

FIRST AMERICAN TITLE
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WHEN RECORDED, RETURN TO:

Cary D. Jones, Esq.
Snell & Wilmer
111 East Broadway, Suite 900
Salt Lake City, Utah 84111

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**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
AND GRANT OF EASEMENTS**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND GRANT OF EASEMENTS (the "Declaration") is executed as of June 29, 1994 by WESTSTAR GROUP, LLC, a Utah limited liability company, whose address is 1010 North Hillfield Road, Layton, Utah 84041 ("Declarant"), and by such other parties as are or become signatories to this Declaration (with the Declarant, hereinafter referred to collectively as the "Signatories," and individually, a "Signatory.").

RECITALS:

- A. Each of the Signatories has an interest in one or more lots which are designated as Lots 1, 2, and 4-10 of the Woodland Park Commercial Subdivision, according to the official plat thereof of record with the Davis County, Utah, Recorder (collectively, the "Entire Tract").
- B. Portions of the Entire Tract are separately owned, encumbered, leased and otherwise dealt with.
- C. The Signatories desire and intend to hold, own, convey and lease their respective properties that are included in the Entire Tract, subject to the covenants, conditions, restrictions and easements set forth herein.

AGREEMENT:

NOW, THEREFORE, in consideration of the premises, the Signatories hereby submit the Entire Tract to the provisions of this Declaration and declare, covenant and agree that the Entire Tract and each part thereof shall be held, encumbered, occupied, built on and otherwise used and improved, maintained, leased, sold, conveyed and otherwise transferred subject to the following covenants, conditions, restrictions, reservations, easements, liens and charges, which shall (i) attach to and run with the land, (ii) be binding on the Entire Tract and all owners, lessees and other parties having, acquiring or otherwise at any time possessing any right, title or interest in or to the Entire Tract or any part thereof, or the right to use or occupy

the Entire Tract or any part thereof, and (iii) inure to the benefit of said owners, lessees and other parties.

ARTICLE I
Definitions

E 1266307 B 2131 P 136

In addition to the terms defined elsewhere herein, the following terms are defined for purposes of this Declaration:

1.1 "Buildings" means all buildings located on the Entire Tract at any time which are intended for permanent use or occupancy, including, without limitation, office, retail and other commercial buildings. "Building" means each or any of the Buildings.

1.2 "Common Areas" means the Common Roadways and the Common Utility Facilities.

1.3 "Common Expenses" means all reasonable out-of-pocket costs, expenses and fees incurred by the Declarant in connection with the operation, management, repair and maintenance (but not in connection with the initial improvement or installation) of the Common Areas or in the performance or exercise of the Declarant's functions, duties and rights under this Declaration.

1.4 "Common Expense Share" means the product obtained by multiplying the Common Expenses for the relevant period by a fraction, the numerator of which is the total square feet on the Lot concerned, and the denominator of which is the square feet on all Lots. Notwithstanding the foregoing, the Declarant may, in its sole discretion, separately assess each Lot Owner for the costs, expenses and fees relating to the operation, management, repair and maintenance of the Landscaping located on the Lot owned by such Lot Owner, if such Lot Owner fails adequately to maintain such Landscaping as required herein and the Declarant elects to maintain such Landscaping.

1.5 "Common Parking Areas" means, collectively, all parking areas on the Entire Tract and outside Lot 1, including the areas crosshatched and identified on Exhibit "A" attached hereto as the "Red Robin Employee Parking Areas."

1.6 "Common Roadways" means the portion of the Entire Tract crosshatched and identified on Exhibit "A" attached hereto as the "Common Roadways," together with all Improvements on such land at the time in question, and any real property defined as an additional part of the "Common Roadways" in any amendment to this Declaration executed and recorded pursuant to Section 19.2.

1.7 "Common Utility Facilities" means all systems and facilities shown on Exhibit "A" attached hereto designated for storm drainage, sanitary sewer, natural gas, culinary,

irrigation and fire protection water, electricity, telephone and other utilities and that are intended, designed or used for the benefit of more than one Lot.

1.8 "Declarant" means Weststar Group, LLC, a Utah limited liability company, or its successors upon any permitted assignment hereunder. E 1266307 B 2131 P 137

1.9 "Declaration" means this Declaration of Covenants, Conditions and Restrictions and Grant of Easements, as the same may be amended.

1.10 "Development Guidelines" means the standards, requirements and restrictions which may be adopted from time to time by the Declarant pursuant to Article VII.

1.11 "Entire Tract" means, collectively, the Common Roadways and the Lots, and any real property defined as an additional part of the "Entire Tract" in any amendment to this Declaration executed and recorded pursuant to Section 19.2.

1.12 "Improvements" means all Buildings, Landscaping, Common Utility Facilities, exterior lighting, fencing, walls, signs, utility systems and facilities and other improvements located on the realty concerned at the time in question. "Improvement" means each or any of the Improvements.

1.13 "Landscaping" means any outside areas on the Entire Tract landscaped at the time in question with lawn, flowers, ground cover, shrubbery, trees, ponds, fountains, gardens or similar improvements, including sprinkling systems thereon.

1.14 "Lots" means the separately designated Lots as shown on the recorded subdivision plat for the Entire Tract together with all Improvements thereon at the time in question. "Lot" means each or any of the Lots.

1.15 "Mortgage" means a mortgage or a deed of trust recorded in the office of the Davis County Recorder.

