

13527520
1/8/2021 12:46:00 PM \$40.00
Book - 11095 Pg - 7173-7191
RASHELLE HOBBS
Recorder, Salt Lake County, UT
FIRST AMERICAN NCS
BY: eCASH, DEPUTY - EF 19 P.

When recorded, return to:

Kirton McConkie
Attn: Eric B. Robinson
50 East South Temple Street
Salt Lake City, Utah 84111

Tax Parcel No. 14-12-103-004
14-12-103-003

DECLARATION OF COVENANTS AND RESTRICTIONS

THIS DECLARATION OF COVENANTS AND RESTRICTIONS (this "**Declaration**") is made and entered into as of the 8th day of January, 2021, by and between PROPERTY RESERVE, INC., a Utah nonprofit corporation ("**PRI**"); and BOYER 1100 SOUTH INDUSTRIAL, L.C., a Utah limited liability Company, and GB 1100 SOUTH INDUSTRIAL, LLC, a Utah limited liability company (collectively, "**1100 South**").

RECITALS:

A. PRI and 1100 South previously entered into that certain Purchase and Sale Agreement dated May 17, 2020 as amended from time to time (collectively, the "**Purchase Agreement**"), in which PRI agreed to sell, and 1100 South agreed to purchase, certain real property located in Salt Lake City (the "**City**"), Utah (the "**1100 South Property**"), as more fully described on Exhibit A attached hereto.

B. PRI retained certain real property located adjacent to the 1100 South Property, which real property is described on Exhibit B, attached hereto (the "**PRI Property**", and together with the 1100 South Property, the "**Property**").

C. In order to protect and facilitate the development of the PRI Property by PRI and the development of the 1100 South Property by 1100 South, and pursuant to the terms of the Purchase Agreement, PRI and 1100 South have agreed to record this Declaration for the purpose of memorializing certain covenants and restrictions with respect to the Property, as further described herein.

AGREEMENTS:

NOW, THEREFORE, intending to be legally bound, it is agreed to as follows:

1. Permitted Uses. Any use of the Property by an Owner or Occupant shall comply with all federal, state or local laws, ordinances, statutes, rules, codes or regulations.

a. "Occupant" shall mean any party, whether such party shall be an individual, corporation, limited liability company, joint venture, partnership, or other group, entity or association which has purchased, leased, rented or otherwise acquired the right to occupy and/or use any Parcel, Building or portion thereof, whether or not such right is exercised.

b. "Owner" shall mean any party, including but not limited to PRI and 1100 South, whether such party shall be an individual, corporation, limited liability company, joint venture,

partnership, entity or association, which holds in fee title, the rights and incidents of ownership of real property in the State of Utah as to a Parcel. The term "Owner" shall not refer to any party that shall have such interest solely as security for performance of any obligation.

2. Objectionable Uses. Notwithstanding any language to the contrary herein, in no event shall the Property be used for any of the uses described on Exhibit C attached hereto (the "**Objectionable Uses**"), and the following uses:

a. Hazardous Substance Restriction. No Owner or Occupant shall generate, manufacture, refine, transport, treat, store, place, handle, introduce, release, or dispose of hazardous or toxic substances in, on, under, over, or around the Property, except in strict accordance with all applicable laws, rules, regulations and ordinances. As used in this section, "**hazardous or toxic substance**" means and includes (i) any substance, product, waste or other material of any nature whatsoever which is listed, regulated, prohibited, restricted, limited, or addressed as a hazardous substance, hazardous waste, hazardous material, toxic substance, solid or liquid waste (or other similar term) posing a threat to health or the environment; (ii) any petroleum or petroleum based product or fraction thereof; or (iii) any other substance, product, material or waste otherwise referred to or regulated under all federal, state and local laws relating to health and/or the environment, including without limitation, the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. § 9601, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq.; the Toxic Substances Control Act, 15 U.S.C. § 2601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. § 1801, et seq., the Clean Water Act, 33 U.S.C. § 1251, et seq.; the Clean Air Act, 42 U.S.C. § 7401, et seq.; the Utah Environmental Quality Code, Title 19, Utah Code Annotated; and the regulations associated with these laws, all as amended or as may be amended in the future, or any other current or future federal, state, or local statute, law, ordinance, resolution, code, rule, regulation, order or decree relating to or imposing liability or standards of conduct concerning any hazardous substance, as now or at any time hereafter affects the Property including any laws relating to, without limitation, permitted or unpermitted point sources, underground or above ground storage tanks, pits, lagoons, piles, dumps, impoundments, or any other collection or container of hazardous substances.

b. Compliance with Law. No portion of the Property may be occupied for any use which is in violation of any applicable ordinances, laws and regulations of any federal, state, or local governmental or quasi-governmental agency(ies) or authority(ies) having applicable jurisdiction (collectively, the "**Governmental Authority**").

c. Outside Storage. Any materials, supplies or equipment stored outside on a Parcel shall be stored in compliance with (i) all applicable ordinances of the City, and (ii) the Design Criteria.

d. Nuisances. No Owner or Occupant shall create a nuisance on the Property. No rubbish or debris of any kind shall be placed or permitted to accumulate upon any Parcel, and no odor shall be permitted to arise therefrom including open burning, so as to render any Parcel or any portion thereof unsanitary, unsightly, offensive or detrimental to any Property in the vicinity thereof or to the Occupants thereof. No use or operation shall be conducted that is noxious, objectionable, unsightly or detrimental to others in any manner and due to any cause such as, but not limited to, vibration, sound, radiation, air, water, drainage or sewer pollution, dust or emission of odorous toxic or nontoxic substances. In all events, all proper air quality, discharge, emissions, or other permits, approvals and consents from any applicable Governmental Authority must be obtained and maintained by the Owner or Occupant.

e. Utilities. All Utility Systems, connections and installations must be underground unless otherwise approved by the other Owner(s) or required by the City or other utility service provider.

