

After Recording Return To:

Target Corporation  
Property Development  
1000 Nicollet Mall, TPN-12H  
Minneapolis, MN 55403  
Attn: Real Estate Portfolio Management (T-1754 Orem, UT)

**ACCESS AND UTILITY EASEMENT AND RESTRICTION AGREEMENT**

THIS ACCESS AND UTILITY EASEMENT AND RESTRICTION AGREEMENT (“Agreement”) is made as of May 14 2014, by and between TARGET CORPORATION, a Minnesota corporation (“Target”), and CJO HOLDINGS, LLC (“Adjacent Owner”).

RECITALS

A. Target is the owner of the parcel of land situated in Orem, Utah, being more particularly described on Exhibit A attached hereto and made a part hereof (“Target Tract”).

B. Adjacent Owner is the owner of the parcel of land situated immediately adjacent to the Target Tract, being more particularly described on Exhibit B attached hereto and made a part hereof (“Adjacent Tract”).

C. Adjacent Owner desires to obtain from Target an easement for vehicular ingress and egress, utility line easements and an easement for storm water drainage over a portion of the Target Tract for the benefit of the Adjacent Tract.

D. Target desires to obtain from Adjacent Owner certain agreements regarding the use and operation of the Adjacent Tract and the reservation of easements for the benefit of the Target Tract.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Target and Adjacent Owner agree as follows:

1. Recitals. The Recitals are incorporated herein as if fully set forth.
2. Grant of Access Easement. Target hereby grants to Adjacent Owner non-exclusive perpetual easements, in common with Target and others entitled to use the same, for the purpose of

ingress and egress of vehicles to and from the Adjacent Tract extending over, upon and across that portion of the Target Tract shown and described in Exhibit C attached hereto and made a part hereof (the "Access Easement Area"); provided, however, this grant of easement shall in no event be construed to create any rights to park motor vehicles upon any portion of the Access Easement Area and/or the Target Tract. The easement established herein shall be appurtenant to and for the benefit of the Adjacent Tract. The right to use the Access Easement Area may be extended by Adjacent Owner to its customers, employees, tenants, subtenants, suppliers, contractors, business invitees and other persons having contact with the activities being conducted on the Adjacent Tract.

3. Maintenance and Operation of Access Easement Area. Target shall maintain all paved surfaces within the Access Easement Area in a smooth, clean, orderly, safe and good state of repair condition. Target reserves the right to modify the location of the curb cuts between the public streets and the Access Easement Area, provided that a reasonable means of access between the Adjacent Tract and a public street remains open at all times during such relocation. In the event of any such curb cut relocation, Target and Adjacent Owner shall enter into a recordable amendment to this Agreement showing the relocated Access Easement Area. Target shall be permitted to temporarily close the Access Easement Area for reasonable periods of time under the circumstances, as needed (a) to perform repairs and/or maintenance, or (b) to avoid a public dedication, provided that a reasonable means of access between the Adjacent Tract and a public street remains open at all times. Repair and maintenance work will be pursued to completion with reasonable diligence to minimize the time period that a closure is needed. Target shall maintain the landscaping on the street frontage and access road identified on Exhibit D, attached hereto and made a part hereof.

4. Payment by Adjacent Owner. Adjacent Owner agrees to pay to Target as a contribution towards (i) the maintenance of the Access Easement Area, (ii) taxes applicable to the Access Easement Area, (iii) any liability insurance applicable to the Access Easement Area, and (iv) maintenance of the landscaping on the street frontage and access road identified on Exhibit D, the sum of Three Thousand, Seven Hundred Dollars (\$3,700.00) per year (subject to adjustment as hereinafter provided), in advance, commencing on the date of this Agreement. The initial payment shall be payable within thirty (30) days of the date of this Agreement, prorated for any partial year, and thereafter due on January 1 of each year. The annual contribution shall be increased, commencing with the payment due on January 1, 2019 and each five (5) year interval thereafter, to an amount equal to 110% of the annual contribution for the prior year. In the event Adjacent Owner shall fail to make its annual contribution on or before January 1 of a year and Adjacent Owner shall not remedy such failure within ten (10) days after written notice, then upon the expiration of such 10-day period, the easement rights in and to the Access Easement Area may be suspended by Target upon delivery of written notice by Target to the Adjacent Owner, and Target may close off access to the Adjacent Tract from the Access Easement Area if Adjacent Owner has not cured said default within ten (10) days after receipt of notice of Target's intention to suspend Adjacent Owner's access rights. If Adjacent Owner fails to pay to Target its annual payment, prior to June 30th of the year of default, plus all costs incurred by Target to close off access to the Adjacent Tract, plus interest on the amounts owed at the highest rate permitted by law, or 12%, whichever interest rate is lower, the easement rights herein granted and created across the Access Easement Area for the benefit of the Adjacent Tract, if Target so elects, shall expire and/or terminate as of said date, and the same shall be of no further force and effect.

5. Modification of Parking Layout. Unless required by any applicable governmental authorities, Adjacent Owner shall not modify the parking or drive aisle configuration on the portion of the Adjacent Tract adjacent to the Access Easement Area without the consent of Target, which consent shall not be unreasonably withheld, conditioned or delayed.

6. Insurance. Target shall at all times maintain in full force and effect comprehensive public liability insurance covering the Access Easement Area with a financially responsible insurance company or companies; such insurance to provide for a limit of not less than three Million Dollars (\$3,000,000.00) for personal or bodily injury or death to any one person, for a limit of not less than Five Million Dollars (\$5,000,000.00) for personal or bodily injury or death to a number of persons arising out of any one occurrence, and for a limit of not less than One Million Dollars (\$1,000,000.00) for any instance of property damage. Such insurance shall name Adjacent Owner as an additional insured with respect to matters relating solely to the Access Easement Area. The insurance may be carried under (i) an individual policy, (ii) a blanket policy or policies which include other liabilities, properties and locations of such party, (iii) a plan of self-insurance, provided that Target has and maintains \$40,000,000.00 or more of net current assets as evidenced by its annual report that is audited by an independent certified public accountant, or (iv) a combination of any of the foregoing insurance programs. Adjacent Owner hereby releases and waives for itself, and each person claiming by, through or under it, Target from any liability for any loss or damage, to all property located upon any portion of the Access Easement Area, which loss or damage is of the type covered by the insurance required to be maintained under this Section, irrespective of (i) any negligence on the part of Target which may have contributed to or caused such loss, or (ii) the amount of such insurance required or actually carried, including any deductible or self insurance reserve.

