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6/11/2019 11:14:00 AM \$46.00
Book - 10790 Pg - 5240-5247
RASHELLE HOBBS
Recorder, Salt Lake County, UT
STEWART TITLE INS AGCY OF UT
BY: eCASH, DEPUTY - EF 8 P.

WHEN RECORDED, MAIL TO:

JD DEVELOPMENT, LLC
6114 La Salle, #348
Oakland, CA 94611
Attention: Gordon Jacoby

Tax Parcel Numbers: 14-26-476-033; 14-26-476-031; 14-26-476-023; 14-26-476-015; 14-26-476-022; 14-26-476-035; 14-26-476-034; 14-26-476-024; and 14-26-476-011

**THIRD AMENDMENT TO
FIFTH AMENDMENT TO AND TOTAL RESTATEMENT
OF DECLARATION OF RESTRICTIONS AND
GRANT OF EASEMENTS**

THIS THIRD AMENDMENT TO FIFTH AMENDMENT TO AND TOTAL RESTATEMENT OF DECLARATION OF RESTRICTIONS AND GRANT OF EASEMENTS (this "**Third Amendment**") is made and effective as of the 6 day of ~~March~~ ^{May} 2019 by the undersigned property owners.

RECITALS

A. The undersigned are the owners of one or more parcels of land in a commercial shopping center located at the northwest corner of the intersection of 5600 West Street and 3500 South Street in West Valley, City, Salt Lake County, Utah (the "**Shopping Center**"). The parcels of land comprising the Shopping Center are more fully described in Exhibit A attached hereto and incorporated herein by this reference.

B. The Shopping Center is subject to that The Shopping Center is subject to that certain "Fifth Amendment to and Total Restatement of Declaration of Restrictions and Grant of Easements" dated October 27, 1992, and recorded in the official records of the Salt Lake County Recorder, State of Utah, on December 16, 1992, in Book 6574, at Page 75 et seq., as Entry Number 5396348, as amended by that certain "First Amendment to Fifth Amendment to and Total Restatement of Declaration of Restrictions and Grant of Easements" dated June 19, 1997, and recorded in the official records of the Salt Lake County Recorder, State of Utah on October 28, 1997, in Book 7791, at Page 2229 et seq., as Entry Number 6774493, and further amended by that certain "Second Amendment to Fifth Amendment to and Total Restatement of Declaration of Restrictions and Grant of Easements" dated November 3, 2015, and recorded in the official records of the Salt Lake County Recorder, State of Utah on November 13, 2015, in Book 10379, at Page 1454 et seq., as Entry Number 12170367 (as amended the "**Restated Declaration**"). Capitalized terms used in this Third Amendment that are not defined herein shall have the meanings given to them in the Restated Declaration.

C. JD Development, LLC, the owner of Parcel 6, is contemplating changing the use of Parcel 6 from a drive-thru fast food restaurant to a convenience store and in connection

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COURTESY RECORDING
This document is being recorded solely as a courtesy
and an accommodation to the parties named herein.
Stewart Title hereby expressly
disclaims any responsibility or liability for the accuracy
or the content thereof.

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therewith has requested the owners of the Shopping Center parcels agree and consent to allow the sale of alcoholic beverages in connection therewith.

D. Paragraph 7.5 of the Restated Declaration states that it may not be modified in any respect or rescinded except with the consent of the Prime Lessees and/or the owners of Parcels 2, 7, 13A and 13B. Paragraph 7.5 of the Restated Declaration further states that the consent of the owners of Parcels 4 and 10 is required if any modification or rescission affects access between such Parcels and the remainder of the Shopping Center or imposes any restrictions on those Parcels. The modifications to the Restated Declaration made in this Third Amendment do not affect access to or impose restrictions on Parcels 4 or 10.

E. As the owners and/or Prime Lessee of Parcels 2, 7, 13A and 13B, the Parties have the authority to amend or modify the Restated Declaration in the manner set forth in this Third Amendment.