Any external transformers, motors, heating and/or air conditioning equipment or other similar apparatus must be screened in accordance with the Design Criteria. All such improvements related to the Utility Systems and connections shall be constructed in accordance with any requirements related thereto set forth in the Design Criteria.

f. Intentionally Omitted.

g. Fencing. Fencing is only allowed in a manner consistent with the Design Criteria, and in any event, chain link or barbed wire fencing is strictly prohibited. The Design Criteria may regulate the height, material, color, and other aspects of the fence. In addition, no fencing shall be permitted within any right-of-way, or closer than fifteen feet (15') from the boundary of any right-of-way.

3. Easements. The Property shall be held, operated, maintained, leased, subleased, and occupied subject to and together with the easements recited in this Declaration (individually an "**Easement**", and collectively, the "**Easements**"). In each instance the physical location of an Easement may, in some circumstances, be located in the same place and the use thereof may be shared with other Easements similarly located and in each such instance the rights and privileges associated with each such Easement shall be interpreted separately, but the use shall be deemed to be non-exclusive with any other Easement similarly located. Except as may be specifically set forth elsewhere in this Declaration, no Easement may be amended, extinguished or otherwise modified in any manner by an amendment to this Declaration without the express written approval of the Owners, their successors and assigns. It is expressly agreed that any and all Easements granted pursuant to this Declaration shall survive any termination, expiration or other cessation of this Declaration and shall be extinguished only upon the execution and delivery of a separate, written termination executed by the party legally entitled to terminate the Easement intended to be terminated.

a. Access Easements. Each Owner, as grantor with respect to its portion of the Property (each, as "**Parcel**"), shall reasonably consider a request from the other Owner(s) for the granting of non-exclusive easements, for the purpose of ingress and egress by vehicular and pedestrian traffic upon, over, across and through the drive aisles located from time to time on the portions of the Property upon which buildings are not constructed, or otherwise cannot be constructed (the "**Common Area**"), for the use of the Owners and their respective tenants, and the employees, agents, customers and invitees of such Owner and its tenants, and for the benefit of the Parcels owned by such grantee Owner, and as a burden on the grantor Owner's Parcel. The foregoing will not create any rights in any parties other than the Owners. The Common Area upon the Property may be modified from time to time as a result of the improvement and development of portions of the Property.

b. Utility Systems. Each Owner, as grantor with respect to its Parcel, hereby grants to each other Owner, as grantee, for the benefit of each such grantee Owner and its Parcel, without the necessity for further documentation, non-exclusive easements appurtenant to the Parcel owned by the grantee Owner, under, through and across the Common Area of the Parcel owned by the grantor Owner, for the installation, maintenance, repair and replacement of water drainage systems or structures, water mains, storm drains, sewers, water sprinkler system lines, telecommunication, electrical conduits or systems, cable lines, gas mains and other public utility facilities ("**Utility Systems**") necessary for the orderly development and operation of the Common Area and each building in the Property; provided, however, (a) the location of such Utility Systems shall be subject to the consent of the Owner of the applicable Parcel, which consent shall not be unreasonably conditioned, withheld, or delayed, (b) the rights granted pursuant to such Easements will at all times be exercised in such manner as to cause the least interference with the normal operation of the Property, and (c) except in an emergency, the right of any grantee Owner to enter upon the Parcel of any grantor Owner for the exercise of any right pursuant to such Easements will be conditioned upon obtaining the prior written consent of such grantor Owner,

which consent will not be unreasonably withheld or delayed. All such Utility Systems will be installed and maintained below the surface or ground level of such Easements. In the event an Owner deems it necessary to cause the installation of a Utility System across the Common Area of any other Parcel subsequent to the initial paving and improving thereof, the Owner thereof agrees not to unreasonably withhold the granting of any necessary additional easements; provided, such Owner may withhold its consent if such installation would unreasonably interfere with the normal operation of any business in the Property, or with such Owner's plans for the development of its Parcel; and provided further, the Owner making or causing such installation shall, at its sole cost and expense, completely restore in the same or better condition all Common Area improvements and surfaces disrupted as a result of such installation.

In the event it should be necessary to grant any of the foregoing Easements and rights to local utility companies as a condition of their providing or continuing service, such rights shall be granted provided that the Owners required to execute such instruments deem the terms and conditions of such a grant to be reasonably acceptable. In such event, the Owner requiring or causing the requirement of any such Easement shall, promptly following the grant of such Easement, and at its sole cost and expense, provide to the Owner granting such Easement an ALTA survey (or the local equivalent thereof) of such Owner's Parcel depicting such Easement.

c. Encroachment Easements. There is hereby granted to each Owner a perpetual, non-exclusive Easement for encroachments as between the Parcels due to the placement or settling or shifting of any buildings or improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions). This Easement extends to a distance of not more than two (2) feet, as measured from any point on the common boundary between the Parcels along a line perpendicular to such boundary at such point; provided, however, in no event shall an Easement for encroachment exist if such encroachment occurred due to willful conduct on the part of the party responsible for the installation of such Improvements (defined below).

d. Intentionally Omitted.

e. No Public Dedication. Nothing contained in this Declaration shall be deemed to be a gift or dedication of any portion of the Property to or for the general public or for any public purpose whatsoever, it being the parties' intent this Declaration will be strictly limited to and for the purposes herein expressed. Notwithstanding the grant of the Easements, each Owner may be entitled to take whatever steps it deems reasonably necessary to protect and preserve the private ownership of its Parcel and to prevent same from being dedicated to the public use as a matter of law.

