

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

SJ Marketplace, LLC
5670 Wilshire Boulevard, Suite 1250
Los Angeles, California 90036
Attn.: Steven Usdan

11952794
11/26/2014 1:10:00 PM \$38.00
Book - 10277 Pg - 8743-8754
Gary W. Ott
Recorder, Salt Lake County, UT
FIRST AMERICAN NCS
BY: eCASH, DEPUTY - EF 12 P.

NCS-667549
27-20-302-008

AGREEMENT CONTAINING COVENANTS

THIS AGREEMENT CONTAINING COVENANTS ("Agreement") is dated as of 11-25, 2014 ("Effective Date") by and between SJ MARKETPLACE, LLC, a Delaware limited liability company (with its successors and assigns, "Seller"), and SOUTH JORDAN DEL LLC, a Utah limited liability company (with its successors and assigns, "Buyer").

RECITALS

A. Seller and Buyer's predecessor-in-interest, Barth Family Holdings, LLC, entered into that certain Purchase and Sale Agreement dated April 30, 2014 (as amended, the "Purchase Agreement"), pursuant to which Seller is conveying to Buyer certain real property described on Exhibit A attached hereto ("Buyer's Property").

B. Buyer's Property is part of a retail center that is encumbered by that certain Declaration of Easements, Covenants, Conditions and Restrictions recorded in the Official Records of Salt Lake County, Utah on February 21, 2014 as Entry No. 11807867 in Book 10212 at Page 7709 ("Original Declaration"), as amended by First Amendment to Declaration of Easements, Covenants, Conditions and Restrictions recorded in the Official Records of Salt Lake County, Utah on July 31, 2014 as Entry No. 11889627 in Book 10249 at Page 4295 ("Declaration Amendment" and collectively with the Original Declaration, the "Declaration"). Buyer is purchasing Buyer's Property subject to the Declaration. The real property encumbered by the Declaration is referred to herein as the "Shopping Center Property." All initial capitalized terms used in this Agreement but not otherwise defined herein shall have the meanings given such terms in the Declaration.

C. Upon Seller's conveyance of Buyer's Property to Buyer, Seller retains ownership of those portions of the Shopping Center Property described on Exhibit B attached hereto ("Seller's Retained Property").

D. Seller and Buyer desire to enter into this Agreement for the purpose of the confirmation of certain matters pertaining to the ownership, improvement and operation of Buyer's Property and Seller's Retained Property.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

1. Development of Buyer's Property. Buyer's Property shall be developed in accordance with the site plan attached to this Agreement as Exhibit C (the "Site Plan"). The building constructed on Buyer's Property shall be a one-story building not exceeding 2,950 square feet of building area, with a height not exceeding 18 feet, located within the building envelope depicted on the Site Plan. Buyer's Property shall contain not less than the number of parking spaces depicted on the Site Plan and no material changes shall be made to the parking and drive aisles on Buyer's Property without the consent of the Declarant under the Declaration. There shall be no additional buildings or structures constructed on Buyer's Property, nor shall there be any improvements or alterations to Buyer's Property that conflict with this Section 1.

2. Use of Buyer's Property. Buyer's Property and the improvements constructed thereon shall initially be used only for the operation of a restaurant and in accordance with the terms of the Declaration, subject to the right of the Owner of Buyer's Property to subsequently change the use of Buyer's Property and the improvements located thereon to any other retail use consistent and compatible with a first-class retail shopping center that does not violate the terms and provisions of the Declaration.

3. Construction and Operation of Building. The Owner of Buyer's Property shall construct the restaurant building on Buyer's Property and cause such restaurant to be opened for business within twelve (12) months after the date of the completion of Seller's Work (as such term is defined in the Purchase Agreement). If the restaurant building on Buyer's Property is not completed and opened for business for at least one (1) day within such twelve (12) month period, or if the building on Buyer's Property thereafter is closed for business to the public for a period longer than one hundred eighty (180) days (excluding reasonable periods for casualty or remodeling), then the Declarant under the Declaration shall have the right to re-purchase Buyer's Property (and all improvements located thereon) at a purchase price equal to the greater of (a) the fair market value of Buyer's Property (and all improvements located thereon) or (b) the purchase price paid by Buyer for Buyer's Property under the Purchase Agreement plus the book value of Buyer's Work (as such term is defined under the Purchase Agreement).