AMENDMENT

NOW, THEREFORE, the undersigned owners hereby declare, for the reasons cited above, that all of the Property shall be held, sold used and conveyed subject to the following easements, restrictions, covenants and conditions, which shall run with the Property, and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof:

1. Incorporation of Recitals. The Parties acknowledge the truth and accuracy of the statements set forth in the above Recitals and incorporate the same herein by this reference.
2. Use Restrictions. Notwithstanding anything set forth in the Revised Declaration to the contrary, including without limitation, Section 5.2(a) of the Revised Declaration, the sale of alcoholic beverages shall be permitted on Parcel 6 in connection with the operation of a convenience store and/or gas station.
3. Severability. If any term or provision of this Third Amendment is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Third Amendment or invalidate or render unenforceable such term or provision in any other jurisdiction; provided, however, that the remaining terms and conditions are sufficient to carry into effect the original intentions and purposes of the Parties in entering into this Third Amendment.
4. Remaining Terms Unchanged. Except as expressly amended and modified by this Third Amendment, all of the remaining terms and conditions set forth in the Restated Declaration shall remain unchanged and in full force and effect.
5. Entire Agreement. This Third Amendment constitutes the entire understanding and agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations and understandings with respect thereto. The terms of this Third Amendment may not be contradicted by evidence of any alleged oral agreement or understanding to the contrary. No course of dealings between the Parties, no usage of trade, and no parole or extrinsic evidence of any nature shall be used or be relevant to supplement explain or modify any term or provision

of this Third Amendment. This Third Amendment shall be binding on, and shall inure to the benefit of, the Parties and their respective successors and assigns and all persons claiming by, through or under them.

6. Amendment and Waivers. No amendment or waiver of any provision of this Third Amendment will be valid and binding unless it is in writing and signed by all of the Parties hereto, or in the case of a waiver, is signed by the Party against which the waiver is to be effective. No waiver by any Party hereto shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver.

7. No Third-party Beneficiaries. The Parties hereby agree that their respective representations, warranties and covenants as set forth herein are solely for the benefit of the other Parties hereto and this Third Amendment is not intended to, and does not confer upon any person other than the Parties hereto any rights or remedies hereunder, including without limitation the right to rely upon the representations and commitments set forth herein.


8. No Presumption Against Drafting Party. Each Party acknowledges that it was represented by legal counsel in the drafting of this Third Amendment. The Parties agree that any rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Third Amendment and hereby waive the application of any such rule of construction.

9. Counterparts. This Third Amendment may be executed in counterparts, each of which shall be deemed an original instrument and all of which shall constitute a single agreement. The execution of a counterpart by a Party shall be sufficient to bind such Party, provided all of the other Parties have executed one or more counterpart. Any Party may remove the signature page from any counterpart and attach the same to any other counterpart for the purpose of creating a single document bearing the signatures of all Parties.

[COUNTERPART SIGNATURE PAGES TO FOLLOW]

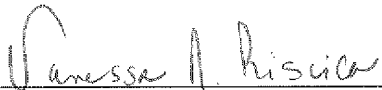
[COUNTERPARTY SIGNATURE PAGE TO THIRD AMENDMENT TO FIFTH AMENDMENT TO AND TOTAL RESTATEMENT OF DECLARATION OF RESTRICTIONS AND GRANT OF EASEMENTS]

Executed, delivered and recorded as of the date and year first above written.

By: 
Name: GREG SEIBERT
Title: CEO

STATE OF ~~UTAH~~) New Jersey
: ss.
County of Mercer)

On this 11 day of ~~March~~ May 2019, personally appeared before me Greg Seibert, whose identity is personally known to me (or proved to me on the basis of satisfactory evidence) and who by me duly sworn, did say that he is the CEO of SEKHE Funding II and that said document was signed by him in behalf of said company by authority, and acknowledged to me that said Company executed the same.


NOTARY PUBLIC
My Commission Expires: 9.9.21

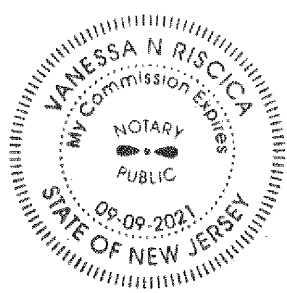


EXHIBIT A
TO THIRD AMENDMENT TO FIFTH AMENDMENT TO AND TOTAL
RESTATEMENT OF DECLARATION OF RESTRICTIONS AND GRANT OF EASEMENTS

Parcel 1:

Beginning at a point which is South 89°59'10" West along the section line 362.50 feet and North 0°09'50" West 40.00 feet from the Southeast corner of Section 26, Township 1 South, Range 2 West, Salt Lake Base and Meridian, and running thence South 89°59'10" West 137.50 feet; thence North 0°08'47" West 120.30 feet; thence North 89°50'10" East 137.46 feet; thence South 0°09'50" East 120.66 feet to the point of beginning. Contains 16,663.4 square feet or 0.380 acres. MB