f. Design Criteria. No Owner shall construct, erect, place, or modify any structure, landscaping, or other improvement (collectively, the "**Improvements**") on a Parcel, unless such Improvements are in compliance with the design criteria attached to this Declaration as Exhibit D (the "**Design Criteria**"). The Design Criteria shall be generally applicable to improvements which may be constructed upon the Parcel(s) in the future. So long as the Improvements are consistent with the Design Criteria in all material respects, no further approval or review shall be required under this Declaration for any construction, erection, placement, or modification of any structure, landscaping, or other improvement within a Parcel(s); provided, approval or review may be required by any municipality or governmental agency or entity having jurisdiction over architectural or construction matters within the Parcel(s) or pursuant to additional covenants, if any, lawfully binding on an Owner or the Parcel(s). Notwithstanding anything contained herein to the contrary, in the event of any conflict between the Design Criteria and any requirement by any municipality or governmental agency or entity having jurisdiction over the Property ("**Governmental Requirements**"), the applicable Governmental Requirements shall control, and no Owner or other party shall be deemed to be in violation of the Design Criteria or this Declaration as a result of any inconsistency between any Governmental Requirement and

the Design Criteria. It is understood that absent any Governmental Requirements that specifically require an improvement to be designed in a specific manner, the Design Criteria may impose higher standards of design than standards that may have been approved by the applicable municipality or governmental agency or entity, and that in such event the Design Criteria shall prevail.

i. Any material modification to or proposed deviation from the Design Criteria with respect to any Improvements shall be subject to the prior approval of the other Owner(s). Such other Owner(s) shall not unreasonably withhold or delay approval of any modification to or deviation from the Design Criteria which an Owner requests; provided that such request will not diminish the architectural standards or development scheme that have been applied to the Parcel(s).

ii. The adoption of Design Criteria is intended to provide a mechanism for maintaining and enhancing the Property's overall aesthetics, but shall not create any duty to any third-party. No Owner shall bear any responsibility, with respect to another Owner, for ensuring the structural integrity or soundness of any construction or modifications, for ensuring compliance with building codes and other governmental requirements, or for ensuring that all structures and improvements constructed within the Property by another Owner are of comparable quality or value of other properties within the area. No Owner shall be held liable for nor shall have responsibility with respect to soil conditions, drainage problems, or other general site work, for any structural or other defects in work, or for any injury, damages, or loss arising out of the manner, design, or quality of construction on or modifications to any improvements on the Property by virtue of Design Criteria.

iii. Subject to compliance with the Design Criteria and Governmental Requirements, an Owner shall have the right, from time to time, to construct, add, alter, expand, reduce, eliminate, relocate or change the shape, size, location, character, design, appearance, use, number or height of any improvements located on such Owner's portion of the Property, including but not limited to, buildings, parking and driveway improvements, and other Common Areas, and without limiting the foregoing, convert parking areas and/or driveway areas (including Common Areas) to building areas and building areas to parking areas and/or driveway areas (including Common Areas).

4. Transloading Facility. Notwithstanding anything to the contrary herein, in the event 1100 South enters into a ground lease with the Utah Inland Port Authority, or similar quasi-government entity (the "Lease"), for the purpose of constructing and operating a transloading facility upon the entirety of the 1100 South Property (provided that the Owners acknowledge and understand that such facility is anticipated to be constructed in phases and over time), then upon the recording of a notice of memorandum of ground lease evidencing the Lease, the terms and conditions of Sections 2 and 3, including Exhibit C and Exhibit D, shall be temporarily suspended, and the terms and conditions of this Section 4 shall govern during the term of the Lease. Upon expiration or termination of the Lease, the terms and conditions of Section 2 and 3 (but excluding 2(e), 3(a), 3(b), and 3(c)) shall be reinstated and apply to any use or new Improvements constructed on the 1100 South Property after expiration or termination of the Lease.

a. Hazardous Substance Restriction. No Owner or Occupant shall generate, manufacture, refine, transport, treat, store, place, handle, introduce, release, or dispose of hazardous or toxic substances in, on, under, over, or around the Property, except in accordance with all applicable laws, rules, regulations and ordinances. As used in this section, "**hazardous or toxic substance**" means and includes (i) any substance, product, waste or other material of any nature whatsoever which is listed,

regulated, prohibited, restricted, limited, or addressed as a hazardous substance, hazardous waste, hazardous material, toxic substance, solid or liquid waste (or other similar term) posing a threat to health or the environment; (ii) any petroleum or petroleum based product or fraction thereof; or (iii) any other substance, product, material or waste otherwise referred to or regulated under all federal, state and local laws relating to health and/or the environment, including without limitation, the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. § 9601, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq.; the Toxic Substances Control Act, 15 U.S.C. § 2601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. § 1801, et seq., the Clean Water Act, 33 U.S.C. § 1251, et seq.; the Clean Air Act, 42 U.S.C. § 7401, et seq.; the Utah Environmental Quality Code, Title 19, Utah Code Annotated; and the regulations associated with these laws, all as amended or as may be amended in the future, or any other current or future federal, state, or local statute, law, ordinance, resolution, code, rule, regulation, order or decree relating to or imposing liability or standards of conduct concerning any hazardous substance, as now or at any time hereafter affects the Property and operations thereon, including any applicable laws relating to, without limitation, permitted or unpermitted point sources, underground or above ground storage tanks, pits, lagoons, piles, dumps, impoundments, or any other collection or container of hazardous substances.

