

When Recorded Mail to:  
Dee Hansen  
5445 South Highland Drive  
Salt Lake City, UT 84117

13534132  
1/14/2021 4:49:00 PM \$40.00  
Book - 11099 Pg - 3446-3455  
RASHELLE HOBBS  
Recorder, Salt Lake County, UT  
FIRST AMERICAN NCS  
BY: eCASH, DEPUTY - EF 10 P.

Record against Parcels:  
28-08-101-063 &  
28-08-101-055

### **AMENDMENT TO EASEMENT AGREEMENT**

This AMENDMENT TO EASEMENT AGREEMENT (this "Amendment") is entered into this 14<sup>th</sup> day of January 2021 ("Effective Date"), by and between FPA SANDY MALL ASSOCIATES, LLC, a Delaware limited liability company, hereinafter referred to as "First Party", and, CALIUTAH STATION INVESTMENT GROUP, LLC, a Utah Limited Liability Company, hereinafter referred to as "Second Party".

#### WITNESSETH:

WHEREAS, Second Party is the owner of that certain real property located in the City of Sandy, County of Salt Lake, State of Utah, as more particularly described in Exhibit A attached hereto and incorporated herein by reference ("Second Party Property");

WHEREAS, First Party is the owner of that certain real property located in the City of Sandy, County of Salt Lake, State of Utah, as more particularly described in Exhibit B attached hereto and incorporated herein by reference ("First Party Property" and together with the Second Party Property, the "Properties");

WHEREAS, First Party's predecessors in title, Mariemont Holdings, LLC, and Second Party's predecessors in title, Chevron U.S.A. Inc., entered into that certain Easement Agreement dated January 1, 1997 and recorded on April 10, 1997 in the Office of the Salt Lake County Recorder as entry number 6616190 (the "Easement Agreement"), providing for a non-exclusive, reciprocal easement for ingress and egress over, upon and across that certain tract of land described in Exhibit C attached hereto (the "Easement") for access to and from the Properties;

WHEREAS, the Easement Agreement was entered into for an initial term of ten (10) years, and stated that said term "may be extended by the mutual agreement of the parties";

WHEREAS, although the Easement Agreement was not officially extended in writing at the end of the initial ten (10) year term, the parties have continued to act as though the Easement Agreement has been extended;

WHEREAS, Second Party is currently planning to develop the Second Party Property as shown on the site plan attached hereto as Exhibit D (the "Site Plan"), and is planning on leasing the Second Party Property to an entity ("Dutch Bros") who plans to operate a Dutch Bro Coffee shop thereon; and

WHEREAS, First Party and Second Party now to desire to extend the term of the Easement

Agreement, subject to the terms and conditions contained in this Amendment; and

NOW, THEREFORE, in consideration of the joint execution and delivery of this Amendment and for other consideration, the receipt and sufficiency of which are hereby acknowledged, First Party and Second Party hereby agree as follows:

1. Authority. First Party and Second Party each represents that it has authority to enter into this Amendment and grant unto the other the mutual easement and rights herein provided, subject to any encumbrances, restrictions, rights of way, and easements of record. First Party and Second Party each represents, however, that it has no actual knowledge of any encumbrances, restrictions, rights of way, or easements that would preclude or materially interfere with the use of the mutual easement and rights herein provided.

2. Term. The mutual easement and joint rights described in the Easement Agreement shall extend for a term of thirty (30) years from the Effective Date, so long as (A) Dutch Bros (including any assignees, sublessees, or licenses) has not ceased operating as a Dutch Bros Coffee shop on the Second Party Property for more than 180 continuous days (condemnation, casualty, and force majeure excepted) and the Second Party Property is substantially configured as shown on the site plan attached hereto as Exhibit D, or (B) Second Party obtains written consent from First Party before Second Party (i) permits any business besides the operation of a Dutch Bros Coffee shop to operate on the Second Party Property, or (ii) makes any material changes to the layout of the Second Party Property that does not conform with the Site Plan. If Second Party violates any of the above restrictions then First Party shall have the right to terminate the Easement Agreement, provided that, before terminating the Easement Agreement, (A) First Party provides written notification to Second Party, and to the occupant of the Second Property (through personal delivery to the occupant), that Second Party has violated the restrictions contained in this Paragraph 2 (the "Notice of Violation"), and (B) Second Party fails cure the violation within ninety days (90) days of the date Second Party receives the Notice of Violation.

3. Effect of Amendment. The parties waive any right to claim that the Easement Agreement had terminated and intend for this Amendment to revive the Easement Agreement, or if necessary, to act as a new agreement with the terms of the Easement Agreement being incorporated (as revised by this Amendment) herein. The Easement Agreement, as amended by this Amendment, shall continue in full force and effect in accordance with its terms. In the event of a conflict between the terms and conditions of this Amendment and the terms and conditions of the Easement Agreement, the terms and conditions of this Amendment shall control.

