

WHEN RECORDED RETURN TO:

Utah Transit Authority
Office of General Counsel
3600 South 700 West
Salt Lake City, Utah 84199

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4/17/2009 12:19:00 PM \$20.00
Book - 9711 Pg - 2425-2430
Gary W. Ott
Recorder, Salt Lake County, UT
FIRST AMERICAN TITLE
BY: eCASH, DEPUTY - EF 6 P.

FIRST AMERICAN TITLE
CV# 5069917 **DECLARATION OF RESTRICTIVE COVENANTS**

This Declaration of Restrictive Covenants ("**Declaration**") is made and entered into this 16th day of April, 2009, by Utah Transit Authority ("**Declarant**").

RECITALS:

- A.** Declarant is the owner of certain real property situated in Salt Lake County, State of Utah, as set forth in the legal description attached hereto as **Exhibit A** and is incorporated herein by this reference (the "**Restricted Property**"). The Restricted Property is also a portion of the real property commonly known as the "Dalton Spur" railroad right-of-way as shown in the shaded and cross-hatched area of the site plan attached hereto as **Exhibit B** and is incorporated herein by this reference.
- B.** Daybreak Commerce Park, LLC, a Utah limited liability company ("**DCP**") is the owner of certain real property contiguous to the Restricted Property as shown on **Exhibit B**.
- C.** Declarant has agreed to convey to DCP, via quit claim deed, the Restricted Property subject to certain restrictive covenants on the Restricted Property for the benefit of Declarant, as more particularly set forth in this Declaration.

NOW, THEREFORE, in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby declares and agrees as follows:

1. Incorporation of Recitals. The Recitals set forth above are incorporated herein and made a part hereof.
2. Restriction on Residential, Recreational and Agricultural Use. Except as otherwise provided herein, so long as this Declaration shall remain in effect, no portion of the Restricted Property shall be developed and/or operated and/or used for any of the following purposes: residential, lodgings or accommodations (including, without limitation, hotels, motels, boarding houses, dormitories, hospitals, nursing homes, or retirement centers), recreation or child care facilities (including, without limitation, schools, kindergartens, day-care centers, gymnasiums, athletic fields, picnic grounds or parks) or agriculture, it being understood and agreed that Declarant would not have conveyed the Restricted Property to DCP without such restriction on residential and agricultural operation and/or use of the Restricted Property.

3. Covenants Running with the Land. The terms and provisions of this Declaration shall constitute covenants running with the land, as a burden upon the Restricted Property, and shall be binding upon all owners and occupants thereof, and all owners of any interest in the Restricted Property and their successors and assigns.

4. Term; Method of Termination. Unless earlier terminated in accordance with the terms and conditions hereof, this Declaration shall continue in full force and effect for a term of fifty (50) years from the date this Declaration is recorded, after which time it shall be automatically extended for successive periods of twenty (20) years each. This Declaration may be terminated or amended at any time if such termination or amendment is approved by the affirmative written consent of Declarant and is recorded in the official records of Salt Lake County, Utah.

5. Effect of Waiver or Breach or Failure to Enforce. No waiver of a breach of any of the covenants, conditions, or restrictions herein shall be construed to be a waiver of any other breach of the same or other covenants, conditions or restrictions; nor shall failure to enforce any one of such restrictions, either by forfeiture or otherwise, be construed as a waiver of any other restriction or condition.

6. Severability. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision hereof.

7. Captions and Titles. All captions, titles or headings in this Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the meaning or intent thereof.

8. Governing Law; Attorneys' Fees. This Declaration shall be construed, interpreted and applied in accordance with the laws of the State of Utah. In any action to enforce the terms and conditions of this Declaration, the prevailing party shall be entitled to collect reasonable attorneys' fees and costs, courts costs, costs of investigation and other related expenses in connection therewith.

[Signatures on next page]

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the date first set forth above.

Utah Transit Authority

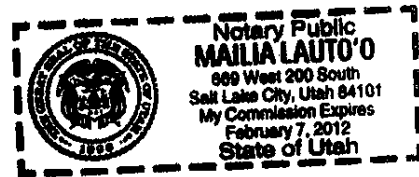
By: David R. Serdar
Name: David R. Serdar
Its: Manager of Property Acquisitions

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

The foregoing instrument was acknowledged before me this 16 day of April, 2009, by David R. Serdar, the Manager of Property Acquisitions of the Utah Transit Authority.

Malia Lauto'o
Notary Public

By: Steve Hansen
Name: STEVE HANSEN
Its: REAL ESTATE DIRECTOR



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

The foregoing instrument was acknowledged before me this 16 day of April, 2009, by Steve Hansen, the Real Estate Director of the Utah Transit Authority.

Malia Lauto'o
Notary Public

Approved As To Form
[Signature]
UTA Legal Counsel

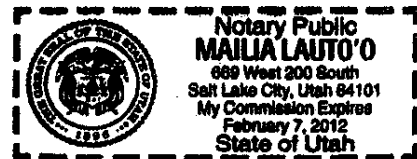


Exhibit A

Legal Description of Restricted Property

A parcel of land located in the North Half of Section 15 and the Northwest Quarter of Section 14, Township 3 South, Range 2 West, Salt Lake Base and Meridian and being more particularly described as follows:

Commencing at the Northeast corner of said Section 15 (basis of bearing South 00°02'25" East – 2650.848 feet between the Northeast Corner and the East Quarter Corner of said Section 15) and running South 00°02'25" East along the east line of said Section 15 for a distance of 220.433 feet; thence North 89°57'35" East perpendicular to said section line for a distance of 1809.333 feet to a point on the northerly right-of-way line of the former Denver & Rio Grande Railroad (DRGRR) parcel shown on the Kennecott Master Subdivision #1 recorded in Book 2002P at Page 273 in the office of the Salt Lake County Recorder said point also being the POINT OF BEGINNING; thence South 00°04'17" West for 238.901 feet to a point on the southerly right-of-way line of said former Denver & Rio Grande Railroad (DRGRR) parcel; thence along the boundary of said former Denver & Rio Grande Railroad (DRGRR) parcel the following ten (10) calls: 1.) South 56°54'49" West for 1051.300 feet; 2.) thence with a curve to the right having a radius of 4397.183 feet with a central angle of 32°12'16" (chord bearing and distance of South 73°00'57" West – 2439.140 feet) for a arc length of 2471.547 feet; 3.) thence South 89°07'05" West for 1572.971 feet; 4.) thence North 78°14'53" West for 407.402 feet; 5.) thence South 89°55'33" West for 1661.830 feet; 6.) thence North 89°07'34" East for 1067.497 feet; 7.) thence North 00°12'08" West for 87.624 feet; 8.) thence North 89°07'05" East for 2563.638 feet; 9.) thence with a curve to the left having a radius of 4197.183 feet with a central angle of 32°12'16" (chord bearing and distance of North 73°00'57" East – 2328.199 feet) for a arc length of 2359.132 feet; 10.) thence North 56°54'49" East for 1181.966 feet to the POINT OF BEGINNING.

Containing 1,154,092 sq. ft. or 26.4943 acres

Exhibit B

Drawing showing Restricted Property

[See Attached]