1.16 "Mortgagee" means the mortgagee under a mortgage or the beneficiary under a deed of trust recorded in the office of the Davis County Recorder.

1.17 "Owner" means the owner of record (in the office of the Davis County Recorder) of a whole or partially undivided fee interest in any portion of the realty concerned. If more than one Owner of the realty involved exists, the liability of each such Owner for performance under this Declaration shall be joint and several. Notwithstanding any applicable theory relating to a Mortgage, the term "Owner" shall not mean a Mortgagee unless and until such Mortgagee has acquired title to the realty concerned pursuant to foreclosure or any arrangement or proceeding in lieu of foreclosure.

1.18 "Taxes" means all taxes, assessments, charges and fees imposed, assessed or levied by any governmental or public authority against or upon the realty in question.

ARTICLE II

E 1266307 B 2131 P 138

Use of Entire Tract; Construction and Maintenance of Buildings

No portion of the Entire Tract may be occupied for any use which violates any applicable laws, ordinances, rules or regulations or which is inconsistent with the provisions of this Declaration. All Buildings constructed on the Entire Tract shall be first-class buildings designed for office, retail or other commercial use of the type and quality typically found in first-class, high-quality office park developments, and all other Improvements constructed on the Entire Tract shall be compatible with such Buildings. In conjunction with the construction and completion of any Building situated on any Lot, the Owner of the Lot concerned shall cause Landscaping to be placed on such Lot in accordance with the applicable requirements of this Declaration. All improvements shall be constructed in compliance with all applicable state, county and municipal subdivision, building, zoning and other applicable laws, ordinances, rules and regulations. Each Lot Owner shall maintain in good and attractive order, condition and repair all Improvements and Landscaping situated on such Owner's Lot which are not required by the provisions of this Declaration to be maintained by the Declarant. Unless and except to the extent that such provisions expressly provide to the contrary, no provision of this Declaration shall be construed to mean that any Improvement on an Owner's Lot cannot be razed or removed at any time or must be restored or reconstructed if the same is damaged or destroyed. However, if a Lot Owner razes or removes any such Improvement, or if any such Improvement is damaged or destroyed, within a reasonable time after such occurrence the Owner of the Lot on which such Improvement is or was located shall either cause such Improvement to be replaced or restored pursuant to the applicable requirements of this Declaration or cause all debris to be removed and the site of such Improvement to be left in a level, clean and sightly condition pending construction of another Improvement pursuant to the applicable requirements of this Declaration.

ARTICLE III

Indemnification

Each Lot Owner shall indemnify, defend and hold harmless each other Lot Owner from and against all losses, damages, claims, causes of action, demands, obligations, suits, controversies, costs, expenses (including, without limitation, litigation expenses and attorneys' fees, whether incurred with or without the filing of suit, on appeal or otherwise), liabilities, judgments and liens, of whatever kind or character, which are caused by (i) the use, deposit, storage, disposal, transportation or release of any hazardous substances, hazardous wastes, pollutants or contaminants on any portion of the Entire Tract by the indemnifying Lot Owner or any person leasing or occupying the Lot owned by such indemnifying Lot Owner, or by any agent, employee, contractor, invitee or licensee of the indemnifying Lot Owner or any person

leasing or occupying the Lot owned by such indemnifying Lot Owner, or (ii) any activity, work or thing done, permitted or suffered by any such persons in or about their respective Lots.

ARTICLE IV
Underground Utility Facilities E 1266307 B 2131 P 139

Each utility or utility-related line, connection, installation and facility located within the Entire Tract shall, to the extent reasonably practicable, be located underground, and within the Common Roadways.

ARTICLE V
Prohibition of Barriers

No Lot Owner shall permit to be constructed or erected within such Owner's Lot or on the perimeter of such Owner's Lot any fence, wall, barricade or other obstruction, whether temporary or permanent in nature, which materially limits or impairs the free and unimpeded access among the Lot, except (i) to the extent such Lot Owner reasonably deems it necessary to do so temporarily to prevent a public dedication or the accrual of any rights to the public, (ii) as may be reasonably necessary or appropriate during periods that construction activities are ongoing or during periods that Improvements may be unsafe or unusable due to damage or destruction, (iii) for Improvements which may be constructed or installed pursuant to the applicable requirements of this Declaration, and (iv) for a curb or landscape barrier which the Owner of Lot 1 elects to install to prevent ingress to and egress from Lot 10 and any portion of Lot 1 (except any portion of the Common Roadways on Lot 1).

ARTICLE VI
Approval of Plans by Declarant

No excavation, grading or similar work on the Entire Tract shall be commenced, no Improvement on the Entire Tract shall be constructed or installed, and no alteration, refurbishing or repainting of the exterior of any Improvement shall be performed, unless and until complete plans have first been submitted to, and approved in writing by, the Declarant, which approval shall not be unreasonably withheld; provided, however, that such plan submission and approval requirements shall not apply to repairs or alterations which do not affect the size or the external design or appearance of a pre-existing Improvement. In determining whether to approve or disapprove plans submitted, the Declarant shall use its reasonable, good faith judgment to assure that all Improvements are of good quality and sound construction, harmonize with existing surroundings and Improvements, and comply with the requirements of this Declaration and the Development Guidelines. The Declarant may, however, approve plans which entail a variance from such requirements so long as in the reasonable judgment of the Declarant such variance is necessary or appropriate. The fact that Improvements comply with applicable zoning and other laws shall not necessarily mean that such Improvements shall be permissible under this Declaration. Any plans submitted to the Declarant shall be approved or disapproved by the

Declarant in writing within sixty (60) days after submission. If the Declarant fails to take any action within such period, the Declarant shall be deemed to have approved the material submitted; provided, however, that to the extent that such material contemplates a variance from the requirements of this Declaration or of the Development Guidelines, failure of the Declarant to timely take action shall be deemed a disapproval of such material. The Declarant shall not permit any billboard advertising or other obstructing signage on any portion of the Entire Tract.