Parcel 2:

Beginning at a point on the West line of 5600 West Street which point is North 0°09'50" West along the section line 354.24 feet and South 89°50'10" West 53.00 feet from the Southeast corner of Section 26, Township 1 South, Range 2 West, Salt Lake Base and Meridian; thence South 89°50'10" West 170.00 feet; thence North 0°09'50" West 2.50 feet; thence South 89°50'10" West 139.50 feet; thence North 0°09'50" West 4.88 feet; thence South 89°50'10" West 197.40 feet; thence North 0°08'47" West 2.85 feet; thence South 89°58'47" West 131.15 feet; thence South 0°00'50" East 169.50 feet; thence North 89°59'10" East 94.82 feet; thence South 44°56'01" East 52.12 feet; thence South 0°08'47" East 116.60 to the north line of 3500 South Street; thence North 89°59'10" East along said North line 60.00 feet; thence North 0°08'47" West 120.30 feet; thence North 89°50'10" East 137.46 feet; thence South 0°09'50" East 120.66 feet to the North line of 3500 South Street; thence North 89°59'10" East along said North line 139.50 feet; thence North 0°09'50" West 183.00 feet; thence North 89°59'10" East 170.00 feet to the West line of 5600 West Street; thence North 0°09'50" West along said West line 131.10 feet to the point of beginning. Contains 3.12 acres, 135,980 square feet

Parcel 4:

Beginning at a point which is North 0°09'50" West along the section line 647.24 feet and South 89°50'10" West 53.00 feet from the Southeast corner of Section 26, Township 1 South, Range 2 West, Salt Lake Base and Meridian and running thence South 89°50'10" West 110.50 feet; thence North 0°09'50" West 139.00 feet; thence North 89°50'10" East 110.50 feet; thence South 0°09'50" East 139.00 feet to the point of beginning. Contains 15,359.9 square feet or 0.353 acres.

Parcel 5:

Beginning at a point which is North 0°09'50" West along the section line 1157.53 feet and South 89°50'10" West 63.00 feet from the Southeast corner of Section 26, Township 1 South, Range 2 West, Salt Lake Base and Meridian and running thence South 89°50'10" West 110.50 feet; thence North 0°09'50" West 129.50 feet; thence North 89°59'10" East 110.50 feet; thence South 0°09'50" East 129.21 feet to the point of beginning. Contains 14,293.7 square feet or 0.328 acres.

Parcel 6:

Beginning at a point on a fence line and on the North line of 3500 South Street which point is South 89°59'10" West along the section line 692.00 feet and North 0°00'50" West 40.00 feet from the Southeast corner of Section 26, Township 1 South, Range 2 West, Salt Lake Base and Meridian; thence North 0°00'50" West along said fence 153.50 feet; thence North 89°59'10" East 94.83 feet; thence South 44°56'01" East 52.12 feet to a fence line; thence South 0°08'47" East along said fence 116.60 feet to the North line of 3500 South Street; thence South 89°59'10" West along said North line 131.90 feet to the point of beginning. Contains 19,543 square feet or 0.45 acres.

Parcel 7: (Albertson's Site)

Beginning at a point which is North 0°09'50" West along the section line 354.24 feet and South 89°50'10" West 53.00 feet from the Southeast corner of Section 26, Township 1 South, Range 2 West, Salt Lake Base and Meridian and running thence South 89°50'10" West 170.00 feet; thence North 0°09'50" West 2.50 feet; thence South 89°50'10" West 59.50 feet; thence North 0°09'50" West 72.88 feet; thence South 89°50'10" West 217.38 feet; thence South 0°08'47" East 5.00 feet; thence South 89°50'10" West 113.12 feet; thence North 0°09'50" West 5.00 feet; thence South 89°50'10" West 40.00 feet; thence North 0°09'50" West 200.00 feet; thence North 89°50'10" East 321.00 feet; thence North 0°09'50" West 7.12 feet; thence North 89°50'10" East 49.50 feet; thence North 0°09'50" West 60.00 feet; thence North 89°50'10" East 119.00 feet; thence South 0°09'50" East 49.50 feet; thence North 89°50'10" East 110.50 feet; thence South 0°09'50" East 291.00 feet to the point of beginning. Contains 148,003.2 square feet or 3.39 acres.

