

14251

MAINTENANCE AGREEMENT

SECURITY TITLE & ABSTRACT CO.
55 East Center St. - Provo, Utah

Order No. 28552

THIS AGREEMENT, made this 10th day of May, 1983, by and between C & M MAGLEBY PROPERTIES, a Utah Partnership ("Magleby") and AV INVESTMENT, a Washington Partnership ("AV"), is made with reference to the following facts:

A. Magleby is the developer of the Village Green commercial complex ("the Complex"), located at 1675 North 200 West, Provo, Utah including a 49 unit motel facility known as the Village Inn Motel. Said motel was constructed on real property within the Complex, the legal description of which is set forth in Exhibit A, attached hereto and made a part hereof, said motel facility and real property herein being referred to as "the Property".

B. The streets, parking areas (other than motel parking located on the Property), landscaping and other improvements of a common nature within the Complex ("common Complex facilities") are private and are maintained by Magleby with a prorata portion of expenses therefor being shared on an equitable basis between Magleby and other owners of properties within the Complex.

C. On or about March 23, 1983, Magleby sold the Property to Grant R. Gifford and Marlene C. Gifford ("Gifford") pursuant to the terms of a Uniform Real Estate Contract with Addendum containing covenants and warranties on the part of Gifford to pay a fair prorata portion of maintenance expenses within the Complex deemed attributable to the Property.

UTAH COUNTY CLERK
OFFICE OF THE CLERK
PROVO, UTAH
MAY 16 1983
BA
853

1983 MAY 16 AM 11:59

RECORDED AT THE REQUEST OF
SECURITY TITLE & ABSTRACT CO.

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D. On or about May 2, 1983, in a transaction between Gifford and AV, AV acquired title to the Property and, pursuant to the agreements between Magleby and Gifford and Gifford and AV, Magleby and AV desire hereby to set forth and define an agreement relating to maintenance obligations and expenses relating to the Property and providing for an allocation of common Complex facilities expenses attributable to the Property.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, the parties do agree as follows:

1. The Property, being a part of the Complex, benefits by and from the maintenance of the common Complex facilities and such benefit is acknowledged by AV.

2. Magleby will continue to maintain the common Complex facilities and will assess the owners of the respective properties within the Complex, including Magleby and AV, a fair prorata share of actual maintenance costs related thereto, bearing in mind the area of property benefited by such maintenance in relation to the entire Complex, the ratio that past assessments for a given year benefiting a particular property bears to the total maintenance costs for the entire Complex, etc. AV covenants and warrants timely payment of such assessments within fifteen (15) days of receipt thereof.

3. In addition to maintaining the common Complex facilities, as herein set forth, Magleby agrees to provide maintenance to portions of the Property (for example, motel parking area, planting beds, landscaping, etc.) as well as any obligations of AV required pursuant to paragraph 4, below, on a contractual basis as may be agreed to between Magleby and AV.

4. AV acknowledges the existence of an encroachment of a portion of the Property upon adjoining property owned by David A. Jacobson, also located within the Complex, and hereby acknowledges receipt of a copy of that certain document entitled "Encroachment Agreement", executed May 31, 1977, by and between Magleby, David A. Jacobson and Colony Foods, Inc., which agreement sets forth the nature of the encroachment and the nature of the consideration for allowing the encroachment to continue. AV further agrees to abide by the provisions of said agreement as set forth therein on the part of Magleby to be performed.

5. AV covenants with and warrants to Magleby that it will, at its cost, keep the buildings and improvements located on the Property in good condition and repair at all times; will paint and/or stain the exteriors thereof in harmony with the present color scheme and general exterior appearance thereof in particular and of the Complex in general; and will abide by the general architectural concepts and design within the Complex as to any alterations, remodeling or restoration involving the Property.

6. AV understands and agrees that Magleby may assign its duties, obligations and benefits under this agreement to a purchaser or purchasers of properties within the Complex or to an association of property owners within the Complex as and when the same may be organized.