ARTICLE VII
Development Guidelines; No Liability E 1266307 B 2131 P 140

The Declarant may (but need not) adopt and promulgate (and from time to time as necessary or appropriate modify), and shall furnish to any interested party upon request and payment of a reasonable charge copies of, such Development Guidelines as may be reasonably necessary or appropriate, in the judgment of the Declarant, to amplify or make more detailed any restrictions and requirements contained in this Declaration for Improvements, to advise interested parties of the standards and policies which will be applied in reviewing plans for such proposed Improvements and to establish appropriate procedural rules with respect to the submissions of plans for approval, as long as the Development Guidelines do not conflict with or violate the terms of this Declaration. The Declarant shall not be liable for damages by reason of any action, inaction, approval or disapproval by the Declarant with respect to any request made pursuant to this Declaration so long as the action, inaction, approval or disapproval involved did not occur as a result of actual malice.

ARTICLE VIII
Resignation of Declarant

Declarant may resign its functions under this Declaration, provided that at the time of such resignation the Declarant assigns its obligations hereunder to an assignee qualified to perform the obligations of the Declarant hereunder and said assignee is the Owner of one or more Lots.

ARTICLE IX
Easements for Access, Utilities and Use Over Certain Common Areas
and the Common Parking Areas

9.1 Easement for Access. Each Lot shall have appurtenant thereto and be benefited by, and the Common Roadways shall be subject to and be burdened by, a perpetual, nonexclusive right-of-way and easement for ingress and egress by vehicular and pedestrian traffic over and across the Common Roadways. The use of such right-of-way and easement shall include reasonable and customary deliveries.

9.2 Easement for Utilities. Each Lot shall have appurtenant thereto and be benefited by a perpetual, nonexclusive right-of-way and easement for the laying, construction,

installation, operation, inspection, servicing, maintenance, repair, removal, alteration, enlargement, relocation and replacement of underground utility pipes, lines, wires, conduits and related facilities (including, without limitation, any underground Common Utility Facilities and, whether or not the same are part of the Common Utility Facilities, underground pipes, lines, wires, conduits and related facilities for electricity, natural gas, other fuels or power sources, telephone, sewage, storm drainage and all types of water) under, through and across the Common Roadways. Each Lot shall have appurtenant thereto and be benefited by, and shall be subject to and be burdened by, a perpetual, nonexclusive right-of-way and easement under, through and across each Lot for the operation, inspection, servicing, maintenance, repair, removal, alteration, enlargement, relocation and replacement of those underground utility pipes, lines, wires, conduits and related facilities installed on or before the date this Declaration is recorded. If it is necessary or appropriate, any Lot Owner shall grant to another Lot Owner an easement for the purposes set forth in the first sentence of this Section 9.2 under and across such Owner's Lot in locations other than those designated above so long as such easement does not unreasonably interfere with the use and operation of such Lot, such easement is not located within ten (10) feet of any Building erected or to be erected upon such Lot, and the utility facility located within such easement is located underground. If an easement is granted pursuant to the preceding sentence, the precise location of the utility facility to be located in such easement shall specifically be approved by the Owner of the Lot on which such easement is located, which approval shall not be unreasonably withheld. If the utility easement rights provided for in this Section 9.2 are exercised, the Lot Owner intended to be served by the easement concerned shall pay the cost involved with such exercise and, at such Lot Owner's sole cost, restore to their previous condition any Improvements which may be damaged as a result of such exercise.

9.3 Easement for Common Parking Areas and Red Robin Parking Areas.

Lot 1 shall have appurtenant thereto and be benefited by, a perpetual, nonexclusive right-of-use for parking purposes on, over, across and through the Common Parking Areas between 12:00 noon - 1:00 p.m. and 5:30 p.m. and 2:00 a.m. on weekdays, on weekends between 10:00 a.m. and 2:00 a.m., and on generally recognized business holidays, except that Lot 1 shall not have any right of use between 12:00 noon - 1:00 p.m. on weekdays to the parking areas designated on Exhibit "A" as the "Restricted Parking Areas." Lot 1 shall have appurtenant thereto and be benefited by, a perpetual, non-exclusive right of use at all times for employee parking purposes or, over, across and through that portion of the Common Parking Areas designated on Exhibit "A" attached hereto and the "Red Robin Employee Parking Areas."

9.4 No Interference. In the exercise of the rights-of-way, easements and right-of-use granted pursuant to this Article IX, no Lot Owner shall in any manner obstruct or interfere with the free flow of vehicular and pedestrian traffic over the Common Roadways, except as provided in Article V hereof.