4. Successors and Assigns. This Amendment shall bind and inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

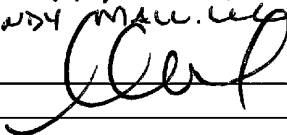
5. Counterparts. This Amendment may be executed in any number of original counterparts. Any such counterpart, when executed, shall constitute an original of this Amendment, and all such counterparts together shall constitute one and the same Amendment.

[Signatures on Next Page]

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

FPA SANDY MALL ASSOCIATES, LLC,  
a Delaware limited liability company

BY ITS MANAGER:  
GF SANDY MALL, LLC

By:  \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_ **Michael B. Earl**  
Manager

CALIFORNIA STATION INVESTMENT GROUP, LLC

By: \_\_\_\_\_

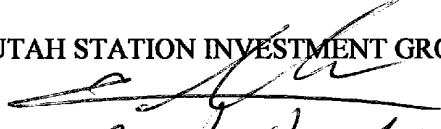
Its: \_\_\_\_\_

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

FPA SANDY MALL ASSOCIATES, LLC,  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

CALIUTAH STATION INVESTMENT GROUP, LLC

By:   
Its: Joseph Shengler

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.

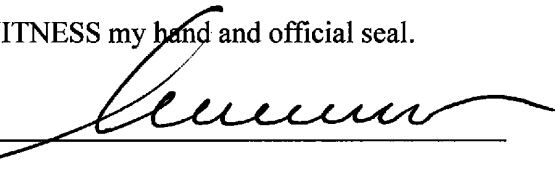
State of California )  
County of ORANGE )

On Jan. 12, 2021, before me, N. Dubonnet,  
(insert name and title of the officer)

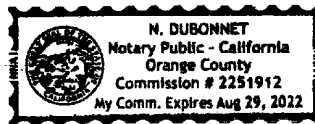
Notary Public, personally appeared Michael R. Furl,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their 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 

(Seal)



**ACKNOWLEDGMENT**

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 January 13, 2020, before me, GOLNAZ GHAZANFARY,

A Notary Public personally appeared

JOSEPH SHAYFAR

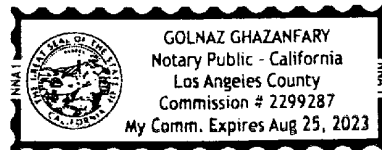
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s),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



(Seal)

**Exhibit A**

Beginning at a point S.0°21'30"E. 53.00 feet and S.89°12'10"E. 53.00 feet from the Monument at the intersection of 9400 South Street and 700 East Street, and running:

thence S.89°12'10"E. 115.00 feet;  
thence S.0°21'30"E. 135.87 feet;  
thence N.89°12'10"W. 115.00 feet;  
thence N.0°21'30"W. 135.87 feet to the point of beginning.

Contains 0.3586 acres, more or less.

The aforesaid Monument is more particularly described as follows:

- (i) Said Monument is situated at the Northwest corner of Section 8, Township 3 South, Range 1 East, Salt Lake Base and Meridian;
- (ii) Said Monument is situated N.29°33'10"W. 44.81 feet from a point described as an "iron pipe w/brass cap, corner used in some surveys", in the Salt Lake County Surveyor's Office Area Reference Plat for Section 8, Township 3 South, Range 1 East, which point in some documents of record has been referred to as the "Northwest corner" of said Section 8;
- (iii) Said Monument as shown in said Area Reference Plat is situated at the intersection of the center lines of 9400 South Street and 700 East Street.

Tax Parcel No: 28-08-101-063

**Exhibit B**

Beginning at a point S.0°21'30"E. 53.00 feet and S.89°12'10"E. 168.00 feet from the Monument at the intersection of 9400 South Street and 700 East Street, and running:

thence S.89°12'10"E. 20.00 feet;  
thence S.0°21'30"E. 135.87 feet;  
thence N.89°12'10"W. 20.00 feet;  
thence N.0°21 '30"W. 135.87 feet to the point of beginning.

The aforesaid Monument is more particularly described in Exhibit A above.

Tax Parcel No: 28-08-101-055



**Exhibit C**

Beginning at a point S.0°21'30"E. 53.00 feet and S.89°12'10"E. 148.00 feet from the Monument at the intersection of 9400 South Street and 700 East Street, and running:

thence S.89°12'10"E. 40.00 feet;  
thence S.0°21'30"E. 135.87 feet;  
thence N.89°12'10"W. 40.00 feet;  
thence N.0°21'30"W. 135.87 feet to the point of beginning.

The aforesaid Monument is more particularly described in Exhibit A above.