It is expressly understood and agreed that each party does not assume any liability for the negligent acts of any other party, its agents, servants, successors and assigns as it relates to use, operation and/or maintenance of the Access Easement Area. Any party found responsible for any property damage or bodily injury relating to the easements granted herein by any court of competent jurisdiction shall indemnify, protect and hold harmless each other party from and against all losses, damages, injuries, claims, demands and expenses, including legal expenses, of whatever nature resulting from such damage or injury. The indemnities and assumptions of liabilities and obligations herein provided for shall continue in full force and effect notwithstanding the termination of this Agreement, whether by expiration of time, by operation of law, or otherwise.

7. Operation of Adjacent Tract.

A. Adjacent Owner shall not erect or alter any building or commence any site improvements or alterations to the Adjacent Tract until Target has issued its written approval of the final exterior design plans for such building (including elevations for all exposed sides of the building, color scheme and materials) and of the site plan showing the finished grades, drainage scheme, location of such building, all site improvements and other related or supportive facilities (including landscaping, parking lot layout and parking ratios for both the Adjacent Tract and the balance of the Target Tract and exterior signing). Target's approval shall not be unreasonably

withheld, conditioned or delayed; provided, however, that the following provisions must be satisfied on the Adjacent Tract at all times:

- (i) No building height shall exceed twenty-four feet (24') except for architectural features may be up to twenty-six feet (26) above the finished floor elevation (including any screening, parapet, penthouse, mechanical equipment or similar appurtenance located on the roof of such building), nor contain more than one story.
- (ii) No building shall be constructed, positioned, or placed within twenty (20) feet of the boundary line of the Target Tract.
- (iii) The total gross building area of all improvements on the Adjacent Tract (including all floors, basements and mezzanines) shall not exceed five thousand (5,000) square feet.
- (iv) All mechanical equipment (whether mounted upon the roof or on the ground) and any trash area shall be screened.
- (v) All utility lines and systems shall be placed underground whenever possible.
- (vi) The Adjacent Tract shall contain sufficient ground level, standard automobile size, parking spaces, without reliance on parking spaces that may be available on other land, in order to comply with the greater of governmental requirements or the following minimum requirements:
  - (a) Five (5.0) parking spaces for each one thousand (1,000) square feet (plus excess portion thereof) of floor area, plus any Restaurant (defined below) parking requirements set forth below; provided, however, that compact car parking spaces, which may not exceed ten percent (10%) of total parking spaces, shall be located only in the areas, if any, designated on Exhibit D attached hereto.
  - (b) If a business use contains a drive-up unit (such as remote banking teller or food ordering/dispensing facility), then there shall also be created space for stacking not less than five (5) automobiles for each drive-up unit.
  - (c) For each Restaurant, five (5) additional parking spaces for each one thousand (1,000) square feet (plus excess portion thereof) of floor area devoted to such use. As used herein "Restaurant" means any operation or business which requires a governmental permit, license and/or authorization to prepare and/or serve food for either on or off premises consumption.
- (vii) No free standing identification/logo sign (pylon, monument or otherwise) shall be permitted upon the Adjacent Tract other than one (1) single panel (both sides) monument sign identifying the occupant of the Adjacent Tract in the location shown on Exhibit D (provided such signage does not diminish or otherwise impact freestanding signage rights relating to the Target Tract), the size and design of which shall be subject to the approval of Target in its reasonable discretion; and

(viii) None of the following shall be permitted outside of (or that can be seen from outside of) any building located upon the Adjacent Tract: flashing lights or spot lights; pennants or banners (excluding "Grand Opening" banners, which may be displayed for up to three (3) weeks on the Adjacent Tract at its initial opening for business); or loud speakers.

Development on the Adjacent Tract must not (1) require the building on the Target Tract to be modified in order to address building code fire resistance requirements, nor (2) negatively impact any governmental requirements, conditions, or variances associated with the Target Tract.

Target shall have thirty (30) days after receipt of such plans for review. If Target shall take no action within said thirty (30) day period, the plans shall be deemed approved if the approval request prominently stated in capitalized letters that failure to respond within such thirty (30) day period will be deemed an approval.

B. Adjacent Owner shall maintain the exterior of all buildings and the grounds in first class, good condition and repair and, at a minimum, the same or better condition than the buildings and grounds located on the Target Tract. Adjacent Owner shall maintain adequate ground cover on all portions of the Adjacent Tract in an appropriate and satisfactory appearance until development. If Adjacent Owner fails to perform such maintenance within thirty (30) days after written notice from Target, Target or its agent or assigns may enter the Adjacent Tract and perform such maintenance, whereupon all expenses associated with such maintenance shall be paid by Adjacent Owner upon Target's demand.

C. Adjacent Owner may place building signage on up to three (3) side(s) of the building.

D. No exterior building sign on the Adjacent Tract shall be:

(i) Placed on canopy roofs extending above the roof, placed on penthouse walls, or placed so as to project above the parapet, canopy, or top of the wall upon which it is mounted.

(ii) Placed at any angle to the building; provided, however, the foregoing shall not apply to any sign located under a sidewalk canopy if such sign is at least eight (8) feet above the sidewalk.

(iii) Painted on the surface of any building.

(iv) Flashing, moving or audible.

(v) Made utilizing (a) exposed neon tubes, (b) exposed LEDs (light emitting diodes), (c) exposed ballast boxes, (d) exposed transformers, or (e) exposed raceways unless such exposed raceways comply with the all of the following requirements: (1) the raceways shall not exceed eight inches (8") in depth and/or twelve (12") in height; (2) the color of the raceways are the same color as the materials upon which such raceways are located; (3) all

transformers are remote mounted behind the building fascia; and (4) the letters to be installed on the raceways do not exceed a height of thirty-six inches (36").

(vi) Made of paper or cardboard, or temporary in nature (exclusive of contractor or "Grand Opening" signs), or be a sticker or decal; provided, however, the foregoing shall not prohibit the placement at the entrance of each occupant's space of a small sticker or decal indicating hours of business, emergency telephone numbers, acceptance of credit cards, and other similar items of information.

E. No construction work on the Adjacent Tract shall occur during the months of November, December or January.

F. The name "Target", "Greatland", "SuperTarget" or any variation using the name "Target" or "Greatland" shall not be used to identify any business or trade conducted upon the Adjacent Tract.