ARTICLE X
Dedication of Common Roadways

E 1266307 B 2131 P 142

Declarant shall have the right, in his sole discretion, at any time or from time to time, and without the need for consent by any person other than the parties required by the provisions of this Section, to dedicate to the public by conveying to the appropriate governmental authority all or any portion of the Common Roadways, subject to the limitations set forth in Section 9.1 hereof. The only parties whose consent needs to be obtained by Declarant in order to accomplish any such dedication shall be the Declarant, the Owner of the portion of the Common Roadways to be dedicated and each Mortgagee holding a Mortgage encumbering the portion of the Common Roadways to be dedicated.

ARTICLE XI
Payment of Taxes on Each Lot

Each Lot Owner shall pay, prior to delinquency, all Taxes on the Lot owned by such Owner, unless the collection of the Taxes involved and any sale or forfeiture of the Lot concerned for nonpayment of such Taxes is prevented or suspended through appropriate legal proceedings; provided, however, that any such Taxes which are levied in a lump sum amount, but which may be paid in installments over a period of time, may be paid as such installments fall due.

ARTICLE XII
Liability Insurance

Each Lot Owner shall maintain public liability and property damage insurance providing coverage against bodily injury, death and property damage occurring, or by reason of activities, on or about such Owner's Lot. Such insurance shall be carried with a responsible company and shall afford at least the coverage provided by a "combined single limit" of \$1,000,000 for bodily injury, death and property damage. Any Lot Owner may comply with the requirements of the foregoing portion of this Section by the purchase of blanket coverage, and may elect such deductible provisions as are consistent with good business practices. Any other Lot Owner shall, upon request, furnish the Declarant with a certificate issued by the insurer concerned evidencing that insurance is in force which complies with the requirements set forth in this Article.

ARTICLE XIII
Condemnation

If all or any part of the Common Roadways or the Common Utility Facilities are taken through condemnation or are conveyed to a condemning authority under threat of condemnation, the entire condemnation award or proceeds shall be paid to the Owner of such land. The Owner shall, as soon as reasonably practicable, restore the remaining portions of the Common Roadways or the Common Utility Facilities in compliance with all applicable laws, ordinances,

rules and regulations. Such restoration shall be of equal or better quality in materials and workmanship as the original Improvements, and the cost of such restoration shall be borne by the Owner of such land. Notwithstanding anything contained in this Declaration to the contrary, as between a Lot Owner and any other parties interested in such Lot (including, without limitation, a Mortgagee holding a Mortgage on such Lot), the rights of such Lot Owner and such other parties as regards such Lot Owner's share of the condemnation award or proceeds shall be governed by agreements that may exist between such Lot Owner and such other parties.

ARTICLE XIV
Damage, Destruction and Restoration

Once constructed, no Lot Owner shall materially alter, demolish or destroy all or any portion of the Common Roadways or the Common Utility Facilities without in each instance obtaining the prior written consent of each Lot Owner and the Mortgagee under each first-position Mortgage then affecting any of the Lots. If all or any portion of the Common Roadways or the Common Utility Facilities are damaged or destroyed through casualty, the Declarant shall rebuild and restore the same to substantially the same condition as existed prior to the damage or destruction (unless within a three (3) month period immediately following the casualty a written agreement providing for another course of action is entered into or consented to by each Lot Owner and by the Mortgagee under each first-position Mortgage then affecting any of the Lots). Each Lot Owner shall contribute an amount equal to the product obtained by multiplying the Common Expense Share of such Lot Owner by the cost of such rebuilding and restoration within thirty (30) days after notice of the amount due. Appropriate additional payments by, or refunds to, each Lot Owner shall be made upon completion of rebuilding or restoration when the exact cost of rebuilding or restoration is known.

ARTICLE XV
Construction of Common Areas; Maintenance of Common Areas;
Contributions Toward Common Expenses

15.1 Construction of Common Areas; Maintenance of Common Areas; Payment of Certain Taxes. Declarant shall construct and install, at its own expense, the Common Roadways and the Common Utility Facilities, in accordance with all applicable codes and regulations of Davis County and Layton City. After the Common Areas are initially improved and installed, they shall be kept in a reasonably clean, orderly, attractive and usable condition and in a good state of maintenance and repair by the Declarant consistent with a first-class office park development (except that as regards the Common Utility Facilities, the Declarant shall be obligated to accomplish the foregoing only to the extent that such matters are not the responsibility of or accomplished by the respective utility companies involved), for which the Declarant shall be reimbursed in accordance with Section 15.2. Notwithstanding anything contained in this Declaration to the contrary, each Lot Owner shall pay for the water necessary to serve the Landscaping located on such Owner's Lot.