4. Pylon Signage. Pursuant to Section 7.8.2 of the Declaration, Declarant reserves all rights to use the Pylon Signs under the Declaration, subject to the right of Declarant to grant to an Owner of a particular Parcel the right to display the trade name of the Occupant of such Owner's Parcel on a designated Pylon Sign. In accordance with Section 7.8.2 of the Declaration, Seller, as Declarant under the Declaration, hereby grants to the Owner of Buyer's Property the right to display the trade name of the Occupant of Buyer's Property on a one-half/double-sided sign panel on each of the two Pylon Signs to be located along Bangerter Highway in the locations of such two Pylon Signs shown on Exhibit C attached to the Declaration. The locations of such sign panels on the Pylon Signs shall be in the locations marked "Del Taco" on Exhibit D attached to this Agreement. The Owner of Buyer's Property shall have all obligations and

responsibilities set forth in Section 7.8.4 of the Declaration with respect to the sign panel rights on such Pylon Signs granted to the Owner of Buyer's Property pursuant to this Section 4.

5. Additional Exclusives. In accordance with Section 4.4.2 of the Declaration, this Section 5 documents the grant subsequent to the recordation of the Original Declaration and the Declaration Amendment of the Future Exclusive Use Restrictions set forth below in Sections 5.1 through 5.2. This Section 5 is not intended to limit the grant of any additional Future Exclusive Use Restrictions pursuant to Section 4.4.2 of the Declaration. Buyer's Property shall not be used for the following purposes:

5.1 the operation of a health club, fitness center or exercise center (including without limitation, a climbing gym); provided, however, that such restriction shall not pertain to physical therapy in connection with medical or chiropractic uses occupying less than 5,000 square feet with respect to any particular Occupant; and provided, further, that the terms health club, fitness center or exercise center shall mean a facility whose primary use involves exercise machines and weights for training, and shall not include karate, dance, yoga, pilates or other similar type businesses; or

5.2 the primary purpose of the operation of a dry cleaners, laundromat or drop off facility for either of the foregoing.

6. Modifications of Declaration. Seller shall have the right as Owner of Seller's Retained Property, without the consent, approval or joinder of or by Buyer, to amend or waive provisions of the Declaration that pertain to Seller's Retained Property and/or other portions of the Shopping Center Property outside of Buyer's Property, provided that such amendments or waivers do not modify the rights or obligations of the Owner of Buyer's Property under the Declaration or this Agreement.

7. Notices. All notices required or permitted to be given under this Agreement must be in writing and shall be deemed to have been given as of the date such notice is (a) delivered to the party intended, (b) delivered to the then designated address of the party intended, (c) rejected at the then designated address of the party intended, provided such notice was sent prepaid, or (d) the date of receipt (as confirmed by the carrier's records) at the then designated address of the party intended if sent by nationally recognized overnight courier with delivery instructions for "next business day" service, or by United States certified mail, return receipt requested, postage prepaid and addressed to the then designated address of the party intended. The initial addresses of the parties shall be:

If to Seller:

SJ Marketplace, LLC
5670 Wilshire Boulevard, Suite 1250
Los Angeles, California 90036
Attn.: Steven Usdan

If to Buyer:

South Jordan Del LLC
154 East Myrtle Ave #303
Murray ut 84107
Attn.: Thomas Williamsen

Each party shall have the right to change its address for notices to any other address within the United States of America upon written notice to the other party in accordance with this Section 6.

8. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall, for all purposes, be deemed an original and all of which, taken together, shall constitute one and the same agreement.

9. Run With the Land. The terms, provisions, agreements, covenants, conditions and restrictions set forth in this Agreement shall be equitable servitudes, and shall run in favor and be enforceable for the benefit of, and shall be binding upon and enforceable against, each party's property and each of their respective successors and assigns as Owner of such property. The liability of each party under this Agreement shall be limited to its period of ownership of the legal parcel of property that is the subject of such liability, provided that no sale or transfer shall relieve a party of liability for any act, omission or breach arising or occurring during such period of ownership.