7. This agreement shall be binding upon and inure to the benefit of the respective parties, their successors in interests and assigns and the covenants and agreements set forth herein are specifically understood and agreed by the parties, when this agreement is recorded, to constitute covenants running with the land.

8. The parties agree to execute this agreement in recordable form and to record the same in the Office of the County Recorder, Utah County, Provo, Utah.

IN WITNESS WHEREOF, the parties have executed this agreement this 10th day of May, 1983.

C & M MAGLEBY, a Utah Partnership

By *H. Mark Magleby*
H. Mark Magleby, General Partner

AV INVESTMENT, a Washington Partnership

By *G. Roger Victor*
G. Roger Victor, General Partner

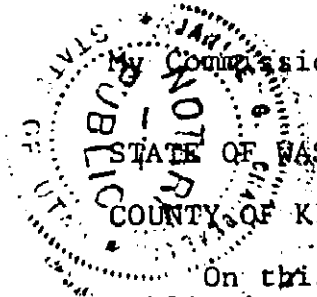
And *Charles P. Alm*
Charles P. Alm, General Partner

ACKNOWLEDGEMENTS

STATE OF UTAH)
) ss.
COUNTY OF UTAH)

On the 16th day of May, 1983, personally appeared before me H. Mark Magleby, who, being by me duly sworn, did say that he is a General Partner of C & M Magleby Properties, a Utah partnership, and that the within instrument was signed by him for and on behalf of said partnership by authority.

Jamie S. Chamberlain
Notary Public



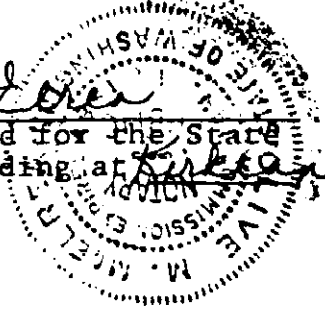
Commission Expires: 6.18.86 Residing at: Provo, Utah

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this 12th day of MAY, 1983, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared G. Roger Victor and Charles P. Alm, to me known to be the persons who signed as partners of AV Investments and who executed the within and foregoing instrument, and acknowledged the said instrument to be their free and voluntary act and deed, as partners, for the uses and purposes therein mentioned and on oath stated that they were partners of the partnership and were authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

Olive M. McEwen
Notary Public in and for the State
of Washington, residing at *Provo, Utah*



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EXHIBIT "A"

Beginning at a point on the Southerly Right of way line of the University Parkway, Provo, Utah, which point is East along the Section line 1122.46 feet and South 1075.65 feet from the North Quarter Corner of Section 36, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence South $54^{\circ} 18' 52''$ West 228.83 feet; thence North $29^{\circ} 41' 10''$ West 114.80 feet; thence $35^{\circ} 41' 10''$ West 95.83 feet; thence North $54^{\circ} 18' 50''$ East 212.14 feet thence South $37^{\circ} 09'$ East along the Southerly Right of Way line of said University Parkway 183.44 feet; thence continuing along said right of way line South $35^{\circ} 41' 10''$ East 26.62 feet to the point of beginning.

TOGETHER WITH: A Right of Way over Private Roads, described as follows: Beginning at a point on the West Right of Way line of 200 West Street, Provo, Utah, said point being East 1172.81 feet along the Section line and South 1338.92 feet from the North Quarter Corner of Section 36, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence West 143.00 feet; thence North $35^{\circ} 41' 10''$ West 159.78 feet; thence North $29^{\circ} 41' 10''$ West 114.80 feet; thence North $35^{\circ} 41' 10''$ West 95.83; thence South $54^{\circ} 18' 50''$ West 30.00 feet; thence South $35^{\circ} 41' 10''$ East 95.83 feet; thence South $29^{\circ} 41' 10''$ East 114.80 feet; thence South $35^{\circ} 41' 10''$ East 180.69 feet; thence East 152.22 feet; thence North $5^{\circ} 32'$ East 34.16 feet to the point of beginning.

NOT LEGIBLE FOR MICROFILM