15.2 Contributions Toward Common Expenses. Each Owner of a Lot shall, in the manner described in this Section 15.2, contribute such Owner's Common Expense Share. Each such Lot Owner shall pay monthly, on or before the first day of each month or ten (10) days after being advised in writing of the applicable amount, whichever is later, such Owner's Common Expense Share. The Declarant, at its option, may either invoice each such Lot Owner for such Lot Owner's Common Expense Share on a monthly basis as the actual amount of the Common Expense Share becomes known or may invoice such Lot Owner in advance based upon the Declarant's reasonable estimate of the Common Expense Share for an upcoming calendar year. If the Declarant adopts the second alternative, each such Lot Owner shall pay such Lot Owner's Common Expense Share in equal installments on a monthly basis, and as soon as reasonably practicable after the end of such calendar year, the Declarant shall furnish each such Lot Owner with a reasonably detailed final statement of the actual amount of such Lot Owner's Common Expense Share for such calendar year. If such final statement reveals that the monthly installments made by a Lot Owner aggregate less than such Lot Owner's Common Expense Share for the calendar year concerned, such Lot Owner shall pay the amount owing to the Declarant within ten (10) days after such final statement is furnished. If the final statement reveals that such Lot Owner's payments aggregate more than such Lot Owner's Common Expense Share for the calendar year concerned, the excess amount shall, at the option of the Declarant, either be returned to such Lot Owner or applied by the Declarant to such Lot Owner's Common Expense Share for the next calendar year. Any amount required to be paid under this Section 15.2 which is not timely paid to the Declarant shall accrue interest on and after the due date of the amount in question until paid in full, before and after judgment, at the rate of eighteen percent (18%) per annum. Any Lot Owner shall have the right, not more frequently than once each calendar year, to examine and audit the Declarant's books and records to verify the accuracy of the determination of the Common Expense Share and the expenses incurred in calculating the Common Expense Share.

ARTICLE XVI

Certain Obligations and Rights; Performance in Stead of Defaulting Lot Owner; Lien for Amounts Due

16.1 Certain Obligations and Rights. Each payment, reimbursement or contribution (whether monthly or otherwise) required to be made by any Lot Owner under any provision of this Declaration shall be the personal obligation of such Lot Owner, and, together with interest at the rate of eighteen percent (18%) per annum (both before and after judgment) and reasonable attorneys' fees (including those incurred in connection with any appeal), shall be enforceable and collectible as such. Suit to recover a money judgment for any such payment, reimbursement or contribution which is not made to another Lot Owner when due (together with such interest and attorneys' fees) may be maintained without foreclosing or waiving the lien securing the same, described in Section 16.3. No Lot Owner may avoid or diminish the personal obligation described in the preceding sentence by waiver of the use and enjoyment of any of the Common Areas, by abandonment of such Owner's Lot or any Improvements on such Owner's Lot or by waiving any services or amenities provided for in this Declaration. All

remedies set forth in this Article XVI are cumulative and shall be deemed to be in addition to any remedies otherwise available at law or in equity, which shall include the right to restrain by injunction any violation or threatened violation of any of the provisions of this Declaration and by decree to compel specific performance of any such provisions, it being agreed that the remedy at law for any breach of such provisions may be inadequate.

16.2 Performance in Stead of Defaulting Lot Owner. If the Owner of any Lot defaults in performance of any of such Owner's obligations under this Declaration, the Owner of any other Lot may, upon the expiration of at least fifteen (15) days after written notice of such default is given to both the defaulting Owner and the Mortgagee under any first-position Mortgage which may then affect that portion of the Lot owned by the defaulting Owner (unless efforts to effect a cure of a nonmonetary default have been instituted within such period and are diligently pursued to completion), to perform in the defaulting Owner's stead and to be reimbursed by the defaulting Owner, upon demand, for all costs, expenses and damages reasonably expended or incurred by reason of the default, together with interest at the rate of eighteen percent (18%) per annum (both before and after judgment) and reasonable attorneys' fees (including those incurred in connection with any appeal).

16.3 Lien for Amounts Due. If not paid when due, any payment, reimbursement or contribution required to be made by any Lot Owner to any other Lot Owner under this Declaration, plus all interest and attorneys' fees, shall, at the option of such other Lot Owner, be secured by a lien against the Lot owned by the delinquent Lot Owner. Such lien shall be evidenced by a notice of lien or similar instrument filed for record by the other Lot Owner in the office of the Davis County Recorder. A copy of such notice of lien or similar instrument shall be given to the Owner of the Lot affected within ten (10) days following recordation. Such notice of lien or similar instrument shall set forth the unpaid amount and the date such amount was due, the name of the Lot Owner that has failed to pay such amount and a description of the property subject to such lien, and shall be signed by a duly authorized representative of the Lot Owner filing the same, whose signature shall be properly acknowledged. Any such lien may be foreclosed in the same manner as is provided under applicable law for the foreclosure or Mortgages. Any such lien shall be subject and subordinate to (a) each Mortgage affecting the delinquent Owner's Lot at the time such notice of lien or similar instrument is filed; (b) this Declaration; (c) each (recorded or unrecorded) utility easement, right-of-way or similar interest affecting the delinquent Owner's Lot at the time such notice of lien or similar instrument is filed; (d) the interests of the tenant or lessee under each lease, rental agreement or similar instrument (whether recorded or unrecorded) affecting the delinquent Owner's Lot at the time such notice of lien or similar instrument is filed; and (e) the lien for general taxes and other governmental assessments, but shall be prior and superior to all other interests (whether recorded or unrecorded at the time such notice of lien or similar instrument is filed) in the delinquent Owner's Lot.