b. Compliance with Law. No portion of the Property may be occupied for any use which is in violation of any applicable ordinances, laws and regulations of any federal, state, or local governmental or quasi-governmental agency(ies) or authority(ies) having applicable jurisdiction (collectively, the “**Governmental Authority**”).

c. Outside Storage. Any materials, supplies or equipment stored outside on a Parcel shall be stored in compliance with all applicable ordinances of the City.

d. Nuisances. No Owner or Occupant shall create a nuisance on the Property. No rubbish or debris of any kind shall be placed or permitted to accumulate upon any Parcel, and no odor shall be permitted to arise therefrom including open burning, so as to render any Parcel or any portion thereof unsanitary, unsightly, offensive or detrimental to any Property in the vicinity thereof or to the Occupants thereof. No use or operation shall be conducted that is noxious, objectionable, unsightly or detrimental to others in any manner and due to any cause such as, but not limited to, vibration, sound, radiation, air, water, drainage or sewer pollution, dust or emission of odorous toxic or nontoxic substances. In all events, all proper air quality, discharge, emissions, or other permits, approvals and consents from any applicable Governmental Authority must be obtained and maintained by the Owner or Occupant.

e. Fencing. The Owner or Occupant of the Property shall construct and maintain, at the Owner’s or Occupant’s sole cost and expense, throughout the duration of the term of the Lease (and for so long as any transmodel or similar use is on the 1100 South Property) an eight foot (8’) solid surface wall along the eastern, southern, and western boundary of the 1100 South Property; provided, however, there shall be landscape buffer between said fence and wall and any adjoining right of way of at least five feet (5’) consisting of trees and shrubs. In addition, it is expressly agreed the neither the Owner nor any Occupant may maintain on top of said fence and wall any barb wiring or similar deterrent or obstruction.

5. Development of the Property.

a. Development. Each Owner shall be responsible for the construction of all buildings, structures, signage and other improvements made or constructed upon any portion of the Property, and shall include, without limitation, all Improvements (including but not limited to buildings, driveways, sidewalks, trails, pathways, parking areas, parking structures, parking surfaces, curbing, gutters, landscaping, retaining walls, signs, utilities, exterior lighting, street and lighting) which are

constructed upon its respective Parcel. No Owner shall be responsible to contribute to the cost of the construction, reconstruction or repair of any Improvements located upon any other Parcel unless agreed upon in writing by such Owner.

b. Construction of Improvements. Once commenced, construction, reconstruction or repair of all Improvements shall be diligently prosecuted to completion; provided, however that the Owners acknowledges that the Parcels may be developed in multiple phases and over time. The Owner of its respective Parcel on which Improvements are being constructed, reconstructed or repaired shall at all times keep any applicable driveways and access drive aisles contiguous to such Parcel clean and free from any dirt, mud, dust, garbage, refuse, trash or other debris which might be occasioned by such activities.

c. Maintenance of Improvements. Each Owner shall keep its respective Parcel free from rubbish, debris, fire hazards, graffiti or any unsanitary, unsightly or offensive condition and to conduct such weed abatement, rubbish and debris removal and other maintenance to the extent required by applicable federal, state, and/or local laws, rules, regulations and ordinances. To the extent applicable, each Owner shall be required, at its sole cost and expense, to maintain its respective Parcel, the Common Areas located on that Parcel, the Utility Systems that benefit that Parcel, and the Improvements located thereon, in a good workmanlike manner and in a clean, safe and orderly manner and to cause all weeds, rubbish and debris to be removed from its respective Parcel in accordance with the provisions of this subsection. Each Owner shall be responsible for the exterior and interior maintenance of any and all Improvements located upon such Owner's Parcel, including the timely removal of any graffiti.

6. Owner Approval. Any approval rights of an Owner herein shall be subject to such Owner's reasonable discretion, and Owner shall not unreasonably withhold, condition, or delay its approval. All approvals granted by an Owner must be in writing to be effective.

7. Rights, Duties and Obligations.

a. Indemnification. To the fullest extent permitted by applicable law, each Owner and their successors and assigns hereby agree to indemnify, defend and hold the other Owners harmless from and against any and all liens, encumbrances, costs, demands, claims, judgments, and/or damage caused by or arising out of: (i) the acts and omissions of such Owner and their agents, servants, employees, contractors, and/or invitees arising from an Owner exercising its rights under this Declaration; and (ii) the use of Property not owned by such Owner and their agents, servants, employees, contractors or invitees. The terms and conditions of this provision shall remain effective, notwithstanding the expiration or termination of this Declaration.

b. Insurance. Each Owner shall obtain and maintain a policy of general commercial liability and property liability insurance sufficient to insure their respective interests against claims for personal injury, bodily injury, death, and property damage occurring on, in or about the Owner's respective Parcel.