G. Adjacent Owner may use the Adjacent Tract only for the initial operation of a "Taco Bell" restaurant, and thereafter for any lawful retail and/or business office purpose; provided however, that in no event shall the Adjacent Tract be used for any of the following purposes:

- (i) Any use which emits an obnoxious odor, noise or sound that can be heard or smelled outside of any building.
- (ii) Any operation primarily used as a storage warehouse operation, and any assembling, manufacturing, distilling, refining, smelting, agricultural or mining operation.
- (iii) Any "second hand" store, "surplus" store, or pawn shop.
- (iv) Any mobile home park, trailer court, labor camp, junkyard, or stockyard; provided, however, this prohibition is not applicable to the temporary use of construction trailers during periods of construction, reconstruction or maintenance.
- (v) Any dumping, disposing, incineration or reduction of garbage; provided, however, this prohibition is not applicable to garbage compactors located near the rear of any building.
- (vi) Any fire sale, bankruptcy sale (unless pursuant to a court order) or auction house operation.
- (vii) Any central laundry, dry cleaning plant or laundromat; provided, however, this prohibition is not applicable to nominal supportive facilities for on-site service oriented to pickup and delivery by the ultimate consumer as the same may be found in retail shopping centers in the metropolitan area where the Adjacent Tract is located.

- (viii) Any (a) automobile, truck, trailer or recreational vehicle sales, leasing, or display operation, (b) car wash or (c) body shop repair operation.
- (ix) Any bowling alley or skating rink.
- (x) Any movie theater or live performance theater.
- (xi) Any hotel, motel, short or long term residential use, including: single family dwellings, townhouses, condominiums, other multi-family units, and other forms of living quarters, sleeping apartments or lodging rooms.
- (xii) Any veterinary hospital or animal raising or boarding facility.
- (xiii) Any mortuary or funeral home.
- (xiv) Any establishment selling or exhibiting "obscene" material.
- (xv) Any establishment selling or exhibiting illicit drugs or related paraphernalia.
- (xvi) Any establishment which exhibits either live or by other means to any degree, nude or partially clothed dancers or wait staff. In addition, no use is permitted that requires personnel to wear a uniform that a reasonable person would consider to be sexually provocative (e.g., so-called hot pants and short shorts, shorts not covering the entire buttocks, short skirts, tight-fitting or otherwise revealing tank tops or halter tops).
- (xvii) Any bar, tavern, restaurant or other establishment whose reasonably projected annual gross revenues from the sale of alcoholic beverages for on-premises consumption exceeds thirty percent (30%) of the gross revenues of such business.
- (xviii) Any massage parlor or similar establishment.
- (xix) Any health spa, fitness center or workout facility.
- (xx) Any flea market, amusement or video arcade, pool or billiard hall or dance hall.
- (xxi) Any training or educational facility, including: beauty schools, barber colleges, reading rooms, places of instruction or other operations catering primarily to students or trainees rather than to customers; provided, however, this prohibition is not applicable to on-site employee training incidental to the conduct of its business on the Adjacent Tract.
- (xxii) Any gambling facility or operation, including: off-track or sports betting parlor; table games such as blackjack or poker; slot machines, video poker/blackjack/keno machines or similar devices; or bingo hall. Notwithstanding the foregoing, this prohibition is not applicable to government sponsored gambling activities or charitable gambling activities, so long as such activities are incidental to the business operation being conducted.

(xxiii) Any firearms testing or firing range, or the sale or display of any type of firearms or ammunition, except that a sporting goods retailer may sell and display firearms and ammunition as an incidental part of its business.

(xxiv) Any toy store exceeding five thousand (5,000) square feet of floor area.

(xxv) Any store, department or operation of any size selling or offering for sale any pharmaceutical drugs requiring the services of a licensed pharmacist.

(xxvi) Any pet shop.

(xxvii) Any gas station and/or other facility that dispenses gasoline, diesel or other petroleum products as fuel.

(xxviii) Any (a) automotive service/repair station, or (b) any facility that both sells and installs any lubricants, tires, batteries, transmissions, brake shoes or any other similar vehicle accessories.

(xxix) Any operation offering the sale of alcoholic beverages for off-premises consumption.

(xxx) Any grocery store, supermarket, convenience store or other store, or department within a store, for the sale of food and/or beverages. Restaurants are not prohibited on the basis of this subsection.

(xxxi) Any "dollar" (or any increment of a dollar) store or other similar variety discount type store.

(xxxii) Any department store, discount department store or junior department store.

(xxxiii) Any Membership Wholesale Club, as defined below. "Membership Wholesale Club" means a general merchandise store that sells merchandise in bulk and limits sales to individuals, businesses, or organizations who have purchased a membership in order to shop at the store.

(xxxiv) Any lockers, lock-boxes or other type of storage system that is used to receive or store merchandise from a catalog or online retailer.

(xxxv) Any store, or department within a store, operated as a fulfillment center in connection with receiving, storing or distributing merchandise from a catalog or online retailer.

H. Target and Adjacent Owner understand and agree that the covenants, agreements and restrictions described in this Section 7 shall continue notwithstanding the expiration or termination of any other rights or obligations under this Agreement including, without limitation,



the easement rights of Adjacent Owner pursuant to Section 4 above. The covenants, agreements and restrictions of this Section 7 shall run with the land and burden the Adjacent Tract for the benefit of the Target Tract.

I. Target has approved the initial development of the Adjacent Tract as shown on Exhibit D.

8. Drainage Easement. Target and Adjacent Owner each hereby grants and conveys to the other the perpetual right and easement to discharge surface storm water drainage and/or runoff from the grantee's property over, upon and across the common areas of the grantor's property and through underground drainage facilities on the grantor's property existing on the date of this Agreement. Target and Adjacent Owner each hereby agree that it shall not (a) alter or permit to be altered the surface of the common area or the drainage/retention system constructed on its property if such alteration would materially increase the velocity, volume or flow of surface water onto the other party's property either in the aggregate or by directing the flow of surface water to a limited area or (b) alter or permit to be altered the underground drainage facilities on its property without the consent of the other party, such consent not to be unreasonably withheld. Target and Adjacent Owner shall each keep the storm water drainage facilities on its property in good condition and repair at all times.