ARTICLE XVII
Title and Mortgage Protection E 1266307 B 2131 P 146

Except as expressly set forth in this Declaration, breach of the provisions of this Declaration shall not result in any forfeiture or reversion of title or of any other interest in any portion of the Entire Tract, and shall not defeat, impair or render invalid the lien of or other rights under any Mortgage covering any portion of the Entire Tract. Unless and until it enters into possession or acquires title pursuant to foreclosure or any arrangement or proceeding in lieu of foreclosure, any Mortgagee interested under any Mortgage affecting any portion of the Entire Tract shall have no obligation to take any action to comply with, and may not be compelled to take any action to comply with, any of the provisions of this Declaration (other than those, if any, concerning a consent to be given by a Mortgagee, if a Mortgagee's failure to give same is wrongful). No amendment to this Declaration shall in any way affect the rights of any Mortgagee interested under a Mortgage which is in effect at the time of the amendment concerned or the rights of any successor in interest or title to such Mortgagee, either before or after such Mortgagee or such Mortgagee's successor enters into possession or acquires title pursuant to foreclosure or any arrangement or proceeding in lieu of foreclosure, unless such Mortgagee has consented in writing to such amendment or unless the consent of such Mortgagee to the amendment concerned is not required for such amendment to be properly made in accordance with Section 19.2.

ARTICLE XVIII
Covenants to Run with Land

This Declaration and all of the easements, covenants, restrictions and other provisions of this Declaration shall constitute covenants running with the land, and shall be binding upon and shall inure to the benefit of Declarant, each Lot Owner, any other party which has or comes to have any interest in or which occupies or comes to occupy a Lot or any other portion of the Entire Tract, and their respective successors and assigns. This Declaration and all of the easements, covenants, restrictions and other provisions of this Declaration shall be binding upon each portion of the Entire Tract, and all interests in any portion of the Entire Tract shall be subject to this Declaration and all of such easements, covenants, restrictions and other provisions. By in any way coming to have any interest in or occupying any portion of the Entire Tract, the person so coming to have such interest or occupying agrees to be bound by this Declaration and all of the easements, covenants, restrictions and other provisions of this Declaration; provided, however, that no such person shall have liability under this Declaration as an Owner until such person becomes an "Owner," as defined in Section 1.17, nor shall such person have liability under this Declaration for any acts committed prior to such person becoming an Owner.

ARTICLE XIX
Miscellaneous

E 1266307 & 2131 P 147

19.1 Attorneys' Fees. If any action is brought because of a default under or to enforce or interpret any of the easements, covenants, restrictions or other provisions of this Declaration, in addition to the relief to which such party is entitled, the party prevailing in such action shall be entitled to recover from the unsuccessful party reasonable attorneys' fees (including those incurred in connection with any appeal), the amount of which shall be fixed by the court and made a part of any judgment rendered.

19.2 Amendment. Any provision contained in this Declaration may be amended by an instrument filed for record in the office of the Davis County Recorder which is executed by the Owner of each portion of the Entire Tract; provided, however, that the following shall apply:

(a) Any amendment to this Declaration which defines as an additional Lot, or an additional part of the Common Roadways, any part of the Entire Tract, only needs to be executed by the Owner(s) of the realty being so defined, and shall set forth a metes and bounds description of such additional Lot, or such additional part of the Common Roadways, as the case may be.

(b) Any amendment to this Declaration which expands the Entire Tract to include any other real property only needs to be executed by Declarant and the Owner(s) of such other real property, and shall set forth a metes and bounds description of such other real property.

Notwithstanding the foregoing, no such amendment shall affect the rights of any Mortgagee holding a Mortgage constituting a lien on the realty involved unless such Mortgagee consents to the same in writing. Unless under the foregoing provisions of this Section 19.2 it is a necessary party to the amendment in question, neither Declarant, any other party which has, acquires or comes to have an interest in any portion of the Entire Tract, nor any party which occupies or comes to occupy any portion of the Entire Tract, need execute an amendment to this Declaration in order to make such amendment in all respects effective, valid, binding and enforceable against all of the parties and interests described in Article XVIII.

19.3 Declarant's Rights Assignable. Subject to the terms of Article VIII hereof, all or any portion of the rights of Declarant under this Declaration or in any way relating to the Entire Tract may be assigned.

19.4 Contributions from Third Parties. Nothing in this Declaration shall limit the right of any Owner to require, pursuant to leases, contracts or other agreements entered into with tenants, contract buyers or other third parties, contribution from such tenants, contract

buyers or other third parties toward any of the obligations or expenses required to be paid by such Owner under this Declaration.

E 1266307 B 2131 P 148

19.5 Release Upon Transfer. On and after the date an Owner transfers (other than merely for purposes of security for an obligation) or is otherwise divested of such Owner's ownership interest in any portion of the Entire Tract, such Owner shall be relieved of all liabilities and obligations which under this Declaration are imposed upon the Owner of the portion of the Entire Tract concerned (except such liabilities or obligations as may have accrued as of the date of such transfer).

19.6 Partial Invalidity. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder of this Declaration, and each provision of this Declaration shall be valid and enforceable to the fullest extent permitted by law.

19.7 No Merger. The easements, covenants, restrictions and other provisions contained in this Declaration shall remain in full force and effect despite the fact that the Lots, and the Common Roadways may be owned by the same person from time to time, or that the Entire Tract is composed of only one Lot, it being the intention of Declarant to create a common scheme for the development and operation of the Entire Tract which will not be terminated by the doctrine of merger or otherwise, unless this Declaration is terminated in accordance with the provisions of Section 19.9.

19.8 Force Majeure. Any Owner or other person obligated under this Declaration shall be excused from performing any obligation or undertaking set forth in this Declaration, except the payment of money, so long as the performance of such obligation or undertaking is prevented or delayed by an act of God, weather, avalanche, fire, earthquake, flood, explosion, action of the elements, war, invasion, insurrection, riot, malicious mischief, vandalism, larceny, inability to procure or general shortage or labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strikes, lockouts or order of government or civil defense authorities, or any other cause beyond the control of the Owner or other person prevented or delayed.