8. Enforcement.

a. Parties Entitled to Enforce. Any Owner may enforce any and all provisions of this Declaration. Except as provided for herein, absent an express assignment, no party (including, without limitation, any owner of adjacent or nearby property) shall be deemed a third-party beneficiary of this Declaration or have any rights to enforce any of the provisions contained in this Declaration.

b. Remedies for Violations. The provisions of this Declaration may be enforced by all available legal and equitable means (including an action to enjoin violative actions, compel

compliance, or to require the demolition of improvements); provided, no breach hereof shall permit the termination of any easement granted hereunder. The various rights and remedies contained herein, except as otherwise provided in this Declaration, shall not be considered as exclusive of any other right or remedy, but shall be construed as cumulative and shall be in addition to every other remedy now or hereafter existing at law, in equity or by statute.

c. Recovery of Costs. In any action to enforce this Declaration, the prevailing party may recover from the non-prevailing party all of its costs incurred in the action, including, without limitation, court costs and reasonable attorneys' fees.

d. Notice of Default. An Owner shall be deemed to be in default of this Declaration only upon the expiration of thirty (30) days from the defaulting Owner's receipt of written notice from the party alleging such breach of this Declaration specifying the particulars of which such defaulting Owner has failed to perform the obligations of this Declaration unless such Owner, prior to the expiration of said thirty (30) days, has rectified the particulars specified in said notice of default. However, such Owner shall not be deemed to be in default if such failure cannot be rectified within said thirty (30) day period and such Owner has commenced a cure of the default specified in the notice and is using good faith and due diligence to prosecute such cure to completion.

9. Notices. Except as otherwise required by law, any notice, demand or request given in connection with this Declaration shall be in writing and shall be given by personal delivery, overnight courier service, electronic correspondence (provided sender receives verification of receipt), or United States certified mail, return receipt requested, postage or other delivery charge prepaid, addressed to PRI or 1100 South at the following addresses (or at such other address as PRI or 1100 South or the person receiving copies may designate in writing given in accordance with this Section):

PRI: Property Reserve, Inc.
Attn: Doug Holmberg
51 S. Main St., Suite 301
Salt Lake City, UT 84111
(801) 321-8700

WITH A
COPY TO: Kirton McConkie
Attn: Eric B. Robinson
50 East South Temple Street, Suite 400
Salt Lake City, Utah 84111
Phone: (801) 328-3600

1100 South: Boyer 1100 South Industrial, L.C.
GB 1100 South Industrial, LLC
423 West Broadway, Suite 230
Salt Lake City, UT 84101

With a copy to: Ray Quinney & Nebeker P.C.
Attn: Blake R. Bauman
36 S. State Street Suite 1400
Salt Lake City, Utah 84111
Phone: (801) 323-3319

10. Running with the Land. Except as expressly set forth herein, the restrictions, covenants, and burdens provided for herein shall be rights, restrictions, covenants, and burdens running with the Property. Any and all portions of the Property shall hereinafter be held, sold, conveyed, transferred, occupied, leased, rented, encumbered, and used subject to this Declaration and its terms, provisions, covenants, restrictions, limitations, and conditions set forth herein, all of which shall be binding on 1100 South and/or users of the Property, together with their grantees, successors, heirs, executors, administrators, devisees and assigns.

11. PRI's Rights. The rights and benefits reserved by and conferred upon PRI herein, shall inure to and may be exercised by PRI or such other party as PRI designates in a recorded writing. In the event PRI (i) ceases to legally exist and (ii) has not previously assigned its rights under this Declaration, PRI's rights and benefits under this Declaration shall automatically vest in The Church of Jesus Christ of Latter-day Saints.

12. Term. The covenants and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and shall be enforceable by each Owner, and their respective legal representatives, heirs, successors, and assigns, for a term of forty (40) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by a majority of the then Owners, has been recorded within the twelve-month period preceding the renewal of this Declaration, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated as specified therein.

13. Applicable Law. This Declaration shall be construed and interpreted under Utah law.

14. Entire Agreement. This Declaration contains the full, complete and integrated statement of each and every term and provision agreed to by and between the parties hereto and supersedes any prior writings and agreements of any nature among the parties. This Declaration shall not be orally modified in any respect and may be modified only by the written agreement of the parties hereto.

15. Counterparts. This Declaration may be executed in counterparts, each of which shall be an original and all of which shall together constitute one and the same document

(signatures and acknowledgements to follow)

IN WITNESS WHEREOF, PRI and 1100 South have executed this Declaration as of the day and year first above written.

PRI:

PROPERTY RESERVE, INC.,
a Utah nonprofit corporation

By: 

Name: Ashley Powell

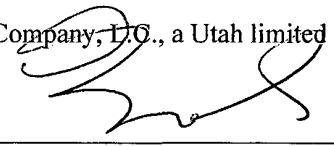
Its: President

DGH

1100 SOUTH:

BOYER 1100 SOUTH INDUSTRIAL, L.C., a
Utah limited liability company, by its manager

The Boyer Company, L.C., a Utah limited liability
company

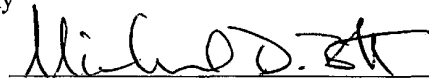
By: 

Name: Brian Gochnour

Title: Manager

GB 1100 SOUTH INDUSTRIAL, LLC, a Utah
limited liability company, by its manager

Gardner Batt, LLC, a Utah limited liability
company

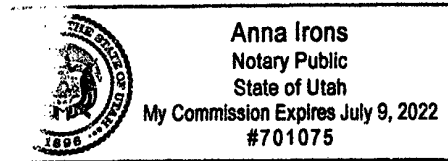
By: 

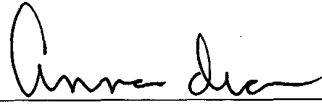
Name: Michael D. Batt

Title: Manager

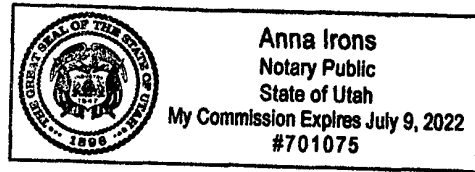
STATE OF UTAH)
:SS.
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 8th day of January, 2021, by Brian Gochour, as the Manager of The Boyer Company, L.C., a Utah limited liability company, the Manager of Boyer 1100 South Industrial, L.C., a Utah limited liability company.

