

Recording Requested By
And When Recorded Mail To:

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

12162399
10/30/2015 4:27:00 PM \$41.00
Book - 10375 Pg - 8451-8461
Gary W. Ott
Recorder, Salt Lake County, UT
COTTONWOOD TITLE
BY: eCASH, DEPUTY - EF 11 P.

PIN 27-20-302-005 through 27-20-302-008, 27-20-302-010
through 27-20-302-014, and 27-20-302-016 through 27-20-302-018

Above Space for Recorder's Use Only

**SECOND AMENDMENT TO
DECLARATION OF EASEMENTS,
COVENANTS, CONDITIONS
AND RESTRICTIONS**

27911521.2

ACCOMODATION RECORDING ONLY.
COTTONWOOD TITLE INSURANCE AGENCY,
INC. MAKES NO REPRESENTATION AS TO
CONDITION OF TITLE, NOR DOES IT ASSUME
ANY RESPONSIBILITY FOR VALIDITY,
SUFFICIENCY OR EFFECTS OF DOCUMENT.

Ent 12162399 BK 10375 PG 8451

**SECOND AMENDMENT TO DECLARATION OF EASEMENTS, COVENANTS,
CONDITIONS AND RESTRICTIONS**

This Second Amendment to Declaration of Easements, Covenants, Conditions and Restrictions (this “**Amendment**”) is made and entered into as of October 20, 2015 (the “**Effective Amendment Date**”) by SJ MARKETPLACE, LLC, a Delaware limited liability company, as Declarant.

RECITALS

A. Declarant executed 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 (the “**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 (“**First Declaration Amendment**” and collectively with the Original Declaration, the “**Declaration**”) with respect to certain real property located in the City of South Jordan, Salt Lake County, Utah and more particularly described on Exhibit 1 attached hereto.

B. Declarant desires to enter into this Amendment to (a) document the grant subsequent to the Declaration of certain Future Exclusive Use Restrictions in accordance with Declarant’s rights under Section 4.4.2 of the Declaration, (b) document the allocation between and among the Owners of the Parcels of the Shopping Center Property of the right to display trade names of Occupants on sign panels on the Pylon Signs in accordance with Section 7.8.2 of the Declaration, and (c) confirm certain other matters pertaining to the Declaration.

IN WITNESS WHEREOF, and in acknowledgement and consideration of the foregoing recitals, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Declarant declares that the Declaration is amended as follows;

1. Capitalized Terms. All capitalized terms used in this Amendment but not otherwise defined herein shall have the meanings given to such terms in the Declaration.

2. Additional Exclusive Use Restrictions. In accordance with Section 4.4.2 of the Declaration, the Declaration is amended to document the grant subsequent to the date of the Declaration of the Future Exclusive Use Restrictions set forth below in this Section 2. This Section 2 does not limit the grant of any other Future Exclusive Use Restrictions pursuant to Section 4.4.2 of the Declaration. The exclusive use restrictions set forth below in this Section 2 shall be binding upon the Occupants of each Parcel of the Shopping Center Property (other than the space occupied by the grantee of the exclusive use restriction) as long as such exclusive use restriction remains in effect, regardless of whether the lease or occupancy agreement which contains the exclusive use restriction is assigned, subleased, extended, renewed or modified, and if and so long as the lease or occupancy agreement that contains such exclusive use restriction is replaced with a new lease or occupancy agreement with a then-existing Occupant or a new replacement Occupant, as long as any such new lease or occupancy agreement is executed within six (6) months after the date of the termination or expiration of the lease or occupancy agreement in which the exclusive use restriction was contained. Each exclusive use restriction set forth below is enforceable only by the Owner of the Parcel benefitted by such exclusive use restriction and such exclusive use restriction shall not be enforceable by the Owner of any other

Parcel or any person or entity. Notwithstanding any contrary provision hereof, this Section 2 and the Future Exclusive Use Restrictions set forth in this Section 6 below shall not bind the Major Parcel, nor shall each Future Exclusive Use Restriction be applicable to space on a Parcel that at the time of the grant of such Future Exclusive Use Restriction was then being used, or as to which a lease or occupancy agreement had been executed for the use of such space, for a purpose in conflict with the Future Exclusive Use Restriction. No Parcel of the Shopping Center Property (excluding the Major Parcel) shall be used for any of the following purposes (except for the space occupied by the grantee, or its successor, assign, tenant or subtenant, of the particular exclusive use restriction in the subject Building listed below); provided, however, that Declarant shall have the right to relocate any of the uses to a different location in the Shopping Center Property that is owned by Declarant at the time of such relocation, and the exclusive use restriction shall continue to apply to such new location.