Parcel 8: (Retail Shops No. 1)

Beginning at a point which is South 89°59'10" West along the section line 362.50 feet and North 0°09'50" West 360.66 feet from the Southeast corner of Section 26, Township 1 South, Range 2 West, Salt Lake Base and Meridian and running thence South 89°50'10" West 137.40 feet; thence North 0°08'47" West 68.00 feet; thence North 89°50'10" East 217.38 feet; thence South 0°09'50" East 72.88 feet; thence South 89°50'10" West 80.00 feet; thence North 0°09'50" West 4.88 feet to the point of beginning. Contains 15172.9 square feet or 0.348 acres.

Parcel 9: (Retail Shops No. 2)

Beginning at a point which is South 89°59'10" West along the section line 362.50 feet and North 0°09'50" West 628.66 feet from the Southeast corner of Section 26, Township 1 South, Range 2 West, Salt Lake Base and Meridian and running thence South 89°50'10" West 135.50 feet; thence North 0°09'50" West 60.00 feet; thence North 89°50'10" East 135.50 feet; thence North 0°09'50" West 7.12 feet; thence North 89°50'10" East 80.00 feet; thence South 0°09'50" East 60.00 feet; thence South 89°50'10" West 49.50 feet; thence South 0°09'50" East 7.12 feet; thence South 89°50'10" West 30.50 feet to the point of beginning.

Parcel 11A:

Beginning at a point which is North 0°09'50" West along the section line 1346.60 feet and South 89°59'10" West 163.50 feet from the Southeast corner of Section 26, Township 1 South, Range 2 West, Salt Lake Base and Meridian and running thence South 89°59'10" West 489.50 feet; thence North 0°09'50" West 185.30 feet; thence North 89°59'10" East 489.50 feet; thence South 0°09'50" East 185.30 feet to the point of beginning. Contains approximately 2.082 acres.

Parcel 11B:

Beginning at a point which is North 0°09'50" West along the section line 1346.60 feet and South 89°59'10" West 53.00 feet from the Southeast corner of Section 26, Township 1 South, Range 2 West, Salt Lake Base and Meridian, and running thence South 89°59'10" West 110.50 feet; thence North 0°09'50" West 185.30 feet; thence North 89°59'10" East 110.50 feet; thence South 0°09'50" East 185.30 feet to the point of beginning. Contains approximately .470 acres.

Parcel 12: (Retention Pond)

Beginning at a point which is South 89°59'10" West along the section line 453.00 feet and North 0°09'50" West 1146.60 feet from the Southeast corner of Section 26, Township 1 South, Range 2 West, Salt Lake Base and Meridian and running thence South 89°59'10" West 237.00 feet; thence North 0°09'50" West 185.30 feet; thence North 89°59'10" East 237.00 feet; thence South 0°09'50" East 185.30 feet to the point of beginning. Contains 43,918.9 square feet or 1.006 acres.

Parcel 13-A

Beginning at a point which is North 0°09'50" West along the section line 786.24 feet and South 89°50'10" West 53.00 feet from the Southeast corner of Section 26, Township 1 South, Range 2 West, Salt Lake Base and Meridian; thence South 89°50'10" West 110.50 feet; thence South 0°09'50" East 89.50 feet; thence South 89°50'10" West 199.00 feet; thence South 0°09'50" East 7.12 feet; thence South 89°50'10" West 138.50 feet; thence South 0°09'50" East 60.00 feet; thence South 89°50'10" West 155.00 feet; thence North 0°09'50" West 268.70 feet; thence North 89°50'10" East 370.50 feet; thence South 0°09'50" East 60.00 feet; thence North 89°59'10" East 229.50 feet; thence South 0°09'50" East 50.50 feet to the point of beginning. Contains 104,185.19 square feet or 2.484 acres.

Parcel 13-B:

Beginning at a point which is North 0°09'50" West along the section line 786.24 feet and South 89°50'10" West 53.00 feet and North 0°09'50" West 50.50 feet from the Southeast corner of Section 26, Township 1 South, Range 2 West, Salt Lake Base and Meridian; thence South 89°59'10" West 229.50 feet; thence North 0°09'50" West 60.00 feet; thence South 89°59'10" West 370.50 feet; thence North 0°09'50" West 450.00 feet; thence North 89°59'10" East 600.00 feet; thence South 0°09'50" East 60.00 feet; thence South 89°59'10" West 110.50 feet; thence South 0°09'50" East 129.50 feet; thence North 89°50'10" East 110.50 feet; thence South 0°09'50" East 320.79 feet to the point of beginning. Contains approximately 6.190 acres.