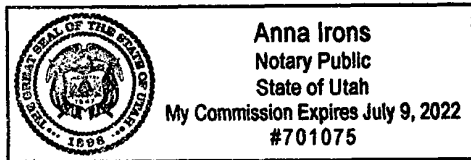


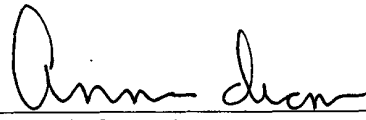

Notary Public for Utah

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



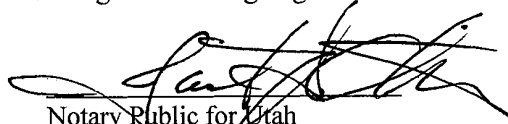
The foregoing instrument was acknowledged before me this 8th day of January, 2021, by Michael D. Batt, as the Manager of Gardner Batt, LLC, a Utah limited liability company, the Manager of GB 1100 SOUTH INDUSTRIAL, LLC, a Utah limited liability company.




Notary Public for Utah

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

On this 7th day of January, 2021, personally appeared before me Ashley Powell, known or satisfactorily proved to me to be the President of PROPERTY RESERVE, INC., a Utah nonprofit corporation, who acknowledged to me that he/she signed the foregoing instrument as President for said corporation.


Notary Public for Utah

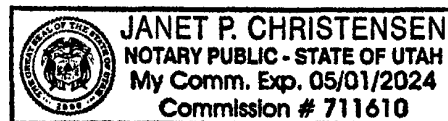


EXHIBIT A

(Legal Description of the 1100 South Property)

That certain real property located in Salt Lake County, Utah, specifically described as follows:

PARCEL 1:

Lot 2, WEST SALT LAKE INTERMODAL SUBDIVISION, according to the official plat thereof as recorded in the office of the Salt Lake County Recorder, State of Utah on November 27, 2002 as Entry No. 8437581 in Book 2002P at Page 345.

LESS AND EXCEPTING THEREFROM any portion lying within the bounds of the following described tract of land conveyed to the Utah Department of Transportation, as disclosed by that certain Quit Claim Deed recorded February 19, 2020 as Entry No. 13197240 in Book 10898 at Page 5018 in the office of the Salt Lake County Recorder, to-wit:

A parcel of land in fee for the widening of the existing 5600 West Street (SR-172) known as Project No. F-0172(32)7, being part of an entire tract of property situate in Lot 2, West Salt Lake Intermodal Subdivision, recorded as Entry No. 8437581, Book 2002P, Page 345, in the office of the Salt Lake County Recorder and in the NW1/4 SW1/4 of Section 12, T.1S., R.2W., S.L.B.&M. The boundaries of said parcel of land are described as follows:

Beginning at the southwest corner of said Lot 2, which corner is 75.00 feet perpendicularly distant easterly from the 5600 West Street Right of Way Control Line opposite approximate engineer station 89+07.63; and running thence N.00°01'01"E. 50.87 feet along the existing easterly right of way line of 5600 West Street (SR-172) to a point 75.00 feet perpendicularly distant easterly from said control line opposite engineer station 89+58.50; thence S.51°17'52"E. 65.23 feet to a point 43.00 feet perpendicularly distant northerly from the 1100 South Street Right of Way Control Line opposite engineer station 4001+26.00; thence S.00°05'44"E. 10.00 feet to the existing northerly right of way line of 1100 South Street at a point 33.00 feet perpendicularly distant northerly from said control line opposite engineer station 4003+26.00; thence S.89°54'16"W. (S.89°54'16"W. by record) 50.93 feet along said existing northerly right of way line to the point of beginning as shown on the official map of said project on file in the office of the Utah Department of Transportation.

(Note: Rotate all bearings in the above description 00°14'17" clockwise to obtain highway bearings.)

ALSO LESS AND EXCEPTING THEREFROM any portion lying within the bounds of the following described tract of land conveyed to Salt Lake City Corporation, a Utah municipal corporation, as disclosed by that certain Quit Claim Deed recorded February 19, 2020 as Entry No. 13197247 in Book 10898 at Page 5046 in the office of the Salt Lake County Recorder, to-wit:

A parcel of land in fee for the widening of the existing 5600 West Street (SR-172) known as Project No. F-0172(32)7, being part of an entire tract of property situate in Lot 2, West Salt Lake Intermodal Subdivision, recorded as Entry No. 8437581, Book 2002P, Page 345, in the office of the Salt Lake County Recorder and in the NW1/4 SW1/4 of Section 12, T.1S., R.2W., S.L.B.&M. The boundaries of said parcel of land are described as follows:

Beginning at a point in the existing northerly right of way line of 1100 South Street, said point is 50.93 feet N.89°54'16"E. from the southwest corner of said Lot 2, said point is also is 33.00 feet perpendicularly distant northerly from the 1100 South Street Right of Way Control Line opposite approximate engineer station

Exhibit E

4001+26.00; and running thence N.00°05'44"W. 10.00 feet to a point 43.00 feet perpendicularly distant northerly from said control line opposite engineer station 4001+26.00; thence N.89°54'16"E. 109.00 feet along a line parallel with said control line to a point opposite engineer station 4002+35.00; thence S.82°58'14"E. 80.62 feet to said existing northerly right of way line of 1100 South Street at a point 33.00 feet perpendicularly distant northerly from said control line opposite engineer station 4003+15.00; thence S.89°54'16"W. (S.89°54'16"W. by record) 189.00 feet along said existing northerly right of way line to the point of beginning as shown on the official map of said project on file in the office of the Utah Department of Transportation.