(a) Planet Fitness in Major 2 Building on Lot 12B. 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. For purposes of this exclusive use, 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.

(b) Tide Cleaners on Lot 2B of West Commercial Property. The primary purpose of a dry cleaners, laundromat or drop off facility for either of the foregoing. Such exclusive use restriction shall not be applicable to any dry cleaning or other laundry operations conducted by an Occupant in connection with such Occupant's own primary business that is not the operation of a dry cleaners, laundromat or drop off facility for either of the foregoing.

(c) Himalayan Restaurant in Shops A&B Building on Lot 12A. Operation of a restaurant serving Indian, Pakistani, Bangladeshi or Nepali ethnic cuisine, excluding incidental sales that do not exceed ten percent (10%) of gross sales of an Occupant.

(d) Firehouse Subs in Shops A&B on Lot 12A. The operation of a Which Wich, Jimmy John's, Subway, Blimpie, Quizno's or equivalent business that is primarily submarine style sandwich restaurant; provided, however, that such restriction shall not be applicable to the operation outside of the Shops A/B building of a Potbelly Sandwich Works restaurant, a Cubby's restaurant or Starbucks, or successors, assignees, or replacement tenants for comparable uses for the foregoing tenants.

(e) Starbucks in Shops F on Lot 4. The sale of: (a) whole or ground coffee beans, (b) espresso, espresso-based drinks or coffee-based drinks, (c) tea or tea-based drinks, (d) brewed coffee or (e) blended beverages containing any of the following: ice, coffee, espresso, tea, milk, cream, juice and/or fruit. Notwithstanding the foregoing exclusive use, other tenants may sell brewed coffee or brewed tea or iced tea which is neither (i) gourmet, nor (ii) brand identified. For purposes hereof, "gourmet" shall be defined as: (a) beverages made using Arabica beans or (b) sourced from a gourmet coffee or tea brand such as Coffee Bean & Tea Leaf, Intelligentsia, Peets, Caribou or other similar branding or similar coffee purveyor. For purposes hereof, "brand identified" shall mean coffee or tea that is advertised or marketed within the applicable retail space using a brand name or served in a brand-identified cup. Notwithstanding the foregoing,

other tenants may sell pre-bottled tea or coffee or pre-bottled tea-based or coffee-based drinks or canned coffee. Anchor tenants occupying at least twenty thousand (20,000) contiguous square feet or more operating under a single trade name and full-line grocery store tenants occupying at least ten thousand (10,000) contiguous square feet operating under a single trade name shall not be subject to the foregoing exclusive so long as any such anchor or grocery store tenant at all times occupies and operates out of the foregoing minimum square footage, does not have a separate entrance or exterior signage for the sale of such tenant's exclusive items, or otherwise advertises, in a manner visible from the exterior of such tenant's space, the sale of the foregoing exclusive items. Full service, sit-down restaurants with a wait staff and table service serving a complete dinner menu may sell brewed coffee, tea or hot espresso drinks for on-premises consumption only. Ice cream store tenants may sell blended beverages provided that such blended beverages contain ice cream and do not exceed ten percent (10%) of such tenant's gross sales. Juice smoothie store tenants may sell blended beverages that do not contain coffee or espresso without restriction, provided that sales of blended beverages containing tea do not exceed ten percent (10%) of such tenant's gross sales. Other tenants may sell blended beverages that do not contain coffee, espresso or tea as an incidental part of a broader menu, provided that sales of blended beverages do not exceed ten percent (10%) of such tenant's gross sales.