9. Utility Line Easements.

A. Target hereby grants to Adjacent Owner a non-exclusive perpetual easement for the installation, maintenance, replacement and operation of an underground sanitary sewer line serving the Adjacent Tract ("Sewer Line") under the area identified on Exhibit E, attached hereto and made a part hereof ("Sewer Line Easement Area").

B. Target hereby grants to Adjacent Owner a non-exclusive perpetual easement ("Water Line Easement") for the installation, maintenance, replacement and operation of an underground water line (and tie-in to Target's existing water line) serving the Adjacent Tract ("Water Line" and collectively with the Sewer Line, the "Utility Facilities") under the area identified on Exhibit E ("Water Line Easement Area, and collectively with the Sewer Line Easement Area, the "Utility Line Easement Areas").

C. Target hereby reserves and retains all other property rights in and to the Utility Line Easement Areas, including without limitation, the rights to (a) use the Utility Line Easement Areas for any purpose whatsoever, so long as such use does not substantially and unreasonably interfere with Adjacent Owner's rights hereunder (it being expressly understood that the use of the surface of the Utility Line Easement Areas for vehicular traffic, pedestrian traffic, landscaping, parking and/or signage shall be deemed not to substantially interfere with Adjacent Owner's rights hereunder) and (b) locate electric, gas and water lines and other utilities in the Utility Line Easement Areas, so long as such improvements do not substantially and unreasonably interfere with Adjacent Owner's permitted use of the Utility Line Easement Areas. Target further reserves and retains the right from time to time, in Target's sole discretion, to cause Adjacent Owner to relocate any of the Utility Facilities at Target's expense, it being understood that if such relocation is to a place outside of the applicable Utility Line Easement

Area, Adjacent Owner shall execute and deliver to Target, promptly upon request, an amendment to this instrument setting forth the revised Utility Line Easement Areas.

D. Conduct of Work and Notification. Any installation, maintenance, replacement, repair and/or removal of the Utility Facilities shall be performed (i) at Adjacent Owner's sole cost and expense, (ii) during months other than November, December or January (except in the event of an emergency), (iii) after thirty (30) days' notice to the Target (except that in an emergency the work may be initiated after reasonable notice), (iv) after normal business hours (except in the event of an emergency) and (v) with adequate provision for the safety and convenience of all persons using the surface of such areas. In addition, Adjacent Owner shall promptly pay all costs and expenses associated with said work and diligently complete such work as quickly as possible.

E. Use; Maintenance. Any use of the Utility Line Easement Areas shall be performed with care and in such manner as to cause the least interference with the surface of the Utility Line Easement Areas and with the use and enjoyment thereof by Target and others lawfully present thereon. Adjacent Owner shall maintain the Utility Facilities in a good and safe condition, and Adjacent Owner shall install, maintain, operate, repair, replace and remove the Utility Facilities in compliance with all applicable governmental rules, regulations and requirements. No use may be made of the Water Line Easement that would cause the capacity of the water line existing on the Target Tract on the date of this Agreement to be met or exceeded. Adjacent Owner shall use its best efforts to operate the Water Line in a manner that minimizes the potential of (i) any blockage of the water line on the Target Tract and/or (ii) any other impairment of the functionality of such line. Adjacent Owner agrees to obtain at its sole cost and expense, before using the Utility Line Easement Areas for the purpose permitted hereunder, such permits, licenses or other authority as may be required from Federal, State, County, City or other governmental agencies or units exercising jurisdiction over the installation and operation of the Utility Facilities, and Adjacent Owner further agrees to comply with and strictly observe any and all laws, ordinances, rules, regulations, codes and orders of any such governmental agency or unit. The Utility Facilities placed in the Utility Line Easement Areas shall be buried to a depth not less than 30 inches below the existing surface, and Adjacent Owner shall cause the backfill to be compacted in layers to avoid settling, voids and/or air pockets. Adjacent Owner assumes the risk that vehicles using the surface of the Utility Line Easement Areas may damage the Utility Facilities if the same are not adequately protected.

F. Restoration by Adjacent Owner; Removal of Utility Facilities. If the surface of the Target Tract or any portion thereof, or any landscaping, curbing, pavement or other improvements thereon, shall be disturbed by installation, operation, maintenance, replacement or removal activities or other activities performed by or on behalf of Adjacent Owner in connection with the use of the Utility Line Easement Areas, said surface and improvements shall be promptly restored by Adjacent Owner to their condition just prior to such disturbance. Immediately following the performance of work by or on behalf of Adjacent Owner, Adjacent Owner shall remove from the Utility Line Easement Areas and surrounding land all equipment, materials and debris resulting from or used in connection with such work.

G. Target's Right to Maintain and Restore. In the event that Adjacent Owner shall fail to comply with its maintenance and/or restoration obligations, as set forth herein, for a period of thirty (30) days after receipt of notice from Target (except in the case of emergency, in which case no notice shall be required for Target to act), Target may, but shall not be obligated to, carry out Adjacent Owner's maintenance and/or restoration obligations, and Adjacent Owner shall reimburse Target for the costs expended by Target in connection therewith, plus a ten percent (10%) administration fee, within ten (10) business days after receipt of an invoice from Target therefor. If Adjacent Owner fails to pay to Target such amounts within sixty (60) days after receipt of the invoice, plus interest on the amounts owed at the highest rate permitted by law, or 12%, whichever interest rate is lower, the easement rights herein granted shall terminate as of said date, and the same shall be of no further force and effect.

H. Normal and Reasonable Use by Target. Target, its successors and assigns and persons occupying or lawfully present on the Utility Line Easement Areas shall not be liable for damage, if any, which may be caused by normal and reasonable use of, or vehicular or pedestrian traffic over, the Utility Line Easement Areas. Such normal and reasonable use may include the landscaping or parking of vehicles on the Utility Line Easement Areas and installation, operation and maintenance of standard parking lot improvements including paving, bumper curbs, light standards, striping and landscaping.

I. Prohibition Against Liens. Adjacent Owner shall not permit any mechanics', materialmen's or other liens to be filed against the Target Tract or any part thereof for work or materials furnished Adjacent Owner in connection with the use of the Utility Line Easement Areas, and Adjacent Owner agrees to indemnify, defend and hold Target harmless from and against the same.