(Note: Rotate all bearings in the above description 00°14'17" clockwise to obtain highway bearings.)

PARCEL 2:

Lot 301, CITY CREEK RESERVE, an Amendment and Resubdivision of Lot 3, West Salt Lake Intermodal Subdivision, according to the official plat thereof recorded December 22, 2020 as Entry No. 13508429 in Book 2020P at Page 305 in the office of the Salt Lake County Recorder.

EXHIBIT B

(Legal Description of the PRI Property)

That certain real property located in Salt Lake County, Utah, specifically described as follows:

Lot 302, CITY CREEK RESERVE, an Amendment and Resubdivision of Lot 3, West Salt Lake Intermodal Subdivision, according to the official plat thereof recorded December 22, 2020 as Entry No. 13508429 in Book 2020P at Page 305 in the office of the Salt Lake County Recorder.

EXHIBIT C

Objectionable Uses

No portion of the Property may be used for any of the following facilities, uses, or purposes:

1. A facility for any use which is illegal or would reasonably be determined to cause a threat of imminent harm to persons or property or constitutes a public or private nuisance.
2. Any dumping, disposing (other than in the designated trash removal areas), incineration, or reduction of garbage (exclusive of garbage compactors or appropriately screened dumpsters).
3. An establishment providing (i) nude or topless entertainment or waitstaff, (ii) "head shop", (iii) adult magazine or book store, adult video store or adult "novelty" store (which are defined as stores with at least five percent (5%) of the inventory of particular categories or products (such as books, DVDs/videos) that are not available for sale or rental to individuals under eighteen (18) years old because such inventory explicitly deals with or depicts human sexuality).
4. The manufacturing, sale, display, advertisement, promotion, or distribution of pornographic, lewd, obscene, or adult-oriented (as such terms are defined and applied by applicable Laws) (i.e., "x" rated) books, magazines, photographs, prerecorded video cassettes, video tapes, video discs, laser discs, video games, digital video discs or other video software and/or any substitutes for, or items which are, technical evolution of the foregoing items (collectively, "Media") (exclusive of the sale or rental of Media by a national bookstore, video store, or electronics retailer normally located in first-class shopping centers in the state where the Property is located (such as, for example, Barnes & Noble, Best Buy, etc.).
5. Any operation primarily used as a distilling, refining, smelting, agricultural, or mining operation, except for storage and/or production of products incidental to the retail sale thereof from the store.
6. Any bar (except as an incidental use to a retail, restaurant or commercial business, in which case such use shall be restricted to less than ten percent (10%) of the floor area occupied by such business), pub, tavern, or night club.
7. Any gambling facility or operation, including but not limited to: off-track or sports betting parlor; operation offering table games such as blackjack or poker; slot machines, video poker/black-jack keno machines or similar devices; or bingo hall. Notwithstanding the foregoing, this prohibition shall not apply to governmental sponsored gambling activities or charitable gambling activities, so long as such governmental and/or charitable activities are incidental to the business operation being conducted by the occupant and in compliance with all applicable laws. Notwithstanding the above, this paragraph is not intended to prohibit the installation and use of video game machines by the occupants.
8. Any carnival, amusement park or circus.
9. Any liquor store (provided, however, that the foregoing shall not be deemed to prohibit the sale of beer, wine and/or alcohol by any occupant ancillary to its primary use of the premises, or the sale of beer, wine or alcohol for on-premises consumption at any restaurant or bar permitted by applicable laws).
10. Any establishment that stocks, displays, promotes, distributes, sells, rents, or offers for sale or rent any merchandise or material commonly used or intended for use with or in consumption of any narcotic, dangerous or illicit drug, marijuana, or other controlled substance, including without limitation, any hashish

pipe, water pipe, bong, chillum, pipe screens, rolling papers, rolling devices, coke spoons or "roach" clips (exclusive of and not intended to prohibit the sale of controlled substances, narcotics, drugs, etc. as part of a licensed pharmacy operation).

11. A junkyard or stockyard; provided, however, this prohibition shall not be applicable to the temporary use of construction trailers during periods of construction, reconstruction or maintenance.

12. Any establishments with any striptease, burlesque or similar dancing, or that exhibit either live or by other means to any degree, nude or topless dancers or wait staff.

13. An operation whose primary purpose is the manufacturing, sale, display, or distribution of items that appeal to prurient interest in sex, including, without limitation, lingerie (which does not include pajamas, sleepwear, gowns, undergarments, underwear, etc.) or "sex toys;" provided that this restriction does not apply to operations that display or offer for sale an incidental amount of such items (incidental sales shall mean that the floor area dedicated to such items is less than five percent (5%) of the gross leasable area of such store).

EXHIBIT D (to CC&Rs)

(Design Criteria)

1. **Municipal Approvals.** All Improvements shall be subject to any and all Governmental Requirements; provided, however, it is understood that the Design Criteria may impose higher standards of design than standards that may have been approved by the applicable municipality or governmental agency or entity, and that in such event the Design Criteria shall prevail.

2. Parking.

- a. Parking lots should not be the dominant visual element at the front of the site. Large expansive paved areas located between the street and the building should be avoided unless screened by vegetation or berms.
- b. Parking lots should be placed at the side or front of the building, when feasible, to ensure direct connections between the street and the building entrance and to avoid obstructing views of the building's front facade from the street.
- c. Primary access points for automobiles, especially visitors, should be enhanced with elements such as ornamental landscaping, low-level decorative walls, and monument-type signs..
- d. Convenient public access and short-term visitor parking should be at the front of the building to produce the shortest route of travel from a building entrance.