19.9 Effective Dates and Duration. This Declaration and any amendment to this Declaration shall take effect as of the date on which it is filed for record in the office of the Davis County Recorder. This Declaration and all of the provisions of this Declaration (except such provisions which by their terms may cease to be effective at an earlier time) shall remain effective until this Declaration is terminated and extinguished by an instrument filed in the office of the Davis County Recorder, and executed by the Owner of each portion of the Entire Tract and the Mortgagee under each Mortgage then affecting any portion of the Entire Tract.

19.10 Rights of Persons With Interest In Same Lot. The purpose of this Declaration is to create certain easements, covenants, restrictions and other provisions which are

to apply among the Lots and which are to define and govern the rights and obligations as between those persons interested in a given Lots, on the one hand, and those persons interested in other Lots, on the other. Accordingly, this Declaration shall not alter any agreements, leases or other instruments which allocate rights and obligations of persons having an interest in the same Lot among such persons.

E 1266307 8 2131 P 149

19.11 Interpretation. All references in this Declaration to Articles and Sections shall be deemed to be references to Articles and Sections within this Declaration unless otherwise expressly set forth in this Declaration. The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision of this Declaration is construed. Whenever the context or circumstance so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part, and any gender shall include both other genders. This Declaration shall be governed by and construed in accordance with the laws of the State of Utah.

THE SIGNATORIES have executed this Declaration on the respective dates set forth below, to be effective as of the date first set forth above.

WESTSTAR GROUP, LLC, a Utah limited liability company, has executed this Declaration on the date set forth below, to be effective as of the date first set forth above.

WESTSTAR GROUP, LLC,
a Utah limited liability company,

By Wayne Bellean

Its member

Date 6-30-94

ROCKIN ROBIN, L.C.,
a Utah limited liability company,

By Steven J. Lowe

Its Manager

Date June 30, 1994

HOMICO INVESTMENT CO.,
a Utah partnership

E 1266307 B 2131 P 150

By Raymond P. OAA

Its Managing Partner

Date 14-1-94

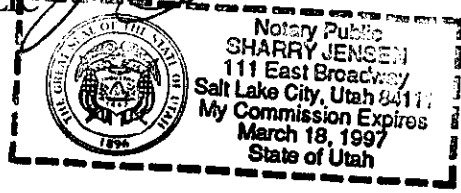
Gary M. Wright
Gary M. Wright

Wayne Belleau
Wayne Belleau

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

On the 30th day of June, 1994, personally appeared before me Wayne Belleau, who being by me duly sworn did say that he is the Member of Weststar Group, LLC, a Utah limited liability company, the company that executed the above and foregoing instrument and that said instrument was signed in behalf of said company by authority of its bylaws and/or Operating Agreement and said Wayne Belleau acknowledged to me that said company executed the same.

Sharry Jensen
NOTARY PUBLIC



-RECORDER'S MEM.
LEGIBILITY OF TYPING OR PRINTING
UNSATISFACTORY IN THE DOCUMENT
WHEN RECEIVED

STATE OF UTAH)

: ss.

COUNTY OF SALT LAKE)

E 1266307 8 2131 P 151

On the 30th day of June, 1994, personally appeared before me Steven F. Lave, who being by me duly sworn did say that he is the Manager of Rockin' Robin, L.C., a Utah limited liability company, the company that executed the above and foregoing instrument and that said instrument was signed in behalf of said company by authority of its bylaws and/or Operating Agreement and said STEVEN F. LAVE acknowledged to me that said company executed the same.

Cary Davis

NOTARY PUBLIC



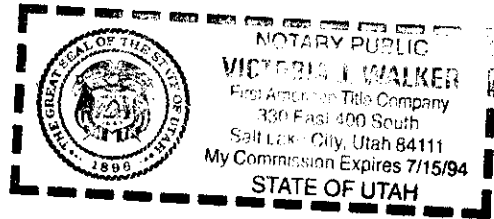
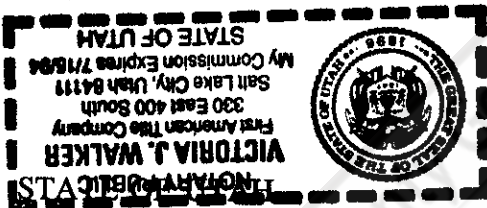
STATE OF UTAH)

: ss.

COUNTY OF SALT LAKE)

On the 1 day of ~~June~~ July, 1994, personally appeared before me Layton P. Ott, who being by me duly sworn did say that he is the general partner of Homco Investment Co., a Utah partnership, the company that executed the above and foregoing instrument and that said instrument was signed in behalf of said company by authority of its bylaws and/or Operating Agreement and said Layton P. Ott acknowledged to me that said company executed the same.

NOTARY PUBLIC

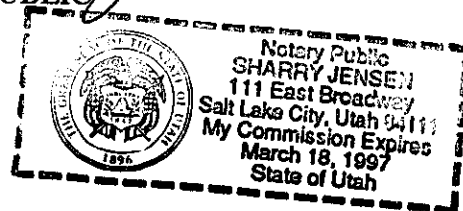


COUNTY OF SALT LAKE)

: ss.

The foregoing instrument was acknowledged before me this 30th day of June, 1994, by Gary M. Wright.

