly made subject to all of the terms, covenants and conditions of this Section 24. Notwithstanding anything contained herein to the contrary, in the event an Acceptable Offer provides for the sale and purchase of Lot 103A together with other real property owned by the Owner of Lot 103A, the Owner of Lot 102A shall be required to purchase all of the property contained in the Acceptable Offer in the event it desires to exercise its right of first refusal hereunder.

25. **Recitals.** The recitals are hereby incorporated into this Agreement.

26. **Conflict with REA.** In the event of any conflict or inconsistency between the terms of this Agreement and the terms of the REA, as between the parties hereto, the terms of this Agreement shall control.

27. **Agreement Effective.** All rights and interests existing pursuant to the REA which are not affected by this Agreement and except as expressly modified herein shall remain in full force and effect in accordance with its terms.

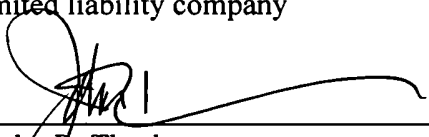
28. **Governing Law.** This Agreement shall be construed in accordance with the laws of the state of Utah.


*[signature and notary pages to follow immediately]*

**SIGNATURE PAGE  
TO  
AGREEMENT REGARDING ADMINISTRATION OF  
COMPREHENSIVE RECIPROCAL EASEMENT**

IN WITNESS WHEREOF, this Agreement has been executed to be effective as of the date first set forth above.

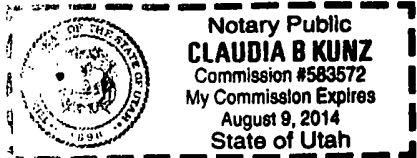
SPECTRUM: DRAPER SPECTRUM, L.C.,  
a Utah limited liability company

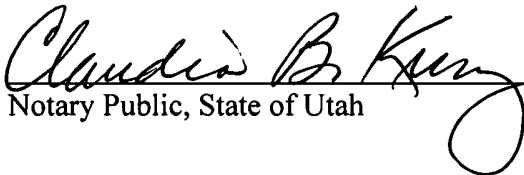
By:   
John R. Thackeray  
Its: Manager

By:   
Kevin S. Garn  
Its: Manager

STATE OF UTAH            )  
                                      : ss.  
COUNTY OF SALT LAKE )

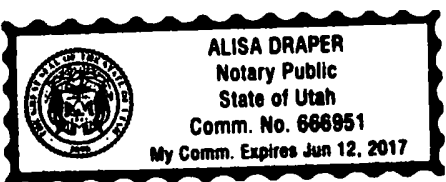
On this 6th day of January, 2014, before me a Notary Public, personally appeared John R. Thackeray, a Manager of DRAPER SPECTRUM, L.C., a Utah limited liability company, who executed the within instrument on behalf of the said limited liability company

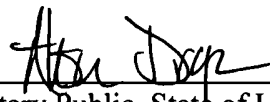


  
Notary Public, State of Utah

STATE OF UTAH            )  
                                      : ss.  
COUNTY OF SALT LAKE )

On this 1 day of January, 2014, before me a Notary Public, personally appeared Kevin S. Garn, a Manager of DRAPER SPECTRUM, L.C., a Utah limited liability company, who executed the within instrument on behalf of the said limited liability company



  
Notary Public, State of Utah

**SIGNATURE PAGE  
TO  
AGREEMENT REGARDING ADMINISTRATION OF  
COMPREHENSIVE RECIPROCAL EASEMENT**

IN WITNESS WHEREOF, this Agreement has been executed to be effective as of the date first set forth above.

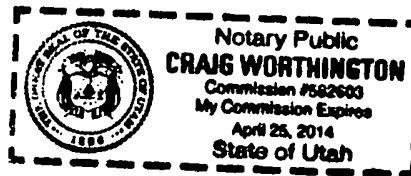
DE: DRAPER ENTERTAINMENT, LLC,  
a Utah limited liability company

By: Brad Shepherd  
Brad Shepherd  
Its: Manager

STATE OF UTAH            )  
                                  : ss.  
COUNTY OF SALT LAKE )