3. Landscaping.

- a. Generally, the type, quantity and placement of plant material should be selected for its structure, texture, color and compatibility with the building design and materials, as determined by Declarant.. The front, public portions of buildings, should be separated from parking areas by landscaping and pedestrian walkways. The frontage of each building, including street frontage should provide a high level of landscaping. When designing landscaping, consideration should be given to the compatibility with the adjacent street frontage and adjacent properties.
- b. An area not less than 5% of the total area of the Parcel must be landscaped. A minimum landscaping strip of 15 feet is to be provided in the front setback.
- c. A minimum of one shade tree per 30 feet of the Parcel boundary line with any right-of-way and one shade tree per eight car parking spaces provided on the site.
- d. No more than 10% of the total Parcel area is permitted to be covered with grass within the Parcel boundaries.

4. Building Aesthetics.

- a. Building Façade.
 - i. Long, blank facades are prohibited. Articulation, detailing, and fenestration shall be provided on facades visible from public streets. Facades of large buildings visible from a public street should include architectural features such as reveals, windows and openings, changes in parapet heights, color, texture, and material to add interest to the building elevation and reduce its visual mass.
 - ii. Rooftop mechanical equipment should be enclosed or screened from public view. Alternatively, it must be positioned so that it is concealed by the use of site line obstructions such as changes in roof level or parapet walls, in which case the mechanical equipment will not be required to be screened nor enclosed.
- b. Entry Features. Building entries should be clearly identifiable, and integrated within the overall building design. Projections, columns, overhangs, enhanced landscaping, vertical architectural features, distinctive materials, and colors should be used to articulate entrances. Primary building entries should be readily identifiable and well defined through the use of projections, recesses, columns, roof structures, or other design elements.
- c. Windows and Doors. Recessed windows, awnings, landscaping, and shading devices to reduce solar heat gain should be used where appropriate. Window type, material, shape, and proportion should complement the architectural style of the building entry. Glare-producing reflective glass is prohibited; provided, however, tinted glass may be used. The tinted glass should be as clear as possible while still being energy efficient. Roll-up doors shall be oriented in the rear of the building to avoid unsightly views and noise emissions beyond the property line.
- d. Colors and Materials.
 - i. A comprehensive material and color scheme should be developed for each Parcel. Material and color should be complementary and compatible among buildings. Large expanses of smooth material (e.g., concrete) should be broken up with reveals, or changes in texture, color, and material. Large expanses of highly reflective surface and mirror glass exterior walls should be avoided to reduce heat, and prevent glare impacts on adjacent public streets and properties. All exterior materials, textures and colors should be appropriate for the architectural style or theme of the building, and should contribute towards the quality of the streetscape. Compatible colors on a single façade, or composition, should add interest and variety while reducing building scale and breaking up plain walls.
 - ii. Light, neutral colors shall be preferred to help reduce each building's perceived size. Contrasting trim and color may be used to break up blank surfaces; provided, however, color bands or collars are strictly prohibited unless the total square footage of the color is less than or equal to 10% of the face. Brightly colored buildings are strongly discouraged.
 - iii. Each building should be constructed with high quality, new material. Materials requiring high maintenance such as stained wood, clapboard, or shingles, should be avoided.

- e. Lighting. No lighting fixture is permitted to have exposed bulbs. Accent lighting and fixtures shall be provided at vehicle driveways, entry throats, pedestrian paths, plaza areas, and other activity areas. Exterior doorways and entries shall be fully illuminated to a minimum of one foot-candle over the entire face and frame of the opening. Wall mounted lights should not extend above the height of the wall or parapet to which they are mounted. Parking lot lighting standards should be placed so that the illumination spread will not conflict with the growth of trees in required parking lot planters.

5. **Signs.**

- a. Signs shall be designed so that a sense of continuity and quality is maintained throughout the Property. Signage shall be clear, legible, low profile and in a manner that is tasteful and appropriate. Approval by the applicable governmental authority shall not preclude the fact that each Parcel must comply with the Design Criteria for any proposed signs. The form and massing of the building design, not the signage, should be the dominant elements in the streetscape.
- b. Sign materials are to be durable and relatively maintenance free. All signs are to be professionally manufactured. At all times commercial standard “For Sale”, “For Rent” shall be permitted.
- c. Rotating, flashing or animated signs are strictly prohibited.

6. **Outside Storage.** Outside storage areas and waste material storage facilities must be (i) located in the rear of the building, and (ii) screened from the street through the use of such measures as building design and siting, berms, landscaping and/or walls and fencing. Outside storage areas must be properly designed so that stored materials do not affect the neighboring properties with respect to safety, odor, dust or views. All outside areas where waste disposal containers are kept must be designed and equipped to ensure waste materials can be stored so they do not create visual or odor nuisances for surrounding property owners or the general public. Transformers are not to be visible from the street, unless properly enclosed or screened.

7. **Fencing.** Fences and walls shall be constructed of long-lasting materials and architecturally integrated with the building design and with existing fences/walls on the site. The following limitations apply:

- a. Except as stated below, all fences and gates not screened by the building or viewable from a public road shall be metal, tubular steel, masonry, or wrought iron. Chain-link fencing may not be used, except on the boundary of the Property that borders the Union Pacific Intermodal and any area that is obscured by the building along a public road.
- b. Barbed wire fencing shall not be constructed or placed on top of a fence.
- c. Alternative materials may be approved by the Declarant.
- d. Masonry walls shall be treated with a graffiti-resistant aesthetic surface.
- e. Fences may not be more than 8’ feet in height as measured from grade level of the property (if ground elevation is different on both sides of the fence then the height may be measured from the higher ground elevation).