(f) Potbelly Sandwich Works in Shops F on Lot 4. The sale as a primary use baked, oven-style, conveyor oven-style or un-baked "sub-style" sandwiches, submarine, hoagie, Italian beef or hero-type sandwiches, flatbread sandwiches, Deli-Style sandwiches or cheese steak sandwiches. A tenant shall be deemed to be selling the foregoing exclusive use items as a "primary use" if its sale of such items, in the aggregate, exceed 10% of its sales. Without limitation of other restaurants that do not violate the exclusive use restrictions in this paragraph, and notwithstanding any contrary term or provision of this paragraph, the restrictions in this paragraph shall not apply to: (a) the operation of a Melty Way or other similar grilled sandwich restaurant; (b) the operation of a full-service, sit-down restaurant; (c) the operation of a fast food restaurant selling burgers, chicken sandwiches, or other similar sandwiches such as, without limitation, those sold by Wendy's, McDonald's, Carls Jr., Burger King, Chick Fil-A, Popeye's, Del Taco, Smashburger, Starbucks, or similar restaurants occupying 1,800 square feet or greater of floor area; or (d) the operation of a restaurant pursuant to a lease with WZG South Jordan, LLC or its affiliate under the initial trade name The Wild Zucchini Grill, or any assignee, subtenant or successor trade name under such lease. This paragraph shall also not be applicable to any Occupant which occupies more than 10,000 square feet of floor area in the Shopping Center Property.

(g) The Men's Wearhouse in Shops C on Lot 7. (a) Rent men's suits and formalwear; or (b) sell Restricted Items (as defined in this paragraph); provided however, that this right does not prohibit another tenant or occupant from the uses set forth in this sentence in any manner that does not constitute a Use Violation (as defined in this paragraph). A "Use Violation" means (i) the use by any Non-Exempt Occupant (as defined in this paragraph) of thirty percent (30%) or more of such Occupant's sales area for the aggregate sale of Restricted Items, or (ii) the rental of men's suits and formalwear by any Non-Exempt Occupant, including a Temporary Store (as defined in this paragraph). A "Non-Exempt Occupant" is any tenant or occupant other than an Exempt Occupant. An "Exempt Occupant" is: (x) a tenant or occupant under a lease existing as of the effective date of the The Men's Wearhouse lease that does not restrict such tenant's or occupant's use of its premises for the sale of Restricted Items or the rental of men's suits and

formalwear, or (y) any tenant or occupant occupying 23,000 or more square feet of space. "Restricted Items" means men's suits, formalwear, sports coats and slacks. "Temporary Store" means (1) a store or business operated by a tenant (or any assignee or subtenant), licensee, or occupant under a lease, license or agreement, oral or written, for a term less than one (1) year; or (2) a store or business that otherwise operates on a seasonal or holiday basis (e.g. Halloween store, Christmas store, or national retailer "pop-up" store).

(h) Denny's Restaurant in Shops D on Lot 6. The operation of a full-service restaurant that specializes in breakfast type food items the gross sales from which constitute fifteen percent (15%) or more of such Occupant's gross sales from its space in the Shopping Center Property, such as, but not limited to, IHOP, Mimi's Café, Village Inn or Good Egg.

(i) H&R Block in Shops E on Lot 3. The purpose of income tax preparation, tax return electronic filing or tax refund anticipation loans. This paragraph shall not pertain to incidental sales or services that do not exceed ten percent (10%) of the gross sales of an Occupant.

(j) Menchie's in Shops D on Lot 6. The primary purpose of the sale of frozen desserts. This paragraph shall not pertain to incidental sales or services that do not exceed ten percent (10%) of the gross sales of an Occupant.

3. Termination of Certain Exclusives. The following exclusive use restrictions are hereby terminated:

(a) Togo's. Paragraph 3 of Exhibit E to the Original Declaration is deleted from the Declaration.

(b) Hamburger Exclusive for West Commercial Property. Paragraph 7 of Exhibit E to the Original Declaration is deleted from the Declaration.

(c) Melty Way in Shops E on Lot 3. Paragraph 6.3 of the First Declaration Amendment is deleted from the Declaration.

(d) HomeGoods in Major 2 Building on Lot 12B. Paragraph 6.6 of the First Declaration Amendment is deleted from the Declaration.

4. Pylon Signs. Section 7.8.2 of the Declaration provides for the reservation by Declarant of all rights to use the Pylon Signs, subject to the grant of the right to an Owner of a particular Parcel to display the trade name of the Occupant of such Owner's Parcel on a designated Pylon Sign. Declarant hereby allocates use of the individual sign panels on the Pylon Signs in accordance with the lot designations set forth on Exhibit 2 attached to this Amendment and grants to each Owner of a Parcel the right to display the trade name of an Occupant of such Parcel on each individual Pylon Sign panel allocated to such particular Parcel on Exhibit 2. The references on Exhibit 2 to Lots 2A, 2B, 2C and 2D refer to Lots 2A, 2B, 2C and 2D of the West Commercial Property as depicted on Exhibit 3 attached to this Amendment. Each Owner of a Parcel to which a Pylon Sign panel is allocated under this Section 4 shall have all obligations and responsibilities set forth in Section 7.8.4 of the Declaration with respect to the Pylon Sign panel allocated to such Parcel. Any Owner that owns more than one Parcel or Lot shall have the right to re-allocate among its Parcels or Lots the sign panel rights allocated to its Parcels or