On this 7<sup>th</sup> day of January, 2014, before me a Notary Public, personally appeared Brad Shepherd, the Manager of DRAPER ENTERTAINMENT, LLC, a Utah limited liability company, who executed the within instrument on behalf of the said limited liability company

Craig Worthington  
Notary Public, State of Utah



**EXHIBIT "A"**  
**TO**  
**AGREEMENT REGARDING ADMINISTRATION OF**  
**COMPREHENSIVE RECIPROCAL EASEMENT**

(Legal Description)

Real property located in the County of Salt Lake, State of Utah and more particularly described as follows:

Lots 101A, 102A, 103A as shown on the Subdivision Plat for Eastgate Subdivision Amended recorded November 26, 2013 as Entry No. 11766290, in Book 2013P at Page 247 in the official records of the Salt Lake County Recorder's Office, State of Utah.



**EXHIBIT "B"**  
**TO**  
**AGREEMENT REGARDING ADMINISTRATION OF**  
**COMPREHENSIVE RECIPROCAL EASEMENT**

(Eastgate Subdivision Amended)

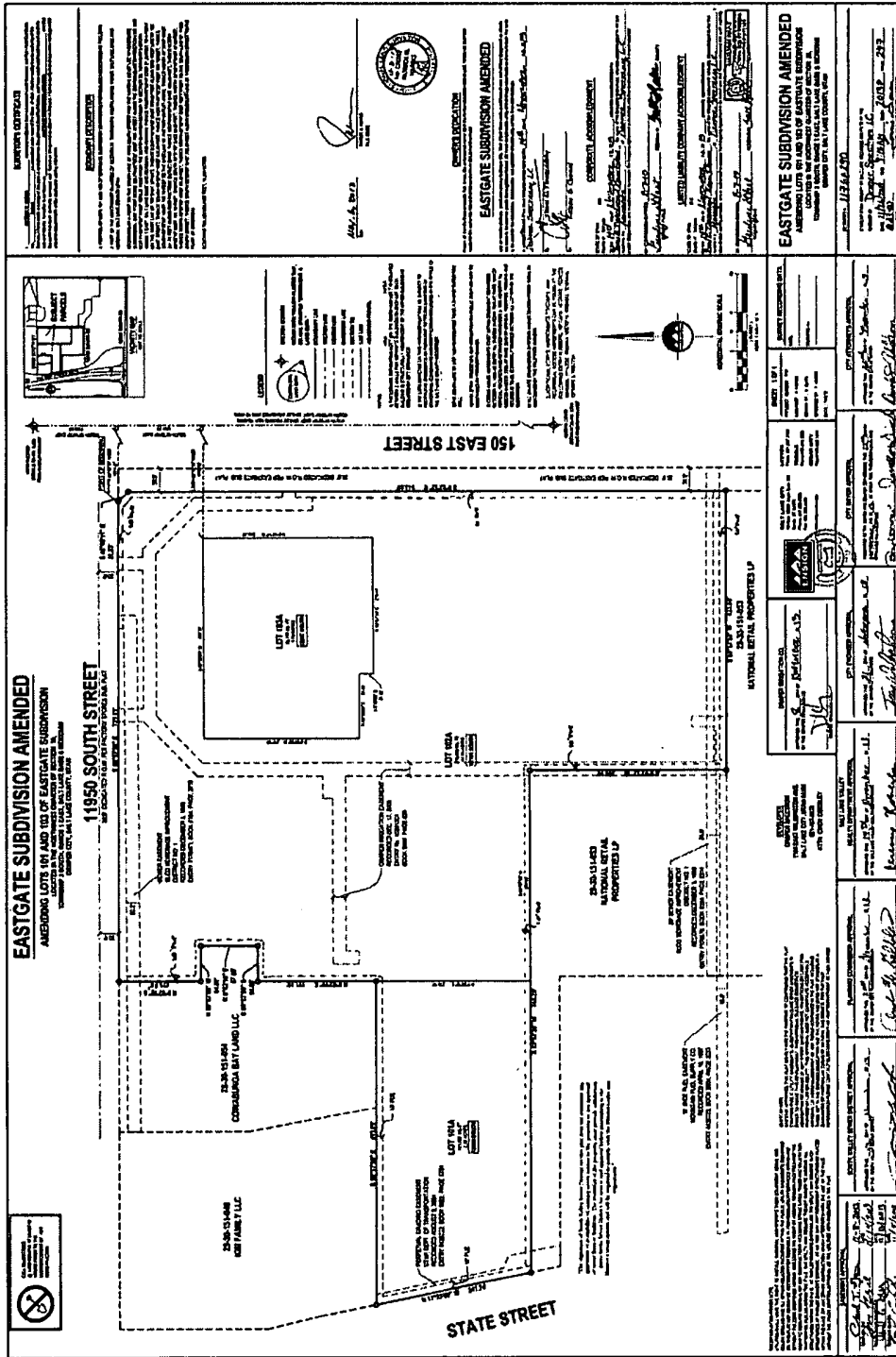
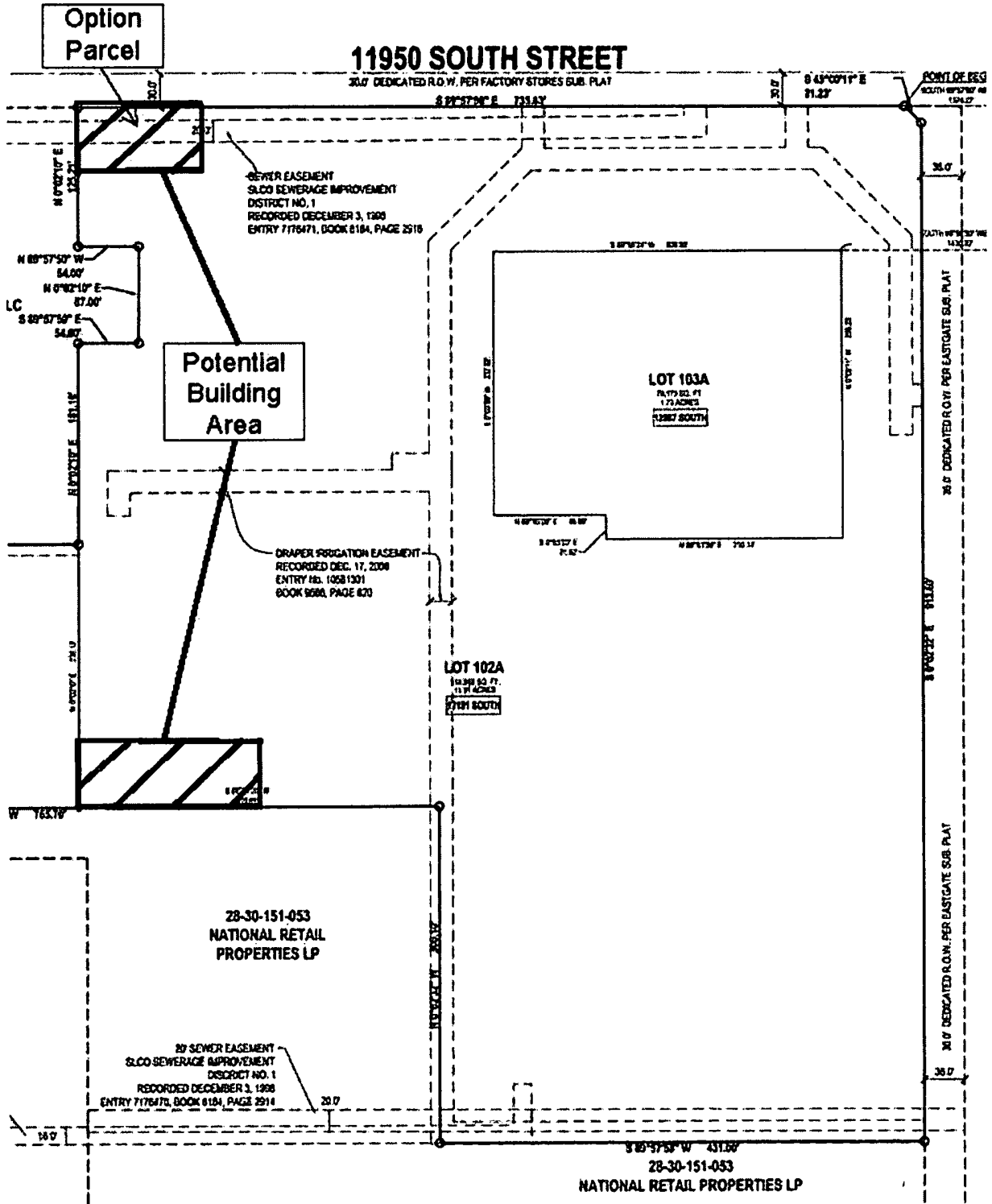