10. Miscellaneous. This Agreement shall be construed and enforced in accordance with the laws of the State of Utah, and venue and jurisdiction for any legal action regarding this Agreement shall lie in Salt Lake County, Utah. This Agreement may not be amended or modified except in writing executed by the party against whom such amendment or modification is being charged. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes all prior agreements between the parties with respect thereto, whether oral or written, including without limitation, the Purchase Agreement. No delay or omission in exercising any right or in enforcing any provision of this Agreement shall constitute a waiver of such right or provision. In the event of a dispute or litigation between the parties with respect to the interpretation or enforcement of this Agreement, the prevailing party in such dispute shall be entitled to reimbursement from the non-prevailing party of its reasonable out-of-pocket attorneys' fees and costs incurred in connection with such dispute or litigation, including costs and expenses incurred in connection with the enforcement, perfection or collection of any judgment. If any provision of this Agreement is invalid or unenforceable under applicable law, such provision shall be ineffective only to the extent of such invalidity or unenforceability, without invalidating the remaining portions of such provision or the remaining provisions of this Agreement.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

SELLER:

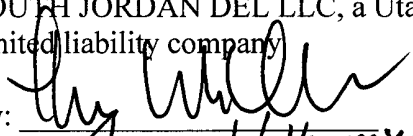
SJ MARKETPLACE, LLC,
a Delaware limited liability company

By: CCA Acquisition Company, LLC,
a California limited liability
company, its manager

By: _____
Steven H. Usdan, Manager

BUYER:

SOUTH JORDAN DEL LLC, a Utah
limited liability company

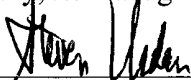
By: 
Name: Thomas Williamson
Title: Member

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

SELLER:

SJ MARKETPLACE, LLC,
a Delaware limited liability company

By: CCA Acquisition Company, LLC,
a California limited liability
company, its manager

By: 
Steven H. Usdan, Managing
Member

BUYER:

SOUTH JORDAN DEL LLC, a Utah
limited liability company

By: _____

Name: _____

Title: _____

STATE OF _____)
)
COUNTY OF _____)

On _____, 20____, before me, _____, Notary Public,
personally appeared _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature on the instrument, the person(s) or the entity(ies) upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature _____

(This area for official notarial seal)

STATE OF Utah)
)
COUNTY OF Salt Lake)

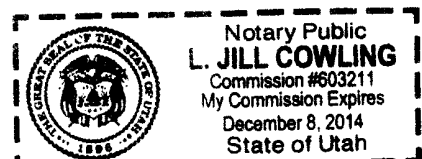
On Nov 26, 2014, before me, Jill Cowling, Notary Public,
personally appeared Thomas Williamson

who proved to me on the basis of satisfactory evidence to be the person(s) whose name is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature on the instrument, the person(s) or the entity(ies) upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature [Handwritten Signature]



(This area for official notarial seal)

STATE OF California)
)
COUNTY OF Los Angeles)

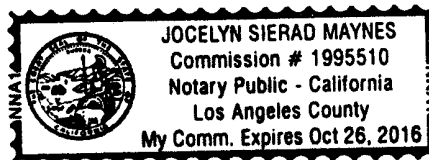
On November 25, 20 14, before me, Jocelyn Maynes, Notary Public,
personally appeared Steven H. Usdan

who proved to me on the basis of satisfactory evidence to be the person(s) whose name is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature on the instrument, the person(s) or the entity(ies) upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature [Handwritten Signature]



(This area for official notarial seal)

STATE OF _____)
)
COUNTY OF _____)

On _____, 20____, before me, _____, Notary Public,
personally appeared _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature on the instrument, the person(s) or the entity(ies) upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature _____

(This area for official notarial seal)

EXHIBIT A

LEGAL DESCRIPTION OF BUYER'S PROPERTY

LOT 10 OF THAT CERTAIN PLAT ENTITLED "OQUIRRH MOUNTAIN MARKETPLACE", WHICH PLAT WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SALT LAKE, STATE OF UTAH ON MARCH 6, 2014 AS ENTRY NO. 11814050 IN BOOK 2014P OF PLATS AT PAGE 49.