Lots on Exhibit 2 and to modify such allocations from time to time. In addition, separate Owners of Parcels or Lots to which sign panel rights are allocated on Exhibit 2 shall have the right to enter into a mutual agreement between such separate Owners to re-allocate such Owners' sign panel rights in a manner different than set forth on Exhibit 2, and to modify such allocation from time to time. Section 7.8 of the Declaration is amended to reflect the terms and provisions of this Section 4. In the event of any conflict between Section 7.8 of the Declaration and this Section 4, this Section 4 shall control.

5. Waiver of Use Restriction. Paragraph 1(r) of Exhibit D attached to the Declaration prohibits the operation on the Shopping Center Property of a health club, gym or exercise facility subject to certain exceptions set forth in such Paragraph 1(r). Section 4.3 of the Declaration permits the Declarant to modify or waive the use restrictions set forth on Exhibit D to the Declaration with the consent of the Owner of the Major Parcel and, during in period during which the Sprouts Lease remains in effect, with the consent of the Occupant of the Major Parcel. Declarant is the Owner of the Major Parcel and this paragraph shall constitute the consent of the Owner of the Major Parcel to the terms and provisions of this paragraph. The Sprouts Lease is in effect. By letter agreement dated September 12, 2014 the Occupant of the Major Parcel granted its consent to the operation of a fitness center in the Major 2 Building on Lot 12B by PF TheDistrict, LLC or its successors or assigns. This Section 5 documents of record the waiver by Declarant of the use restriction in Paragraph 1(r) of Exhibit D attached to the Declaration for the limited purpose of the operation in the Major 2 Building located on Lot 12B of a fitness center by PF TheDistrict, LLC or its successors or assigns in accordance with the permitted use provisions set forth in the Lease Agreement dated October 7, 2014 between Declarant, as landlord, and PF TheDistrict, LLC, as tenant. The foregoing waiver shall not be construed as the consent to any other current or future use that is prohibited or restricted by the Declaration.

6. Subdivision of Lot 12. Subsequent to the Declaration, Lot 12 depicted on Exhibit C to the Original Declaration was subdivided into Lot 12A and Lot 12B as shown on Exhibit 3 attached to this Amendment. Exhibit C attached to the Original Declaration is hereby modified to reflect such subdivision of Lot 12. Each of Lot 12A and Lot 12B depicted on Exhibit 3 to this Amendment constitute a Parcel under the Declaration.

7. Headings. Section headings used in this Amendment are inserted for convenience only and are not intended to be a part hereof or in any way to define, limit or describe the scope and intent of the particular provisions to which they refer.

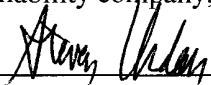
8. No Other Changes. Declarant confirms that the Declaration is in full force and effect, as amended by this Amendment. If any of the terms or provisions of this Amendment conflict with any of the terms or provisions of the Declaration, this Amendment shall control.

[SIGNATURE ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Declarant has executed this Amendment as of the Effective Amendment Date.

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

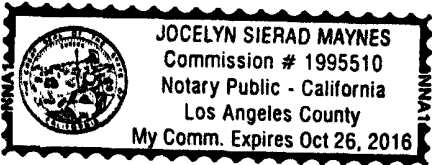
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Los Angeles)
On October 20, 2015 before me, Joelyn Maynes, Notary Public
Date Here Insert Name and Title of the Officer
personally appeared Steven A. Uddan
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) 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(s) on the instrument the person(s), or the entity 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]
Signature of Notary Public

Place Notary Seal Above

EXHIBIT 1

LEGAL DESCRIPTION OF SHOPPING CENTER PROPERTY

The following described real property situated in Salt Lake County, Utah:

LOTS 3, 4, 5, 6, 7, 8, 9, 10, 11 AND 15 OF THAT CERTAIN PLAT ENTITLED "OQUIRRH MOUNTAIN MARKETPLACE" 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.