J. Abandonment of Easement. In the event Adjacent Owner shall abandon or no longer use either of the Utility Facilities or either of the Utility Line Easement Areas for a period of at least one year, then, notwithstanding any provision herein to the contrary, such easement shall automatically terminate and Adjacent Owner shall, promptly upon request, execute a recordable instrument to evidence the termination and release of such easement. Upon the termination of such easement, Adjacent Owner shall promptly remove the applicable Utility Facilities and restore the applicable Utility Line Easement Areas to a condition as good as or better than that which existed immediately prior to the installation of such Utility Facilities (including the replacement of any landscaping, curbing or paving that has been removed or damaged).

K. No Representations or Warranties; Subject to Encumbrances. Adjacent Owner agrees that it is accepting the easements granted in this Section 9 without any warranty or representation regarding the easements or the Utility Line Easement Areas, and subject to all valid and existing licenses, leases, grants, exceptions, encumbrances, title defects, matters of record, reservations and conditions affecting the Target Tract and/or affecting access thereto.

L. Condemnation. Adjacent Owner shall not claim or declare any fee interest in and to the Utility Line Easement Areas, and in the event of eminent domain proceedings or settlement pursuant thereto, Adjacent Owner shall make no claim against the award or compensation accruing out of or resulting from such event, save and except any payment made

to Adjacent Owner for damage to the Utility Facilities or with respect to removing or relocating the same.

M. Taxes. Adjacent Owner agrees to assume and pay all taxes, assessments and other charges, if any, which may be levied, assessed or asserted against the Utility Facilities and, if the same are not separately billed, agrees to promptly reimburse Target for any such taxes, assessments or other charges which may have been paid in whole or in part by Target.

N. Indemnity. Adjacent Owner shall defend, indemnify and hold harmless Target, and their successors, assigns and legal representatives, from and against any and all liability, claims, liens, loss, attorney's fees, expense and judgments of every kind whatsoever by whomsoever asserted hereafter on account of claims, liens, debts, and any damage or physical injury to property, personal injuries to or death of persons, including, without limitation by enumeration, all claims or damages of every character occurring in any way incident to, resulting from, arising out of or in any way connected with Adjacent Owner's occupation, use, possession, conduct in and upon the Utility Line Easement Areas. The indemnity obligations set forth in Section 9N. shall survive any termination of the easements granted in this Section 9.

O. Insurance. Adjacent Owner agrees to maintain at all times adequate commercial general liability insurance with respect to the Utility Line Easement Areas and the use and occupancy thereof (in an amount not less than \$1,000,000.00 per occurrence), specifically including coverage against claims for bodily injury, death and property damage occurring on or about the Utility Line Easement Areas and contractual coverage with respect to the indemnity obligations set forth in this Agreement. Adjacent Owner shall furnish Target with evidence of such coverage before commencing any use or occupancy of the Utility Line Easement Areas, and upon request from time to time thereafter.

P. Water Line Tie-In. At the request of Target, Adjacent Owner agrees to permit the tie-in and use of the Sewer Line by an additional outlot adjacent to West Center Street, provided that a reasonably equitable payment is made to Adjacent Owner, not to exceed Five Thousand Dollars (\$5,000.00).

10. Shopping Center Signage. Adjacent Owner will not be entitled to a panel on any multi-panel shopping center signage.

11. Adjacent Owner Grant of Easements. Adjacent Owner hereby grants to Target non-exclusive perpetual easements in, to, over, under, along and across the Adjacent Tract as necessary for (a) the installation, operation, flow, passage, use, maintenance and replacement of existing utility lines serving the Target Tract and, (b) maintenance of the landscaping on the street frontage and access road identified on Exhibit D. The easements established in this paragraph shall be appurtenant to and for the benefit of the Target Tract.

12. Term. The term of this Agreement shall commence on the date of this Agreement and continue for a period of sixty (60) years, provided, however, that the easements referred to in Section 2 (subject to Section 4), 8, 9 and 11 hereof shall be perpetual and shall continue in full force and effect past such date.

13. Binding Effect. The easements, covenants and conditions in this Agreement shall run with the land and shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns. This Agreement may be terminated or modified only by written agreement between Target and Adjacent Owner.

14. Entire Agreement. This Agreement contains the entire understanding and agreement between the parties hereto and supersedes any prior written or oral agreements between them respecting the subject matter contained herein. There are no representations, agreements, arrangements or understandings, oral or written, between and among the parties hereto relating to the subject matter of this Agreement that are not fully expressed herein.

15. Severability. If any term, provision, covenant or condition of this Agreement shall be or become invalid, illegal or unenforceable in any respect under any applicable law, the validity, legality and enforceability of the remaining provisions (or the application of such term, provision, covenant or condition to persons or circumstances other than those in respect of which it is invalid or unenforceable), except those terms, provisions, covenants or conditions which are made subject to or conditioned upon such invalid or unenforceable term, provision, covenant or condition, shall not be affected thereby, and each other term, provision, covenant and condition of this Agreement, unless conditioned upon such invalid or unenforceable term, provision, covenant or condition, shall be valid and enforceable to the fullest extent permitted by law.

16. Condemnation. In the event of a condemnation of any portion of the Access Easement Area or other governmental closure of a curb cut between the Access Easement Area and any public street (whether permanent or otherwise), Target shall be entitled to the entire award or purchase price paid for such "taking". Adjacent Owner hereby releases and waives any right to receive or claim any portion of such award or purchase price paid for such "taking", provided, however, Adjacent Owner shall have the right to make a claim for the loss of its easement rights to the extent such claim does not reduce or diminish the amount payable to Target as owner of the Target Tract.

17. Not a Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Target Tract to the general public, or for any public use or purpose whatsoever. Except as herein specifically provided, no right, privileges or immunities of any party hereto shall inure to the benefit of any third-party, nor shall any third-party person be deemed to be a beneficiary of any of the provisions contained herein.

18. Governing Law. This Agreement and the rights and obligations hereunder of the parties hereto shall be governed by the laws of the State of Utah.

19. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed effective when actually received or refused by the recipient if sent by overnight delivery service which maintains a record of delivery made or certified or registered mail, postage prepaid, return receipt requested, and sent to the parties at their address as set forth below or to such other address as the parties may designate by written notice in the above manner.

If to Target: Target Corporation  
 Property Development  
 1000 Nicollet Mall, TPN-12H  
 Minneapolis, MN 55403  
 Attn: Real Estate Portfolio Management (T-1450 Houma, LA)

If to Adjacent Owner: CJO Holdings, LLC.  
 2230 N. University Pkwy Bldg 6-C  
 Provo, UT 84604  
 Attn: Charlie Openshaw

20. Counterparts; Headings. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which, collectively, shall be deemed one and the same instrument. The headings herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this document nor in any way affect the terms and provisions hereof.