EXHIBIT B

LEGAL DESCRIPTION OF SELLER'S RETAINED PROPERTY

LOTS 3, 4, 6, 7, 8 AND 12 OF THAT CERTAIN PLAT ENTITLED "OQUIRRH MOUNTAIN MARKETPLACE", WHICH PLAT WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SALT LAKE, STATE OF UTAH ON MARCH 6, 2014 AS ENTRY NO. 11814050 IN BOOK 2014P OF PLATS AT PAGE 49.

EXHIBIT C

SITE PLAN FOR DEVELOPMENT OF BUYER'S PROPERTY

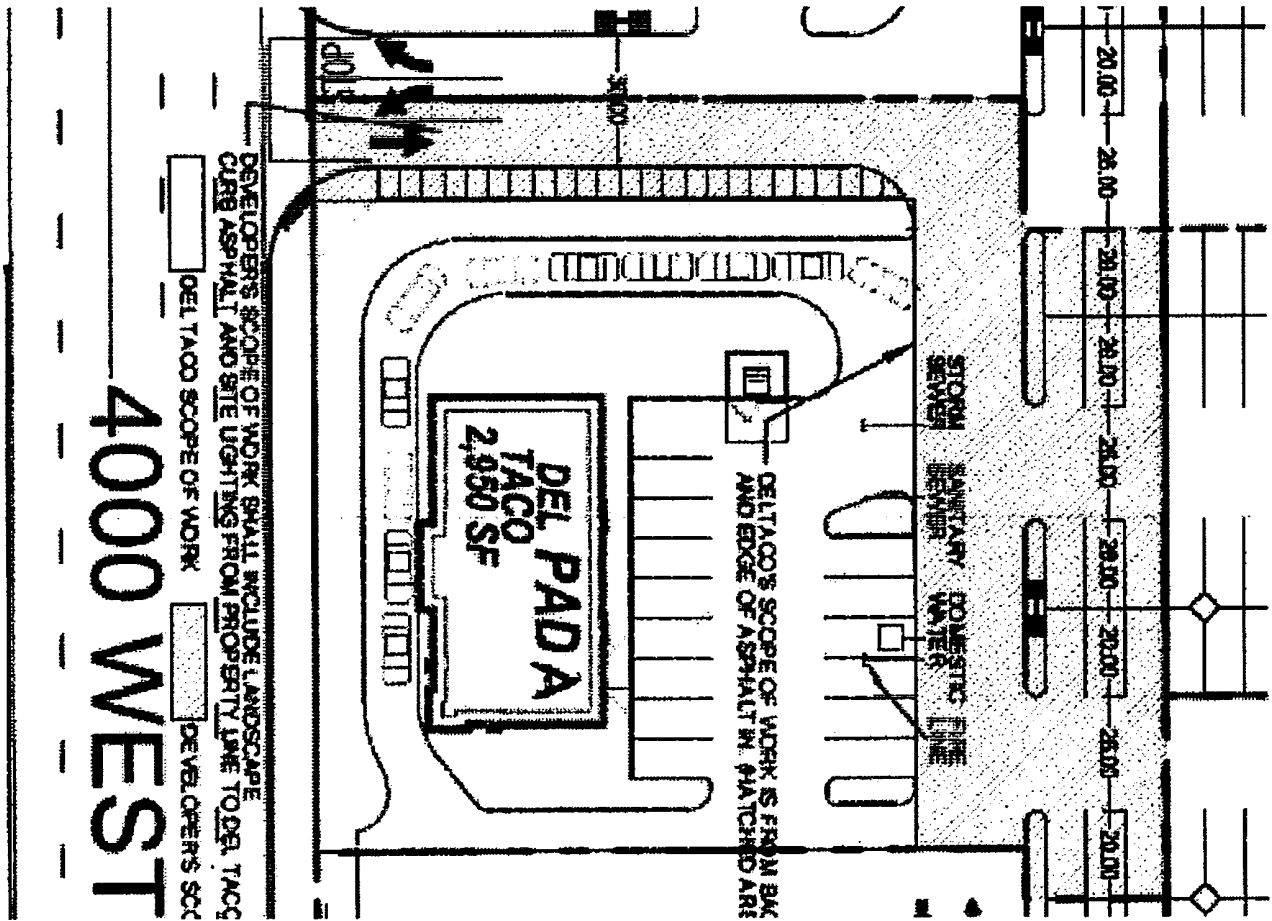
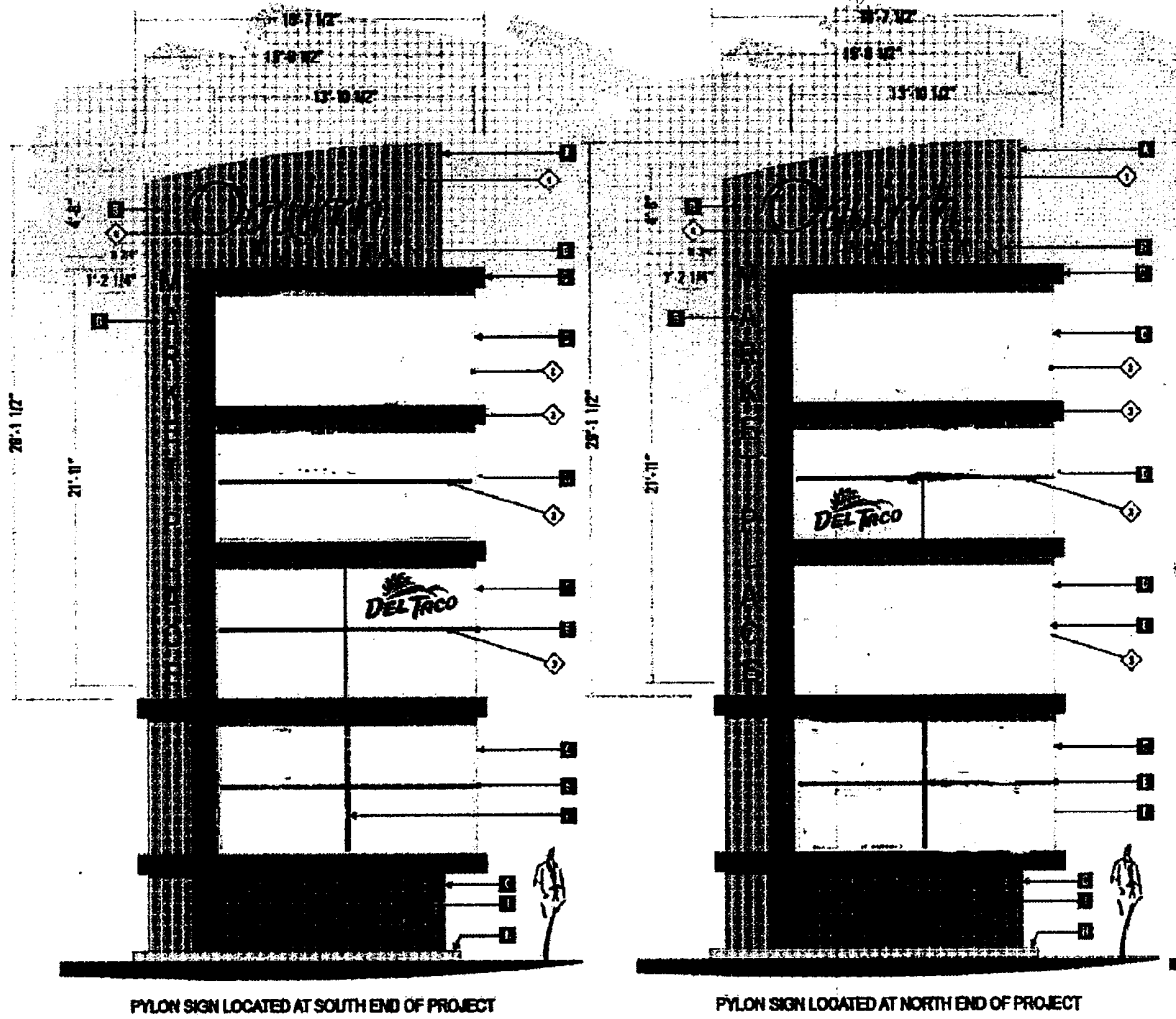


EXHIBIT D

PYLON SIGNS ALLOCATION FOR BUYER'S PROPERTY



PYLON SIGN LOCATED AT SOUTH END OF PROJECT

PYLON SIGN LOCATED AT NORTH END OF PROJECT