LOTS 12A AND 12B OF THAT CERTAIN PLAT ENTITLED "OQUIRRH MOUNTAIN MARKETPLACE AMENDED" FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SALT LAKE, STATE OF UTAH ON JANUARY 8, 2015 AS RECORD NO. 11972995 IN BOOK 2015P OF PLATS AT PAGE 1.

EXHIBIT B

ALLOCATION OF PANELS FOR PYLON SIGNS

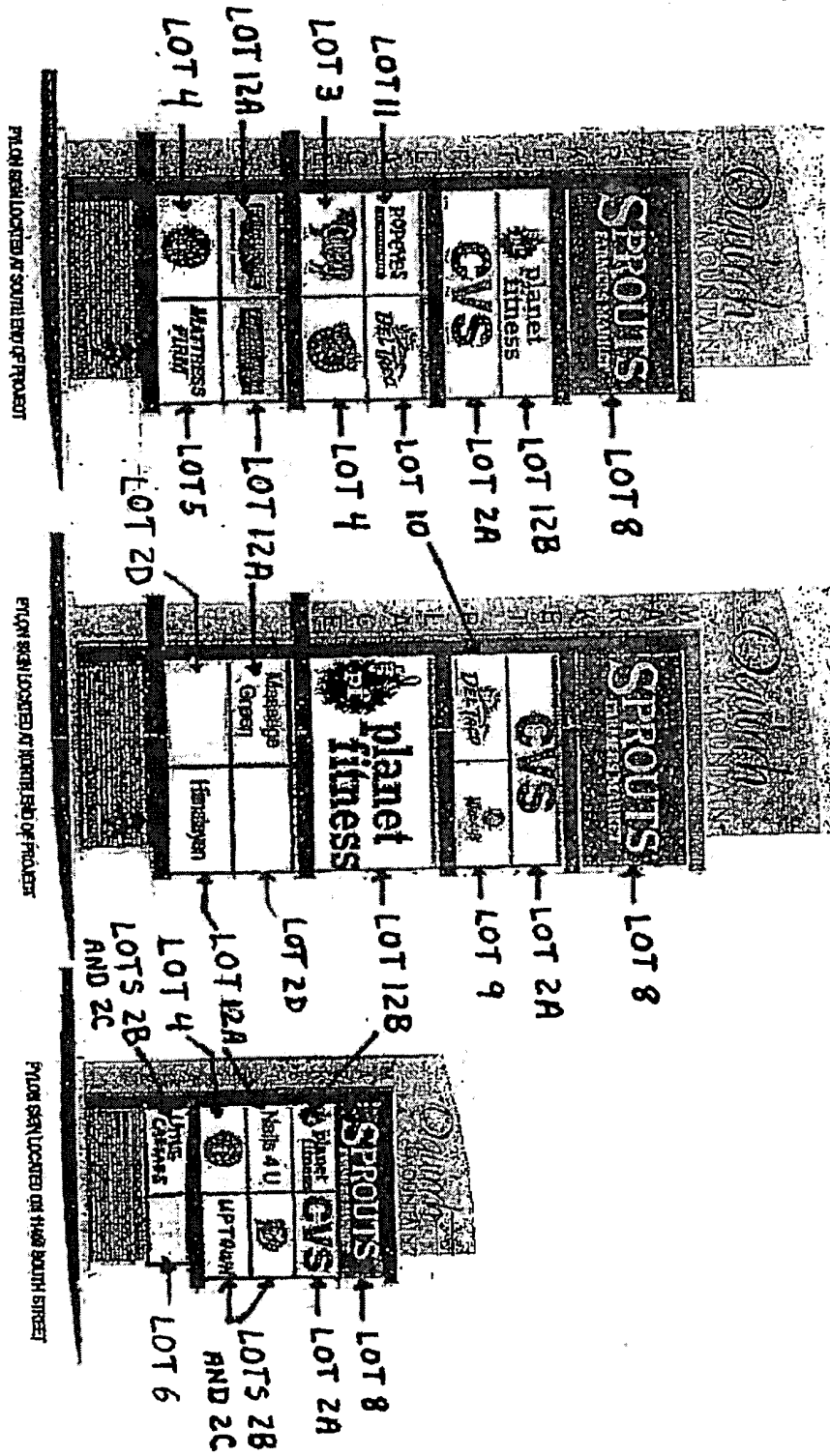


EXHIBIT 3
SUBDIVISION RE-PLAT