21. Estoppel Certificates. Each party agrees that upon written request (which shall not be more frequent than three (3) times during any calendar year) of any other party it will issue within thirty (30) days after receipt of such request to such party, or its prospective mortgagee or successor, an estoppel certificate stating to the best of the issuer's knowledge as of such date:

A. Whether it knows of any default under this Agreement by the requesting party, and if there are known defaults, specifying the nature thereof in reasonable detail.

B. Whether this Agreement has been assigned, modified or amended in any way by it and if so, then stating the nature thereof in reasonable detail.

C. Whether this Agreement is in full force and effect.

Such estoppel certificate shall act to estop the issuer from asserting a claim or defense against a bona fide encumbrancer or purchaser for value to the extent that such claim or defense is based upon facts known to the issuer as of the date of the estoppel certificate which are contrary to the facts contained therein, and such bona fide purchaser or encumbrancer has acted in reasonable reliance upon such estoppel certificate without knowledge of facts to the contrary. The issuance of an estoppel certificate shall in no event subject the issuer to any liability for the negligent or inadvertent failure of the issuer to disclose correct and/or relevant information, nor shall such issuance be construed to waive any rights of the issuer to challenge acts committed by another party for which approval by a party was required but not sought or obtained.

[SIGNATURES FOLLOW]


IN WITNESS WHEREOF, the parties hereto have caused this Access and Utilities Easement and Restriction Agreement to be executed as of the day and year first above written.

“TARGET”  
TARGET CORPORATION

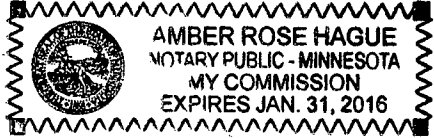
By:   
Name: Scott Nelson  
Senior Vice President  
Its: Target Corporation

STATE OF MINNESOTA )  
 ) SS.  
COUNTY OF HENNEPIN )

I, Amber Rose Hague, a Notary Public, do hereby certify that Scott Nelson, personally known to me to be the Senior Vice President of Target Corporation, a Minnesota corporation, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such Senior Vice President, he signed and delivered the said instrument as Senior Vice President of said corporation, pursuant to authority given by the board of directors of said corporation as his free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth. Given under my hand and official seal this 13<sup>th</sup> day of May, 2014.

 (Seal)  
Notary Public

My commission expires: January 31, 2016



IN WITNESS WHEREOF, the parties hereto have caused this Access and Utilities Easement and Restriction Agreement to be executed as of the day and year first above written.

“ADJACENT OWNER”  
CJO HOLDINGS, LLC.

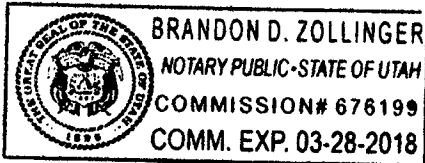
By: [Signature]

Name: Charlie Openshaw  
(printed)

Its: Manager

STATE OF Utah )  
 ) SS.  
COUNTY OF Utah )

The foregoing instrument was acknowledged before me this 12 day of May, 2014 by Charlie Openshaw as the Manager of CJO Holdings, LLC, a \_\_\_\_\_, on behalf of said company. Said person is personally known.



Brandon D Zollinger (Seal)  
Notary Public

My commission expires: 03-28-2018



**EXHIBIT A**

## Legal Description of Target Tract

LOT 1, BLOCK 1, PLAT "A", OREM RETAIL CENTER SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT HEREOF, ON FILE AND RECORDED ON DECEMBER 7, 1995 AS MAP NO. 6374 AND AS ENTRY NO 84761, IN THE OFFICE OF THE UTAH COUNTY RECORDER, STATE OF UTAH

LESS AND EXCEPT

THAT CERTAIN PARCEL LYING WITHIN THE SOUTHEAST QUARTER OF SECTION 15, TOWNSHIP 6 SOUTH, RANGE 2 EAST OF THE SALT LAKE BASE AND MERIDIAN, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS

**COMMENCING** SOUTH 249.56 FEET ALONG THE EAST SECTION LINE OF SAID SOUTHEAST QUARTER AND WEST 703.11 FEET ALONG A LINE PARALLEL WITH AND 249.56 FEET DISTANT SOUTHERLY FROM THE NORTH LINE OF SAID SOUTHEAST QUARTER, FROM THE EAST QUARTER CORNER OF SAID SECTION 15, BEING THE SOUTHEAST CORNER OF SAID LOT 2, OREM RETAIL CENTER SUBDIVISION PLAT "B", SAID POINT ALSO BEING ON THE WESTERLY RIGHT-OF-WAY OF OREM BOULEVARD TO THE POINT OF BEGINNING; THENCE DEPARTING SAID WESTERLY RIGHT-OF-WAY, NORTH 89°02'38" WEST, 227.14 FEET; THENCE NORTH 00°37'45" EAST, 199.75 FEET TO THE SOUTHERLY RIGHT-OF-WAY OF CENTER STREET;

THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY OF CENTER STREET AND THE WESTERLY RIGHT-OF-WAY OF OREM BOULEVARD THE FOLLOWING THREE COURSES: 1) SOUTH 89°22'15" EAST, 196.50 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 30.00 FEET; 2) THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 89°47'15", AN ARC LENGTH OF 47.01 FEET; 3) THENCE SOUTH 00°25'00" WEST, 171.16 FEET TO THE **POINT OF BEGINNING**. CONTAINS 45,252 SQUARE FEET OR 1.039 ACRES, MORE OR LESS.