# Exhibit D

THIS DOCUMENT IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE. IT IS THE PROPERTY OF THE ARCHITECT AND IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREIN. IT IS NOT TO BE REPRODUCED, COPIED, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF THE ARCHITECT.

- NOTES:**
1. THE ARCHITECT HAS CONDUCTED VISUAL SURVEYS AND HAS OBSERVED THE SITE AND HAS BEEN ADVISED BY THE OWNER THAT THE SITE IS FREE OF CONTAMINATION AND IS SUITABLE FOR THE PROPOSED DEVELOPMENT.
  2. THE ARCHITECT HAS CONDUCTED VISUAL SURVEYS AND HAS OBSERVED THE SITE AND HAS BEEN ADVISED BY THE OWNER THAT THE SITE IS FREE OF CONTAMINATION AND IS SUITABLE FOR THE PROPOSED DEVELOPMENT.
  3. THE ARCHITECT HAS CONDUCTED VISUAL SURVEYS AND HAS OBSERVED THE SITE AND HAS BEEN ADVISED BY THE OWNER THAT THE SITE IS FREE OF CONTAMINATION AND IS SUITABLE FOR THE PROPOSED DEVELOPMENT.
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  5. THE ARCHITECT HAS CONDUCTED VISUAL SURVEYS AND HAS OBSERVED THE SITE AND HAS BEEN ADVISED BY THE OWNER THAT THE SITE IS FREE OF CONTAMINATION AND IS SUITABLE FOR THE PROPOSED DEVELOPMENT.
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  12. THE ARCHITECT HAS CONDUCTED VISUAL SURVEYS AND HAS OBSERVED THE SITE AND HAS BEEN ADVISED BY THE OWNER THAT THE SITE IS FREE OF CONTAMINATION AND IS SUITABLE FOR THE PROPOSED DEVELOPMENT.

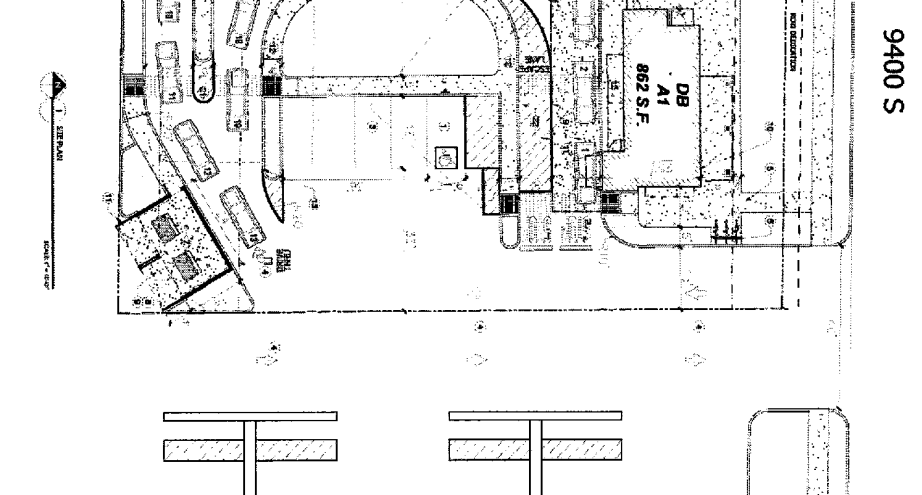
- GENERAL LANDSCAPE NOTES:**
1. APPROX. 100% PLANTING PLAN.
  2. USE SENSITIVE PLANTING SPECIES.
  3. COORDINATE PLANTING WITH OTHER CONTRACTORS.
  4. COORDINATE PLANTING WITH OTHER CONTRACTORS.
  5. COORDINATE PLANTING WITH OTHER CONTRACTORS.
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  12. COORDINATE PLANTING WITH OTHER CONTRACTORS.

**EXISTING BUILDING TO BE REMOVED:**

EXISTING BUILDING TO BE REMOVED. EXISTING CONCRETE TO BE EXTENDED.

**EXISTING BUILDING TO BE REMOVED:**

EXISTING BUILDING TO BE REMOVED. EXISTING CONCRETE TO BE EXTENDED.



- SITE PLAN NOTES:**
1. THE ARCHITECT HAS CONDUCTED VISUAL SURVEYS AND HAS OBSERVED THE SITE AND HAS BEEN ADVISED BY THE OWNER THAT THE SITE IS FREE OF CONTAMINATION AND IS SUITABLE FOR THE PROPOSED DEVELOPMENT.
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**Project No: UT-XXX2**  
 Dufon Bros Coffee - New Freestanding Store  
 9401 S 700 E  
 Sandy, UT 84670  
 For: The Duff Company  
 1296 N University Ave.  
 Provo, UT, 84604

**GNICH ARCHITECTS**

**Duff Bros**

**SP1.0**