Exhibit "B"  
 Page 1 of 1

**EXHIBIT "C"**  
**TO**  
**AGREEMENT REGARDING ADMINISTRATION OF**  
**COMPREHENSIVE RECIPROCAL EASEMENT**

(Diagram of Building Areas)



**EXHIBIT "D"**  
**TO**  
**AGREEMENT REGARDING ADMINISTRATION OF**  
**COMPREHENSIVE RECIPROCAL EASEMENT**

(Prohibited Uses)

Any and all of the following uses are prohibited in the Shopping Center;

a. Any use which emits or results in strong, unusual or offensive odors, fumes, dust or vapors, is a public or private nuisance, emits noise or sounds which are objectionable due to intermittence, beat, frequency, shrillness or loudness, creates a hazardous condition, or is used, in whole or in part, as or for warehousing or the dumping or disposing of garbage or refuse;

b. Any operation primarily used as a storage facility and any assembling, manufacturing, distilling, refining, smelting, agricultural, or mining operation;

c. Any dumping, disposing, incineration, or reduction of garbage (exclusive of trash compactors or trash containers located near the rear of any building);

d. Any fire sale, bankruptcy sale (unless pursuant to a court order), auction house operation, fictitious going-out-of-business sale, lost-our-lease sale or similarly advertised event;

e. Any central laundry, dry cleaning plant, or laundromat (except that a dry cleaner that performs all dry cleaning outside the Shopping Center shall be permitted);

f. Any automobile, truck, trailer, boat, or recreational vehicle sales or leasing that displays any inventory outside the building in which the leased premises are located;

g. Any live performance theater, auditorium, meeting hall, sporting event, or other similar entertainment use;

h. Any veterinary hospital or animal raising or boarding facilities (except to the extent permitted below);

i. Any mortuary or funeral home;

j. Any "Pornographic Use", which shall include, without limitation: (x) a store displaying for sale or exhibition books, magazines or other publications containing any combination of photographs, drawings or sketches of a sexual nature, which are not primarily scientific or educational [provided, however, that the sale of books, magazines and other publications by a national bookstore of the type normally located in first-class shopping centers in the State in which the Shopping Center is located (such as, for example, Barnes & Noble, as said store currently operates) shall not be deemed a "pornographic use" hereunder]; or (y) a store offering for exhibition, sale or rental video cassettes or other medium capable of projecting,

Exhibit "D"

Page 1 of 2

4849-1022-5175.1

**BK 10204 PG 5058**

transmitting or reproducing, independently or in conjunction with another device, machine or equipment, an image or series of images, the content of which has been rated or advertised generally as NC-17 or "X" or unrated by the Motion Picture Rating Association, or any successor thereto [provided, however, that the sale or rental of such videos by a national video store of the type normally located in first-class shopping centers in the State in which the Shopping Center is located shall not be deemed a "pornographic use" hereunder]; or massage parlor [except for therapeutic massages given in connection with the operation of a day spa or health club which may otherwise be permitted under this Exhibit D, or a "Massage Envy" store];

k. Any so-called "head shop", or other establishment primarily selling or exhibiting drug-related paraphernalia;

l. Any gambling facility or operation, including but not limited to: off-track or sports betting parlor; table games such as black-jack or poker; slot machines; video poker/black-jack/keno machines or similar devices; or bingo hall.

m. Any unlawful use;

n. Any pawn shop or tattoo parlor;

o. Any church or other place of religious worship;

p. Any car wash, automobile repair shop, vehicle body repair shop or similar operation; or any business servicing motor vehicles in any respect, including, without limitation, any quick lube oil change service, tire center or gasoline or service station or facility;

q. A hotel/motel, except as specifically permitted on Lot 101A; or

r. Any veterinary office, except as may be incidental to a permitted full-line pet and pet supply store operating in at least 15,000 square feet of floor area.