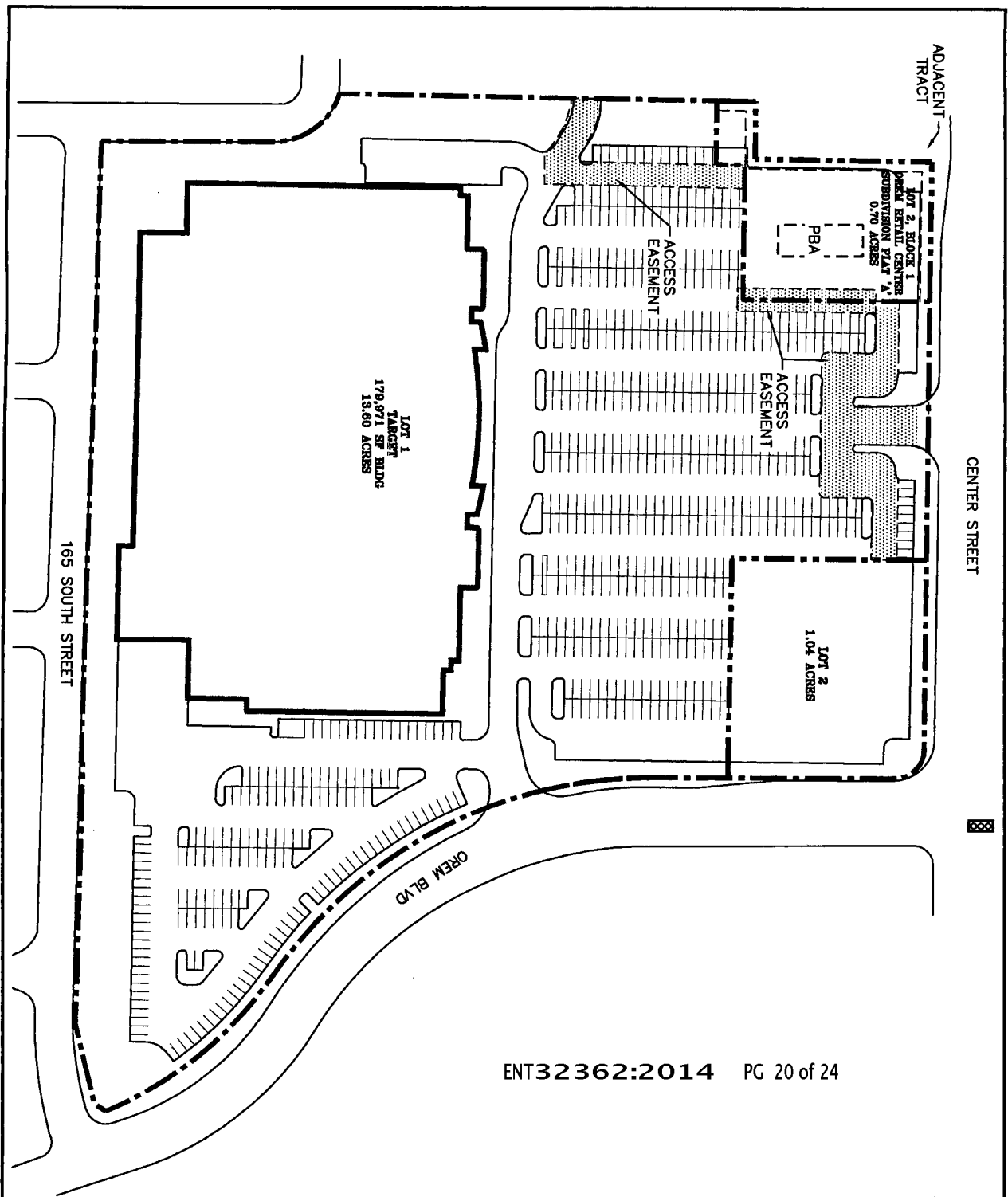
**EXHIBIT B**

Legal Description of Adjacent Tract

LOT 2, BLOCK 1, PLAT "A", OREM RETAIL CENTER SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT HEREOF, ON FILE AND RECORDED ON DECEMBER 7, 1995 AS MAP NO. 6374 AND AS ENTRY NO 84761, IN THE OFFICE OF THE UTAH COUNTY RECORDER, STATE OF UTAH