Sharry Jensen
NOTARY PUBLIC



STATE OF UTAH

)

:SS.

COUNTY OF SALT LAKE


)

E 1266307 B 2131 P 152

The foregoing instrument was acknowledged before me this 30th day of June, 1994,
by Wayne Belleau.

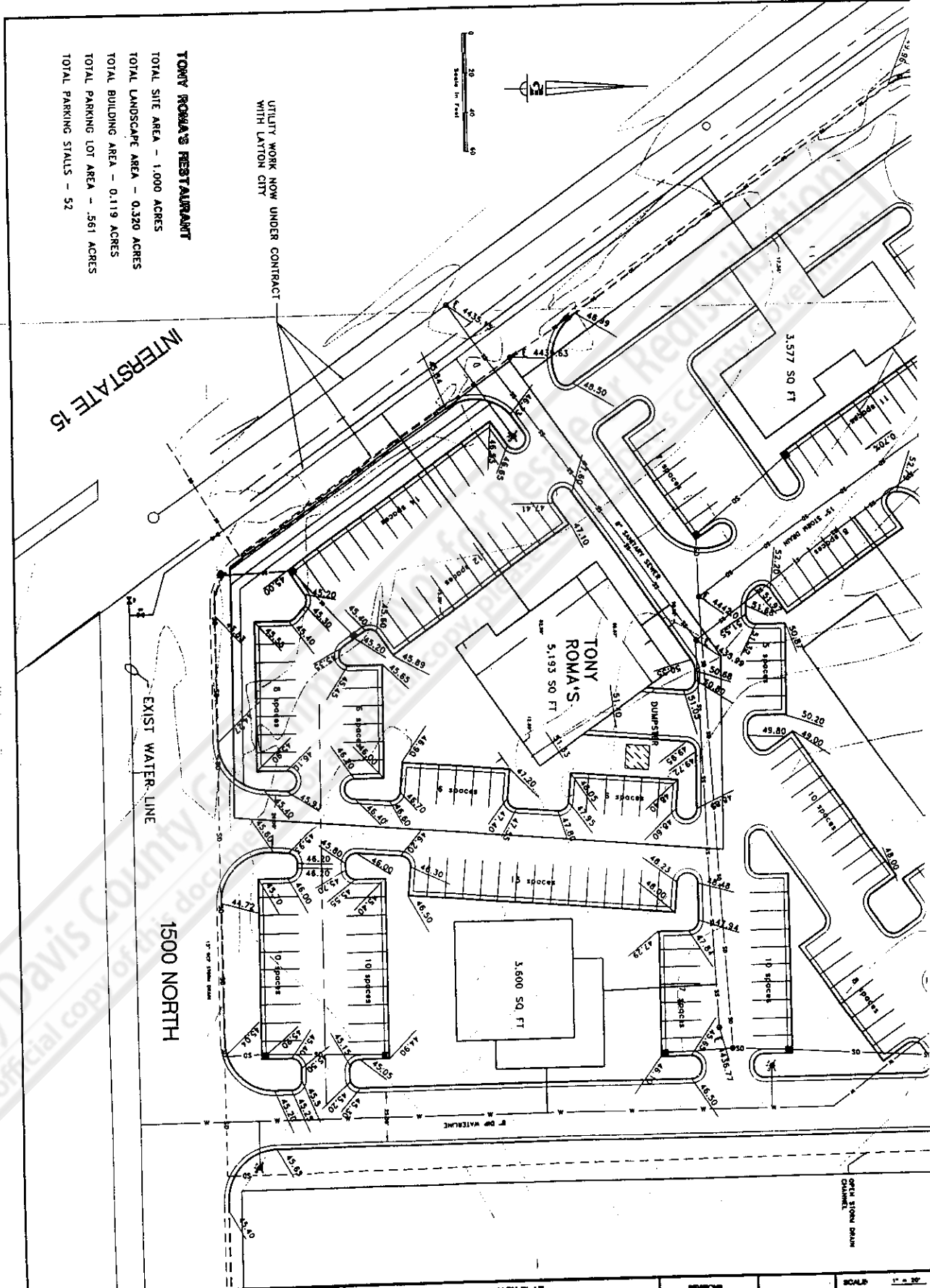
[Handwritten Signature]

NOTARY PUBLIC



Notary Public
SHARRY JENSEN
111 East Broadway
Salt Lake City, Utah 84111
My Commission Expires
March 18, 1997
State of Utah

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TONY ROMA'S RESTAURANT
 TOTAL SITE AREA - 1.000 ACRES
 TOTAL LANDSCAPE AREA - 0.320 ACRES
 TOTAL BUILDING AREA - 0.119 ACRES
 TOTAL PARKING LOT AREA - .561 ACRES
 TOTAL PARKING STALLS - 52

UTILITY WORK NOW UNDER CONTRACT WITH LAYTON CITY

INTERSTATE 15

EXIST WATER LINE

1500 NORTH

PRELIMINARY PLAT
**TONY ROMA'S
 COMMERCIAL DEVELOPMENT**
 LAYTON, UTAH

Gardner Engineering
 1100 Westpark Blvd
 Layton, Utah 84040
 (801) 770-0880

REVISIONS	
NO.	DATE

SCALE	1" = 20'
DATE	MAY 24, 2001
DRAWN	SSJ
CHECKED	ETS
PROJECT NO.	
DWG. NO.	

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