**EXHIBIT C**

Access Easement Area



ENT32362:2014 PG 20 of 24

- LEGEND:**
- TARGET PARCEL
  - - - POTENTIAL OUT-PARCEL
  - ▨ ACCESS EASEMENT

TARGET #1754  
 OREM, UTAH  
 ACCESS EASEMENT EXHIBIT

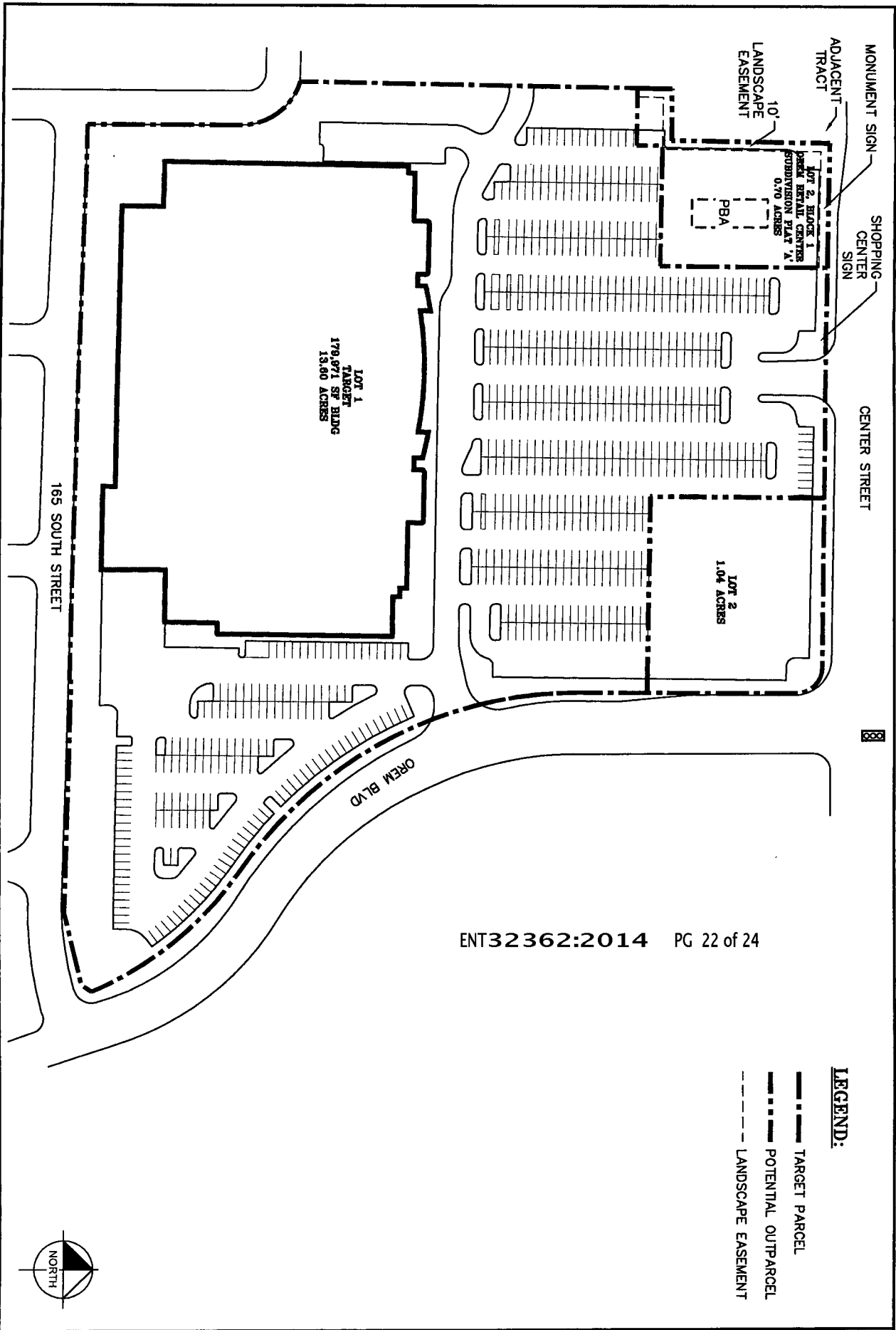


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990 SOUTH BROADWAY  
 SUITE 200  
 DENVER, CO 80209  
 (303) 228-2300

**EXHIBIT D**

**Site Plan**



ENT32362:2014 PG 22 of 24

- LEGEND:**
- TARGET PARCEL
  - - - POTENTIAL OUTPARCEL
  - - - LANDSCAPE EASEMENT

TARGET #1754  
 OREM, UTAH  
 SITE PLAN

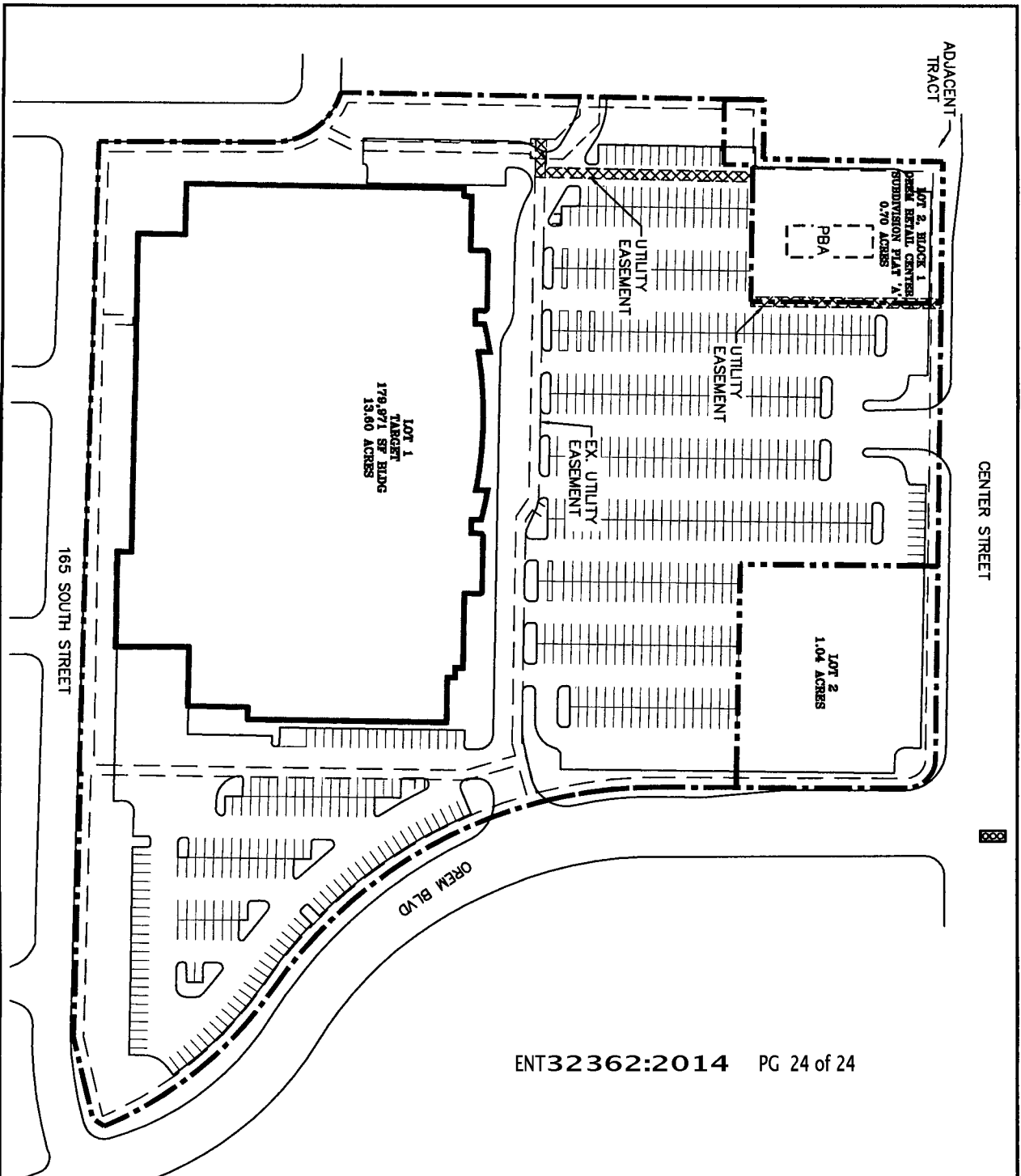


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990 SOUTH BROADWAY  
 SUITE 200  
 DENVER, CO 80209  
 (303) 228-2300

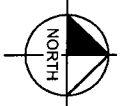
**EXHIBIT E**

Utility Line Locations



ENT32362:2014 PG 24 of 24

- LEGEND:**
- TARGET PARCEL
  - - - POTENTIAL OUTPARCEL
  - - - EXISTING UTILITY EASEMENT
  - XXXXXX UTILITY EASEMENT



TARGET #1754  
 OREM, UTAH  
 UTILITY EASEMENT EXHIBIT



**Kimley-Horn  
 and Associates, Inc.**

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 DENVER, CO 80209  
 (303) 228-2300